ple. When more cars are equipped with these bags, he said, and if a certain percentage of them malfunction, there may have to be massive recalls.

"And guess who's going to foot the extra bill?" he asked. "The consumer." And he predicted that the insurance companies while reducing some costs, would probably raise collision rates to offset lower premiums in other areas.

NHTSA's Carl Nash further explained that the airbag fires were caused because the canisters used to inflate the bags were test models that had to be replugged frequently, and that such re-use would never occur in a real life situation. But Dingell insists that there is no evidence to indicate that this problem has been solved or that it will not recur.

And Glen, the liaison employee for the CALSPAN tests, Nash insisted, was never muzzled. He didn't present his paper, Nash said, because he never got down to writing it. NHTSA insiders believe that if any pressure was put on Glen it came from Dingell's staffers rather than NHTSA management.

As for withheld information, Nash said much of what was denied Dingell is considered proprietary information falling under the Trade Secrets Act.●

SENATE—*Monday, September 17, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska.

PRAYER

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

Let us pray.

Eternal Father, in whom we live and move and have our being we pause to pray not in desperation but because we cannot live without Thee. Thou hast made us for Thyself and our hearts are restless until they rest in Thee. Without Thee we are weak and ignorant and sinful. With Thee we find strength and wisdom and forgiveness. Fit us for our work this day. Abide with us while we work. In all our ways help us to acknowledge Thee in the confidence Thou wilt direct our paths.

In Thy holy name we pray. 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 second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 17, 1979.

To the Senate:

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

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

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.

PROGRESS IN THE MIDDLE EAST

Mr. ROBERT C. BYRD. Mr. President, today is the anniversary of the Camp David accords, signed September 17, 1978, which subsequently led to the Mideast Peace Treaty. President Carter, President Sadat, and Prime Minister Begin met at Camp David last September, and laid the foundation for the historic document that was signed on March 26 of this year.

It is pleasing to note that now, 1 year after that original Camp David meeting, the agreement is being implemented. I think it is appropriate for us to take a moment to consider the very positive events that are occurring in the Mideast.

President Sadat and Prime Minister Begin recently completed their eighth summit conference since the Mideast Peace Treaty was signed. This fact alone—that they have met eight times, alternating the site between their two countries—is very significant. It would have been almost unthinkable just a year ago.

At this most recent conference, the two leaders agreed on an interim method of supervising the withdrawal of Israel from the Sinai Peninsula. Instead of relying solely on the United States to see that the withdrawal is supervised, Prime Minister Begin and President Sadat agreed that their own two countries would supervise the withdrawal.

The significance of this action is not lost on the United States. It means that Egypt and Israel have begun to undertake the peacemaking process themselves, which was the intent of the Mideast Peace Treaty.

In addition, the United States, as prime sponsor of the peace treaty, has a very real interest in seeing that the withdrawal from the Sinai is carried out in an orderly and peaceful fashion.

The leaders of Egypt and Israel also reached an agreement concerning the disposition of oil from the Sinai fields; and President Sadat has offered to make the waters of the Nile River available for irrigation of Israel's Negev Desert. The water from the Nile would be piped across the Sinai and would be available as soon as a Suez Canal tunnel is completed next year.

Oil from the Sinai fields now accounts for one-fourth of Israel's oil supply. The previous understanding had been that Egypt would make available to Israel only portions of the oil from these fields. But now the two leaders have agreed that Egypt will make available to Israel all of the oil from these fields, at world market prices.

These agreements are as significant symbolically as they are in substance. They set a precedent for solving problems in the Middle East through consultation and cooperation among the Middle East countries themselves.

To acknowledge these successes is not to diminish the importance and difficulty of issues yet to be faced, issues concerning Palestinian autonomy, Gaza, the West Bank, and Jerusalem. The problem of Israeli settlements on the West Bank continues to be a troubling factor.

But as Ambassador Robert Strauss has stated, it is possible that the peace talks can now move into "second gear" and begin to face these larger issues.

The journey down the road to the resolution of these issues, a journey begun at Camp David, is being continued by the Middle Eastern parties to the treaty, and this is as it should be. I hope that the future will bring broader participation in the peace process and resolution of the difficult issues which remain.

ORDER OF BUSINESS

Mr. PROXMIRE. Will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes.

I now yield to the distinguished Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished majority leader very much.

THE GENOCIDE CONVENTION IS ONLY A STEP TOWARD THE PROTECTION OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, those who oppose the ratification of the Genocide Convention have fired a barrage of criticism over the past 25 years. Each criticism has been systematically analyzed and shown to be without substance.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

One of the questions often raised by these critics is, "Will the treaty really do anything in the immediate future to prevent genocide?"

To ask such a question is to misunderstand the purpose of the convention. The battle for human rights is an ongoing one that might last forever. No document will ever absolutely guarantee the protection of human rights. But treaties and bills have been used as building blocks—steps which mark a mutual obligation, a mutual determination among fellow men and women to protect what they hold most sacred.

Our own Bill of Rights began as a statement of principles to guide our country—it represented the hopes and aspirations of our forefathers. No one guaranteed our ancestors that their Bill of Rights would automatically insure their freedoms. Americans have struggled for human rights throughout modern history. This Chamber exists as a living embodiment of the battle for individual freedom and rights.

My distinguished colleagues, we should place no more burden on the Genocide Convention than our ancestors placed on the Bill of Rights. It takes time and effort to make any paper document worth what it stands for.

In his 1977 testimony before the Committee on Foreign Relations, Justice Goldberg explained the importance of the long-range effects of the Genocide Convention in these terms:

> . . . none of the great documents of human civilization produced instant morality—not even Magna Carta or our own Bill of Rights. The point is that they did shape history in the long run.

Indeed, it is hard to prove that ratification of the convention would result in an immediate deterrent to the crime of genocide. But approval of the Treaty would mark a major step to help insure the protection of human rights. In the words of Justice Goldberg:

> . . . it is surely a good place to begin.

VETERANS' ADMINISTRATION ADJUDICATION PROCEDURE AND JUDICIAL REVIEW ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 244.

Mr. STEVENS. There is no objection, Mr. President.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 330) to amend title 38, United States Code, to establish certain procedures for the adjudication of claims, and so forth.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs with an amendment to strike all after the enacting clause and insert the following:

That (a) this Act may be cited as the "Veterans' Administration Adjudication Procedure and Judicial Review Act".

(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—ADJUDICATION PROCEDURES

SEC. 101. (a) Chapter 51 is amended by adding at the end of subchapter I thereof the following new section:

"§ 3007. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a claimant for benefits under laws administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded.

"(b) When, after consideration of all evidence and material of record in any proceeding before the Veterans' Administration on a claim for any benefit under laws administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of such claim, the benefit of the doubt in resolving each such issue will be given to the claimant, but nothing in this section shall be construed as shifting from a claimant to the Administrator the burden described in subsection (a) of this section.".

(b)(1) The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part IV of such title are each amended by striking out in the item relating to chapter 51 "Applications" and inserting in lieu thereof "Claims,".

(2) The heading of such chapter is amended to read as follows:

"CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS".

(c)(1) The table of sections at the beginning of such chapter is amended by striking out in the item relating to subchapter I "APPLICATIONS" and inserting in lieu thereof "CLAIMS".

(2) The heading of subchapter I of such chapter is amended to read as follows:

"Subchapter I—Claims".

(d) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3006 a new item as follows:

"3007. Burden of proof; benefit of the doubt.".

SEC. 102. Section 3311 is amended by adding at the end thereof the following new sentence: "Subpenas authorized under this section shall be served by any individual authorized by the Administrator by (1) delivering a copy thereof to the individual named therein, or (2) mailing by registered or certified mail addressed to such individual at such individual's last dwelling place or principal place of business. A verified return by the individual so serving the subpena setting forth the manner of service, or, in the case of service by registered or certified mail, the return post office receipt therefor signed by the individual so served shall be proof of

SEC. 103. Section 4001 is amended by—

(1) amending subsection (a) by striking out "(not more than fifty)" and inserting in lieu thereof "(not more than sixty-five)", striking out "associate", and inserting before the period at the end of the second sentence "in a timely manner"; and

(2) adding at the end thereof the following new subsection:

"(c) The Chairman shall submit a report to the appropriate committees of the Congress, not later than February 1, 1980, and annually thereafter, on the experience of the Board during the prior fiscal year together with projections for the fiscal year in which the report is submitted and the subsequent fiscal year. Such report shall contain, as a minimum, the number of cases appealed to the Board during the prior fiscal year, the number of cases pending before the Board at the beginning and end of such fiscal year, the number of such cases which were filed during each of the twenty-four months preceding the prior fiscal year and the then current fiscal year, respectively, the average length of time a case was before the Board between the time of filing of an appeal and the disposition during the prior fiscal year, and the number of members and other professional, administrative, clerical, stenographic, and other personnel employed by the Board at the end of the prior fiscal year. The projections for the current fiscal year and subsequent fiscal year shall include, for each such year, estimates of the number of cases to be appealed to the Board and an evaluation of the Board's ability, based on existing and projected personnel levels, to ensure timely disposition of such appeals as required by subsection (a) of this section.".

SEC. 104. Section 4002 is amended by striking out "associate" wherever it appears.

SEC. 105. Subsections (a) and (b) of section 4003 are amended by inserting a comma and "after notice to the claimant of such additional information together with an opportunity to be heard in connection with such information," after "concerned" both places it appears.

SEC. 106. Section 4004 is amended by—

(1) inserting before the period at the end of the second sentence in subsection (a) "after affording the claimant an opportunity for a hearing and shall be based exclusively on evidence and material of record in the proceeding and on applicable provisions of law";

(2) amending subsection (b) by striking out "in the form of official reports from the proper service department" and adding at the end thereof, the following new sentence: "A judicial decision upholding, in whole or in part, the disallowance of a claim under chapter 72 of this title shall not diminish the Board's discretionary authority under this subsection to reopen the claim and review the Board's former decision."; and

(3) amending subsection (d) to read as follows:

"(d) After reaching a decision in each case, the Board shall promptly mail notice of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and at the last known address of the claimant's authorized representative, if any. Each decision of the Board shall include—

"(1) a written statement of the Board's findings and conclusions, and reasons or bases therefor, on all material issues of fact, law, and matters of discretion presented on the record; and

"(2) an order granting appropriate relief or denying relief.".

SEC. 107. Paragraph (5) of subsection (d) of section 4005 is amended by striking out "will base its decision on the entire record and".

SEC. 108. Section 4009 is amended by adding after subsection (b) the following new subsection:

"(c) Whenever there exists in the evidence of record in an appeal case a substantial disagreement between the substantiated findings or opinions of two physicians with respect to an issue material to the outcome of the case, the Board shall, upon the request of the claimant and, after taking appropriate action to attempt to resolve the disagreement, arrange for an advisory medical opinion in accordance with the procedure pre-

scribed in subsection (b) of this section. If the Board denies the request of such claimant for such an opinion, the Board shall prepare and provide to the claimant and the claimant's authorized representative, if any, a statement setting forth the basis for its determination. Actions of the Board under this subsection, including any such denial, shall be final and conclusive and no other official or any court of the United States shall have the power or jurisdiction to review any aspect of any such decision by an action in the nature of mandamus or otherwise, chapter 72 of this title to the contrary notwithstanding.".

SEC. 109. (a) Chapter 71 is further amended by adding at the end thereof the following new sections:

"§ 4010. Adjudication procedures

"(a) For purposes of conducting any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, the Administrator may administer oaths and affirmations, examine witnesses, and receive evidence.

"(b) Any oral, documentary, or other evidence, even though inadmissible under the rules of evidence applicable to judicial proceedings, may be admitted in a hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, but the Administrator under regulations of the Administrator, may provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

"(c) In the course of any proceeding before the Board, any party to such proceeding or such party's authorized representative shall be afforded opportunity—

"(1) at a reasonable time prior thereto as well as during such proceeding, to examine and, on payment of a fee prescribed pursuant to section 3302(b) of this title (not to exceed the direct cost of duplication), obtain copies of the contents of the case files and all documents and records to be used by the Veterans' Administration at such proceeding;

"(2) to present witnesses and evidence, subject only to such restrictions as may be set forth in regulations of the Administrator, pursuant to subsection (b) of this section, as to materiality, relevance, and undue repetition;

"(3) to make oral argument and submit written contentions, in the form of a brief or similar document, on substantive and procedural issues;

"(4) to submit rebuttal evidence;

"(5) to present medical opinions and request an independent advisory medical opinion pursuant to section 4009(c) of this title; and

"(6) to serve written interrogatories on any person, including employees of the Veterans' Administration, which interrogatories shall be answered separately and fully in writing and under oath unless written objection thereto, in whole or in part, is filed with the Administrator by the person to whom the interrogatories are directed or such person's representative.

The fee provided for in clause (1) of this subsection may be waived by the Administrator, pursuant to regulations which the Administrator shall prescribe, on account of the party's inability to pay or for other good cause shown. In the event of any objection, filed under clause (6) of this subsection, the Administrator shall, pursuant to regulations which the Administrator shall prescribe establishing standards consistent with standards for protective orders under rule 26(c) of the Rules of Civil Procedure for the United States District Courts, evaluate such objection and issue an order (A) directing that, within such period as the Administrator shall specify, the interrogatory or interrogatories objected to be answered as served or answered after modification, or (B) indicating that the interrogatory or interrogatories are no longer required to be answered. If any person upon whom interrogatories are served under this section fails to answer or fails to provide responsive answers to any such interrogatories within thirty days after service or such additional time as the Administrator may allow, the Administrator shall, upon a statement or showing by the party who served such interrogatories of general relevance and reasonable scope of the evidence sought, issue a subpena pursuant to section 3311 of this title (with enforcement of such subpena to be available pursuant to section 3313 of this title) for such person's appearance and testimony on such interrogatories at a deposition on written questions, at a location within one hundred miles of where such person resides, is employed, or transacts business.

"(d) In the course of any hearing, investigation, or other proceeding in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration, an employee of the Veterans' Administration may at any time disqualify himself or herself, on the basis of personal bias or other cause, from adjudicating the claim. On the filing by a party in good faith of a timely and sufficient affidavit averring personal bias or other cause for disqualification on the part of such an employee, the Administrator shall determine the matter as a part of the record and decision in the case.

"(e) The transcript or recording of testimony and the exhibits, together with all papers and requests filed in the proceeding, and the decision of the Board shall constitute the exclusive record for decision in accordance with section 4004(a) of this title, and shall be available for inspection by any party to such proceeding, or such party's authorized representative, at reasonable times and places and, on the payment of a fee prescribed pursuant to section 3302(b) of this title (not to exceed the direct cost of duplication), shall be copied for the claimant or such claimant's authorized representative within a reasonable time. Such fee may be waived by the Administrator, pursuant to regulations which the Administrator shall prescribe, on account of the party's inability to pay or for other good cause shown.

"(f) Notwithstanding section 4004(a) of this title, section 554(a) of title 5, or any other provision of law, adjudication and hearing procedures prescribed in this title and in regulations prescribed by the Administrator under this title for the purpose of administering veterans' benefits shall be exclusive with respect to hearings, investigations, and other proceedings in connection with the consideration of a claim for benefits under laws administered by the Veterans' Administration.

"§4011. Notice of procedural rights

"In the case of any denial, in whole or in part, of a claim for benefits under laws administered by the Veterans' Administration, the Administrator shall, at each procedural stage relating to the disposition of such a claim, beginning with denial after an initial review or determination and including the furnishing of a statement of the case and the making of a final determination by the Board, provide to the claimant and such claimant's authorized representative, if any, written notice of the procedural rights of the claimant. Such notices shall be on such forms as the Administrator shall prescribe by regulation and shall include, in easily understandable language, with respect to proceedings before the Veterans' Administration, (1) descriptions of all subsequent procedural stages provided for by statute, regulation, or Veterans' Administrations policy, (2) descriptions of all rights of the claimant expressly provided for in or pursuant to this chapter, of the claimant's rights to a hearing, to reconsideration, to appeal, and to representation, and of any specific procedures necessary to obtain the various forms of review available for consideration of the claim, and (3) such other information as the Administrator, as a matter of discretion, determines would be useful and practical to assist the claimant in obtaining full consideration of the claim.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"4010. Adjudication procedures.

"4011. Notice of procedural rights.".

SEC. 110. (a) In order to evaluate the feasibility and desirability of alternative methods of (1) assuring the resolution of claims before the Administrator of Veterans' Affairs for benefits under laws administered by the Veterans' Administration as promptly and efficiently as feasible following the filing of a notice of disagreement pursuant to section 4005 (as amended by section 107 of this Act) or 4005A of title 38, United States Code, and (2) affording claimants the opportunity for a hearing before or review by a disinterested authority at a location as convenient and on as timely basis as possible for each claimant, the Administrator shall conduct a study for a period of between twenty-four and thirty-six months, in at least six geographic areas and at least six regional offices of the Veterans' Administration, involving two alternative methods for resolution of claims.

(b)(1) In at least three such geographic areas, the Administrator shall provide an intermediate-level adjudication process whereby each claimant may, within the time afforded such claimant under paragraph (3) of such section 4005(d) or 4005A(b) to file an appeal, request a de novo hearing at the agency of original jurisdiction (as described in section 4005(b)(1) of such title 38) before a panel of three Veterans' Administration employees, each of whose primary responsibilities include adjudicative functions but none of whom shall have previously considered the merits of the claim at issue. Following such hearing, such panel shall render a decision and prepare a new statement of the case in accordance with the requirements of paragraphs (1) and (2) of such section 4005 (d). Such new statement of the case shall, for all purposes relating to appeals under chapter 71 of such title 38, be considered to be a statement of the case as required by paragraph (1) of such section 4005(d).

(2) In at least three other such geographic areas, the Administrator shall provide for an enhanced schedule of visits, on at least a quarterly basis each year, by a panel or panels of the Board of Veterans' Appeals to conduct formal recorded hearings pursuant to such section 4002 in such areas.

(c) Not later than forty-two months after the date of enactment of this Act, the Administrator shall report to the Congress on the results of this study, including an evaluation of the cost factors associated with each alternative on an annual basis, the impact on the workload of the regional office in question, the impact on the annual caseload of the Board of Veterans' Appeals resulting from both alternatives, together with any recommendations for administrative or legislative action, or both, as may be indicated by the results of such study.

TITLE II—VETERANS' ADMINISTRATION RULE MAKING

SEC. 201. (a) Subchapter II of chapter 3 is amended by adding at the end thereof the following new section:

"§ 221. Rule making

"Notwithstanding the provisions of subsection (a)(2) of section 553 of title 5, the

promulgation of rules and regulations by the Administrator shall be subject to the requirements of section 553 of title 5.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"221. Rule making.".

TITLE III—JUDICIAL REVIEW

SEC. 301. Subsection (a) of section 211 is amended by striking out "sections 775, 784" and inserting in lieu thereof "sections 775 and 784 and chapter 72 of this title".

SEC. 302. (a) Part V is amended by adding after chapter 71 the following new chapter:

"CHAPTER 72—JUDICIAL REVIEW

"Sec.
"4025. Jurisdiction.
"4026. Scope of review.
"4027. Remands.
"4028. Survival of actions.
"4029. Appellate review.

"§ 4025. Jurisdiction

"(a) Except as provided in subsection (h) of this section, after any final decision of the Administrator (as defined in subsection (c) of this section) adverse to a claimant in a matter involving a claim for benefits under any law administered by the Veterans' Administration, such claimant may obtain a review of such decision in a civil action commenced within 180 days after the mailing to the claimant of notice of such decision pursuant to section 4004 of this title. Such action shall be brought against the Administrator in the district court of the United States for the judicial district in which the plaintiff resides or the plaintiff's principal place of business is located, or in the district court of the United States for the judicial district where the principal offices of the Board of Veterans' Appeals (established under section 4001 of this title) are located.

"(b) In any matter not directly involving a claim for benefits under any law administered by the Veterans' Administration, section 211(a) of this title shall not operate as a bar to a civil action otherwise authorized by law.

"(c) For the purposes of this chapter, 'final decision of the Administrator' means—

"(1) a final determination of the Board of Veterans' Appeals pursuant to section 4004 (a) or (b) of this title; or

"(2) a dismissal of an appeal by the Board of Veterans' Appeals pursuant to section 4005 or 4008 of this title.

"(d) The provision of this chapter shall not apply to matters arising under chapters 19 and 37 of this title.

"(e) The complaint initiating an action under subsection (a) of this section shall contain sufficient information to permit the Administrator to identify and locate the plaintiff's Veterans' Administration records.

"(f) The Administrator shall file, together with the answer to a complaint filed pursuant to subsection (a) of this section, a certified copy of the records upon which the findings of fact and decision complained of are based or, if the Administrator determines that the cost of filing copies of all such records is unduly expensive, the Administrator shall file a complete index of all documents, transcripts, or other materials comprising such records. After such index is filed and after considering requests from all parties, the court shall require the Administrator to file certified copies of such indexed items as the court deems relevant to its consideration of the case.

"(g) In an action brought pursuant to subsection (a) of this section, the court shall have the power, upon the pleadings and the records specified in subsection (f) of this section, to enter judgment in accordance with section 4026 of this title or remand the cause in accordance with section 4026 or 4027 of this title.

"(h) No action may be brought under this section as to which the initial claim for benefits is filed pursuant to section 3001(a) of this title after the last day of the fifth fiscal year beginning after the effective date of this section.

"§ 4026. Scope of review

"(a) In any action brought under section 4025 of this title, the reviewing court to the extent necessary to its decision and when presented, shall—

"(1) decide all relevant questions of law, interpret constitutional, statutory, and regulatory provisions;

"(2) compel action of the Administrator unlawfully withheld; and

"(3) hold unlawful and set aside decisions, findings, and conclusions of the Administrator found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(D) without observance of procedure required by law.

If the reviewing court finds the Administrator's finding on an issue or issues of fact to be arbitrary, capricious, or an abuse of discretion, the court shall specify where it finds the record to be deficient and shall, prior to entering any judgment reversing such decision, remand the case a single time to the Administrator for further action not inconsistent with the court's order. In so remanding, the court shall specify a reasonable period within which the Administrator shall complete the required action and, if such action is not completed within the time specified by the court, the matter shall be returned to the court for its action.

"(b) In making the determinations under subsection (a) of this section, the court shall review the whole record before the court pursuant to section 4025(f) of this title or those parts of such record cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In no event shall findings of fact made by the Administrator be subject to trial de novo by the reviewing court.

"(d) When a final decision of the Administrator (as defined in section 4025(c) of this title) is rendered in any case and such decision is adverse to a party solely because of the failure of such party to comply with any applicable regulation of the Veterans' Administration, the court shall review only questions raised as to compliance with and the validity of the regulation.

"§ 4027. Remands

"In any action brought under section 4025 of this title, the reviewing court shall, on motion of the Administrator made before the expiration of the time specified for the filing of an answer to a complaint filed pursuant to subsection (a) of such section, allow a single remand of a case to the Administrator for further review by the Administrator. If such review is not completed within ninety days after the date of such remand, the matter shall be returned to the court for its action. At any time after the Administrator files an answer, the court may, in the exercise of its discretion, remand the case to the Administrator for further action by the Administrator and, if either party shall apply to the court for leave to adduce additional evidence and shall show the satisfaction of the court that such additional evidence is material and that there is good cause for granting such leave, the court shall remand the case to the Administrator and order such additional evidence to be taken by the Administrator; in either case, the court may specify a reasonable period of time within which the Administrator shall complete the required action. After a case is remanded to the Administrator, and after further action by the Administrator, including consideration of any additional evidence, the Administrator shall modify, supplement, or affirm the findings of fact or decision, or both, and shall file with the court any such modification, supplementation, or affirmation of findings of fact or decision or both, as the case may be, and certified copies of any additional records and evidence upon which such modification, supplementation, or affirmation was based. Any such modification, supplementation, or affirmation of the findings of fact or decision shall be reviewable by the court only to the extent provided in section 4026 of this title with respect to the review of the original findings of fact and decision.

"§ 4028. Survival of actions.

"Any action brought under section 4025 of this title shall survive, notwithstanding any change in the person occupying the Office of the Administrator or any vacancy in such office.

"§ 4029. Appellate review

"The decisions of a district court pursuant to this chapter shall be subject to appellate review by the courts of appeals and the Supreme Court of the United States in the same manner as judgments in other civil actions.".

(b) The table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part V are each amended by adding below the item relating to chapter 71 a new item as follows:

"72 Judicial Review..... 4025".

SEC. 303. Subsection (d) of section 1346 of title 28, United States Code, is amended by inserting before the period at the end thereof "except as provided for in chapter 72 of title 38".

TITLE IV—ATTORNEYS' FEES

SEC. 401. Section 3404 is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Administrator, pursuant to regulations which the Administrator shall prescribe, may determine and approve payment of reasonable attorneys' fees to be paid by the claimant, to attorneys recognized under this section, for services rendered in representing an individual before the Veterans' Administration in connection with claims for benefits under laws administered by the Veterans' Administration. In no event shall such attorneys' fee, determined and approved by the Administrator, exceed—

"(1) for any claim resolved prior to the claimant's receipt of a statement of the case pursuant to section 4005(d) of this title, $10; or

"(2) for any claim resolved following the claimant's receipt of such statement of the case, an amount in excess of the lesser of—

"(A) the fee agreed upon by the claimant and the attorney; or

"(B)(i) $500, or a greater amount specified in regulations prescribed by the Administrator based on changed national economic conditions subsequent to the date of this subsection, except that the Administrator may, in the Administrator's defense, determine and approve a fee in excess of $500, or such greater amount if so specified, in an individual case involving extraordinary circumstances warranting a higher fee; or

"(ii) if the claimant and an attorney have entered into an agreement under which no fee is payable to such attorney unless the claim is resolved in a manner favorable to the claimant, 25 per centum of the total amount of any past-due benefits awarded on the basis of the claim."; and (2) adding at the end of such section the following new subsections:

"(d) If, in an action brought under section 4025 of this title, the matter is resolved in a manner favorable to a claimant who was represented by an attorney, the court may determine and approve as part of its judgment a reasonable fee for the representation of such claimant in such action. When the claimant and an attorney have entered into an agreement under which no fee is payable to such attorney unless the matter is resolved in a manner favorable to the claimant, the fee so determined and approved shall not exceed 25 per centum of the total amount of any past-due benefits awarded on the basis of the claim. If, in such an action, the matter is not resolved in a manner favorable to a claimant, the court may determine and approve as part of its judgment a reasonable fee, taking into consideration the extent to which there could have appeared to have been a reasonable probability of success for such an action at the time it was filed, for the representation of such claimant not in excess of $750.

"(e) To the extent that past-due benefits are awarded in proceedings before the Administrator or by a court, the Administrator shall direct payment of any attorney's fee that has been determined and approved under this section out of such past-due benefits, but in no event shall the Administrator withhold any portion of benefits payable for a period subsequent to the date of the decision of the Administrator or court making such award.

"(f) The determination and approval by the Administrator regarding attorneys' fees pursuant to subsection (c) of this section may be reviewed by a court only to determine whether the Administrator's action constituted an abuse of discretion. Review of the determination and approval by either the Administrator or the court regarding an attorneys' fee shall be obtained as follows:

"(1) For an award in conjunction with a claim before the Administrator pursuant to subsection (c) of this section, by an action brought, within thirty days after the date of notice of such award, by either the claimant or the attorney in the district court of the United States in the judicial district in which the claimant resides or the claimant's principal place of business is located.

"(2) For an award in conjunction with a claim approved by a United States court pursuant to subsection (d) of this section, on a motion made, within thirty days after the date of such award, by either the claimant or the attorney in the district court of the United States where the appeal was considered.

For actions brought under clause (1) of this subsection, the Administrator shall be named as the defendant, but notice of any such action shall also be given to all parties in interest and all such parties shall be heard by the court reviewing the award.

"(g) The provisions of this section shall apply only to cases involving claims for benefits under the laws administered by the Veterans' Administration, and such provisions shall not apply in cases in which the Veterans' Administration is the plaintiff or in which other attorneys' fee statutes are otherwise controlling.

"(h) For the purposes of subsections (c) and (d) of this section, claims shall be considered as resolved in a manner favorable to the claimant when all or any part of the relief sought is granted.

"(i) In an action brought under section 4025 of this title, the court, in its discretion, may, as an extraordinary remedy, allow the prevailing party, other than the Administrator, reasonable attorneys' fees as part of the costs.".

SEC. 402. Section 3405 is amended by striking out "or" after "title," and striking out "him" and inserting in lieu thereof "such claimant or beneficiary, or (3) with intent to defraud, in any manner willfully and knowingly deceives, misleads, or threatens a claimant or beneficiary or prospective claimant or beneficiary under this title with reference to any matter covered by this title, by word, circular, letter, or advertisement".

TITLE V—EFFECTIVE DATES

SEC. 501. The provisions of this Act shall become effective on the first day of the first month beginning 180 days after the date of enactment of this Act.

SEC. 502. A civil action authorized in chapter 72 of title 38, United States Code, as added by section 302 of this Act, may be instituted to review decisions of the Board of Veterans' Appeals rendered on or after January 1, 1977, and prior to the effective date of this Act: *Provided*, That such actions are instituted not later than 180 days after the effective date of this Act or after the mailing of notice by the Administrator to the last known address of a claimant of the right to bring such a civil action, whichever occurs later.

● Mr. CRANSTON. Mr. President, it is good news for veterans that we have successfully brought this legislation developed by the Committee on Veterans' Affairs, which I am privileged to chair, to the floor on the Senate today, and I am truly delighted to be able to present it to my colleagues and urge their approval of it.

Mr. President, the basic purpose of S. 330, the proposed "Veterans' Administration Adjudication Procedure and Judicial Review Act," which I reported from the Committee on Veterans' Affairs on May 15, 1979, is to assure that veterans and other claimants before the VA receive all benefits to which they are entitled under law by providing them with the opportunity for judicial review of final decisions of the Administrator of Veterans' Affairs denying claims for benefits, by codifying certain internal procedures of the VA relating to the adjudication of benefit claims, by requiring that VA rulemaking processes comply with provisions of the Administrative Procedure Act relating to notice and comment, and by providing for attorneys to receive reasonable fees for representing claimants before the VA following an initial denial of the claim and representing claimants in judicial proceedings.

BACKGROUND

Mr. President, this legislation has been through an extensive developmental process, beginning in the 94th Congress when my colleague, the distinguished Senator from Colorado (Mr. HART) first introduced legislation—as S. 3392—that would have provided for judicial review of VA decisions on claims for benefits. In the 95th Congress, Senator HART introduced S. 364 which was identical to S. 3392. Since that time, the Committee on Veterans' Affairs has held seven hearings on the issue—five during the 95th Congress and two this year in the 96th Congress on S. 330 which Senator HART and I introduced on February 1, 1979—and the original legislation has been through numerous revisions, which have been undertaken in consultation with Senator HART, the VA, veterans organizations, and other interested groups and individuals.

Mr. President, following the two hearings on S. 330 this year, the Committee on Veterans' Affairs met in open session on May 3, 1979 and voted 9 to 1 to report favorably S. 330 with an amendment in the nature of a committee substitute.

Following the Committee on Veterans' Affairs' action, the Committee on the Judiciary, pursuant to the original referral order, had 30 days in which to consider S. 330. This period was subsequently extended until June 27 to permit that committee to hold a hearing on June 20 and to consider possible action on the measure following that hearing. However, the Judiciary Committee took no action by June 27 and the bill as reported by the Committee on Veterans' Affairs was placed on the Senate calendar that day.

NEED FOR THE LEGISLATION

Mr. President, as I mentioned earlier, the committee's involvement with the issue of judicial review of Veterans' Administration decisions began in the 94th Congress and has progressed through two different bills, seven hearings, extensive consultations with a variety of interested parties, and significant technical assistance from the VA. Thus, the present legislation is an attempt to reconcile a wide variety of viewpoints on the issue of judicial review of VA decisions and the related issues of internal adjudication procedures, attorneys' fees, and VA rulemaking procedures.

Mr. President, the decision to introduce S. 330 in the 96th Congress and to continue committee consideration of judicial review legislation was not based on a belief that the current system resulting in a final, unappealable decision being made by the Board of Veterans' Appeals results in wide spread injustices; to the contrary, there is no evidence that most claimants are not satisfied with the resolution of their claims for VA benefits. Rather, the decision to continue the consideration of this legislation was based on concerns raised by a number of witnesses and commentators that, whatever the merits of the original statutory preclusion of judicial review in 1933, the view that veterans' benefits are mere gratuities and that veterans have no interest in or right to such benefits warranting the protection afforded by access to court review in the event of a denial by the VA, seems highly questionable at this time, particularly in light of the protections, including access to court, provided most all other beneficiaries of Federal benefits.

In addition, Mr. President, the tremendous volume of applications for benefits that are processed annually by the VA and the many thousands of appeals taken from unfavorable decisions—66,464 in fiscal year 1978—suggests that there is a significant opportunity for some injustices to occur. Under the present state of the law, a veteran or other claimant aggrieved by a VA decision is left without any further recourse.

Beyond the possibility of real injustices without a remedy, the committee

has also continued its consideration of judicial review legislation in order to address what some veterans, especially those whose claims for benefits are denied by the VA, perceive as a system with various inequitable features. The combination of no access to court for review of the agency decision coupled with a statutory limit of $10 on the amount an attorney is permitted to receive for representing an individual before the VA on a claim for benefits, which effectively precludes any meaningful attorney representation of veterans or other claimants in VA claims matters, has led many claimants over the years to believe that they have been denied their "day in court".

Mr. President, our emphasis in fashioning this legislation was to attempt to assure that all veterans are served with compassion, fairness, and efficiency, and that each individual veteran receives from the VA every benefit and service to which he or she may be entitled under law. There is also an emphasis on eliminating any unwarranted distinctions that exist between protections accorded to veterans and claimants for Federal benefits from other agencies. In the latter respect, it was recognized that many of the VA's internal procedures, particularly in the area of adjudication of claims, have developed over the years in such a way that they are different from procedures in other agencies and that all such differences are not necessarily detrimental to veterans and other claimants; however, it is clear that not all present procedures are a benefit to veterans and other claimants and it was the committee's intention to eliminate, to the extent feasible, those VA procedures that are not justifiable on the basis of the agency's mission of serving veterans and their survivors.

Therefore, Mr. President, after reviewing all the various arguments and concerns relating to judicial review, the committee decided that providing an opportunity for those aggrieved by VA decisions to have such decision reviewed by a court, in a manner similar to that enjoyed by claimants before almost all other Federal agencies, was necessary so as to provide such claimants with fundamental justice. To continue to inform a claimant before the VA that a benefit to which he or she was entitled by law could be wrongly denied and that there is no recourse to remedy such wrongful denial, no longer seemed a viable response. In addition, the committee believed that the provision of judicial review, by opening the decisions of the VA to court scrutiny, will have a salutary effect on such decisions and the VA's decisionmaking process in general by involving the judiciary as a check on agency actions. Although the VA has a unique and vital mission of providing service to our Nation's veterans and their survivors, it is, at the same time, Mr. President, a large and complex Federal agency, and providing the opportunity for an independent, nonpartisan body, in the form of the Federal courts, to review the fairness of the processes and procedures of the agency should prove beneficial to those with claims or other matters before the VA.

CONCERNS ABOUT EXISTING VA ADJUDICATIONS SYSTEM

Mr. President, the preclusion in section 211(a) of title 38, United States Code—of court review of decisions of the Administrator of the Veterans' Affairs denying a claim for benefits—dates from the Economy Act of 1933, Public Law 73-2, a measure that is remembered for its particularly harsh treatment of our Nation's veterans. One reason that this preclusion of access to court, which makes veterans virtually unique among beneficiaries of Federal benefits, has survived to this time, I believe, is because a system evolved—in the absence of any court review and with little or no representation of claimants by attorneys because of another section of title 38 that limits an attorney's fee to a maximum of $10—whereby the VA generally views the facts and interprets the law liberally in the claimant's favor, and many have seen proposals allowing access to court review as a threat to this system. In addition, a group of specialists in VA claims matters, known as veterans service officers—individual employees of various veterans organizations who represent claimants before the VA for no charge—has been developed, and concerns have been expressed that permitting judicial review and amending the restrictions on attorneys' fee might jeopardize the work of that group to the ultimate detriment of veterans and other claimants before the VA.

Mr. President, I and the Committee on Veterans' Affairs share these concerns for the continued strength of the existing adjudication system procedures and the continued effectiveness of veterans service officers. In response to these concerns—which appeared to lead a number of those who commented on S. 364 when it was considered by the committee during the 95th Congress, particularly witnesses representing veterans organizations, to oppose the authorization of judicial review of VA claims decisions—the committee worked very closely with veterans groups, other individuals and groups interested in veterans' claims matters, and the Veterans' Administration as revised versions of the legislation were developed. Throughout this process, the committee attempted to reach as broad a consensus as was possible in order to assure that the step of providing access to court review did not impair the beneficial features of the existing claims adjudication system.

BROAD SUPPORT FOR THE LEGISLATION

Mr. President, I am pleased to note that, as a result of the committee's efforts to respond to the concerns expressed about S. 364, most witnesses who testified before the committee on S. 330 endorsed the legislation. Among the veterans organizations testifying, AMVETS and the Paralyzed Veterans of America both supported S. 330. The Disabled American Veterans indicated support for portions of the bill and testified in support of the concept of authorizing judicial review of VA decisions on claims for benefits, although recommending a different method of review—through creation of a Court of Veterans' Appeals. And last month, at the Veterans of Foreign Wars' 80th National Convention in New Orleans, that organization reversed a prior position—taken in response to S. 364—in opposition to judicial review and passed a resolution in support of "legislation to provide judicial review of Veterans' Administration claims decisions pertaining to matters of law and regulations, insofar as the merits of the claims are concerned, and review of facts that are alleged to be arbitrary and/or capricious." That resolution very clearly applies to S. 330 as reported, and I believe that the VFW's change in position on this issue is significant in that it demonstrates that organization's belief that judicial review legislation can provide access to court for unsuccessful veteran or survivor claimants before the VA, thereby removing the current discrimination against such claimants without impairing the beneficial aspects of the existing VA adjudications process. I am, therefore, delighted that the VFW now supports this judicial review legislation.

Mr. President, I would also note that the Veterans' Administration testified in general support of S. 330 when appearing before the committee in March and that most of the remaining concerns raised by the agency at that time were addressed in the committee substitute reported by the committee on May 15.

CONCERNS ABOUT COURT REVIEW OF FACTS

Mr. President, during committee consideration of judicial review legislation, some concerns were raised about the extent to which courts would be authorized to review decisions made by the VA in a particular case. Specifically, there was a concern that permitting courts to review questions of fact could undermine the role of the VA as the expert arbiter of claims matters and would lead courts to substitute their views for that of the VA. In light of this concern, there was a suggestion that courts should be allowed to review only questions of law in VA cases and that VA findings on questions of fact should be final and unreviewable.

Mr. President, the scope-of-review provision in S. 330 as introduced allowed court review of questions of both law and fact and defined the court's role on questions of fact by using the "substantial evidence" test—as in the Administrative Procedure Act and the Social Security Act (SSA). Recognizing the concerns that were raised about experience with this test in the SSA context—the concerns being that courts are disregarding the intent of that test and substituting their own judgment for that of administrative decision-makers—the committee amended the bill to drop the "substantial evidence" test and replace it with an "arbitrary or capricious" test. Under this latter test, a court would have to affirm a factual finding unless it found the VA's decision to be arbitrary or capricious. This more restrictive formula was coupled with a remand provision requiring a reviewing court, on first finding a factual decision to be arbitrary or capricious, to return the matter to the VA for recon-

sideration before the court could reverse the decision. In the committee's view, this modification should guard against the problems identified under the SSA experience while still leaving an ultimate judicial remedy for correction of a truly egregious VA decision on factual issues.

Mr. President, the committee believed that this approach was far preferable to denying all review of factual questions because of problems that approach could generate. For instance, there is a strong argument that such a law/fact distinction would actually increase litigation in the Federal courts because any lawyer representing a VA claimant in court would merely style the complaint so as always to appear to raise "issues of law"—for example by characterizing the agency's decision on a question on the evidence of record as a denial of constitutional due process and, thus, it would be contended, a question of law for the court to decide. It is entirely likely that, in large numbers of such cases, courts of appeals would then be asked to pass on the district courts' decisions on the threshold jurisdictional question.

In addition, Mr. President, legal scholars are in agreement that questions relating to a factual issue, such as the sufficiency of the evidence to support a factual finding or the character of the evidence of record, are not questions of fact but of law. Thus, there would undoubtedly also be litigation seeking to determine if the Congress meant to make such questions not reviewable by adopting a scope-of-review provision limiting review to questions of law. Conversely, it can be argued that there is no such thing as a pure question of law because any such question involving the meaning of a law or regulation must be raised in the context of a particular factual situation.

Therefore, Mr. President, the committee took the position that fact/law distinction is workable, would invite much undesirable litigation over the fact/law distinction itself, and would, at the same time, suggest congressional support for the proposition that the VA can make "arbitrary" and "capricious" factual determinations that are immune from court review or reversal. Further, creating a fact/law distinction would run counter to one of the underlying bases for the bill, namely, that for too long veterans and their survivors with claims before the VA have been discriminated against in terms of access to the judicial system for redress of perceived or real injustices and a standard only allowing review of questions of law might result in continuation of this distinction to a great extent.

SUMMARY OF PROVISIONS

Mr. President, the committee bill has five titles: Adjudication procedures; Veterans' Administration rule making; Judicial review; Attorneys' fees; and Effective dates, as follows:

Title I: Adjudication procedures.—This title would codify and establish various internal procedures of the VA applicable in adjudications of claims for benefits under laws administered by the VA. Included in title I of the Committee bill are provisions that would:

Codify the burden of proof and reasonable doubt standards in VA claims adjudication proceedings, currently provided for by regulation—38 CFR 3.102—in order to assure that the VA's present practices of providing claimants all reasonable assistance in the development of claims and construing the evidence liberally in favor of the claimant are not lost in reaction to the provision, in title III of the committee bill, for judicial review of final decisions denying claims.

Specify procedures for the service of subpenas authorized under section 3311 of title 38, United States Code, including procedures for personal service or service by mail.

Increase the statutory limitation on the size of the Board of Veterans' Appeals from 50 to 65 in order to enhance the Board's ability to deal with the increased workload that judicial review of VA decisions is expected to generate.

Require expressly that the Board of Veterans' Appeals dispose of appeals before it in a timely manner.

Require the Board of Veterans' Appeals—BVA—chairman to report to the appropriate committees of the Congress annually on the board's current and future workload and its ability, based on then current and projected staffing, to dispose of appeals in a timely manner.

Require the BVA to provide a claimant with notice and an opportunity for a hearing before making a decision based on additional official information received after the BVA had previously decided the case.

Codify a claimant's right to an opportunity for a hearing before the BVA.

Require expressly that BVA decisions be based exclusively on evidence and material of record and on applicable provisions of law.

Make a technical correction in the description of the BVA's authority to reopen a claim by deleting—as inconsistent with present practice—the present requirement that new and material evidence sufficient to reopen a claim be in the form of official reports from the proper service department.

Specify that a court decision upholding denial of a claim under the new judicial review chapter of title 38, United States Code, added by the provisions of title III of the committee bill, shall not diminish the Board's discretionary authority to reopen a claim.

Require the BVA to mail a detailed statement of its decision to the claimant and the claimant's authorized representative, if any, at the last known address of the claimant and such representative.

Expand the present requirement that BVA decisions be in writing and contain findings of fact and conclusions of law separately stated to require that such decisions include findings and conclusions and reasons and bases therefor, on all material issues of fact, law, and matters of discretion and an order granting or denying relief.

Expressly provide a claimant before the BVA with the right, upon request, to have the Board acquire an independent medical opinion when there is a substantial disagreement between the substantiated findings or opinions of two physicians on an issue material to the outcome of the case. Any Board decision to deny such a request, and the basis for such denial, would have to be provided to the claimant but such decision would not have to be subject to judicial review.

Authorize the Administrator to administer oaths and affirmation, examine witnesses and receive evidence in VA claims adjudication proceedings.

Provide for the admission, even if inadmissible under the rules of evidence applicable in court, of all evidence submitted in VA claims adjudication proceedings subject only to such provisions as the Administrator may impose through regulations for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

Provide that, in the course of hearings on a claim for VA benefits following initial denial of the claim, the claimant—or other party—shall have the right to review and, on the payment of a fee—waivable, pursuant to regulations that the Administrator must prescribe, on account of inability to pay or for other good cause shown limited to the costs of duplication, to obtain copies of the case files and all materials to be used by the VA at the hearing, the right to present witnesses and evidence including medical opinions and rebuttal evidence, the right to make argument and to submit written contentions and the right to submit written interrogatories to any person which must be answered unless written objections thereto are filed. If the person served with interrogatories files an objection thereto, the Administrator must, pursuant to regulations that the Administrator must prescribe, evaluate the objection and issue an order directing that answers be given or stating that they need not be given. If the person served with interrogatories fails to comply with such an order or, in the absence of an objection, to answer the interrogatories, the party who served the interrogatories would have the right, upon a statement or showing of good cause, to have the Administrator issue a subpena—enforceable in Federal district court—for the witness' attendance at a deposition at which the unanswered interrogatories would be asked.

Allow, in the course of any claims proceeding, any VA employee to disqualify himself or herself on the basis of personal bias or other cause and a party to challenge such an employee on such basis.

Describe the contents of the record of VA claims adjudication proceedings and provide that the record shall be available for the claimant's inspection and shall be copied for the claimant upon the payment of a fee—available, pursuant to regulations that the Administrator must prescribe, on account of inability to pay or for other good cause shown—limited to the costs of duplication.

Specify that the adjudication and rights contained in title 38 and pre-

scribed thereunder by the Administrator are exclusive.

Require the Administrator, at each stage of claims adjudication proceedings before the VA, to provide the claimant with detailed notice, in easily understandable language, of the claimant's procedural rights.

Mandate a VA study of alternative methods of assuring the resolution of claims as promptly and efficiently as feasible and affording claimants the opportunity for a timely and convenient hearing or review by a disinterested authority, such study to include two alternative methods of speeding claims resolution at locations convenient to claimants, as follows: In at least three geographic areas, a procedure utilizing intermediate review panels which would conduct de novo reviews at VA regional offices prior to appeal to the BVA; and in at least three other geographic areas, an enhanced schedule—at least quarterly visits—of BVA traveling board visits. The report on the study, including the Administrator's recommendations for administrative or legislative actions, or both, would be due to be submitted to the Congress within 42 months after the date of enactment.

Title II: Veterans' Administration rulemaking.—This title would require application of the Administrative Procedure Act (APA) provisions applicable to rulemaking.—This title would require notice to the public of proposed regulations and opportunity for comment on such proposed regulations, notwithstanding the exclusion from such provisions in section 553(a)(2) of title 5, United States Code, of matters involving loans, grants, benefits, or contracts.

Title III: Judicial review.—This title would permit access to the U.S. Federal court system for review of decisions of the Administrator on claims for benefits. Included in title III of the committee bill are provisions that would:

Add cases covered by the judicial review provisions added to title 38 by this title of the committee bill to the exceptions from the general preclusion of judicial review contained in present section 211(a) of title 38, United States Code.

Authorize review of a final Administrator's decision adverse to a VA benefits claimant in Federal district court—in either the plaintiff's home district or the judicial district where the Board of Veterans' Appeals is located, presently the District of Columbia—instituted by a civil action brought within 180 days of the mailing of the VA notice of such decision.

Provide that, in matters not directly involving a claim for benefits, nothing in section 211(a) of title 38, United States Code, shall operate as a bar to a civil action otherwise authorized by law.

Define a "final decision of the Administrator," which may be appealed to Federal court, to include a Board of Veterans' Appeals (BVA) final decision on the merits, refusal to reopen a claim, and dismissal of an appeal.

Preclude applicability of the judicial review provisions added by this title of the committee bill to matters under chapters 19—insurance—and 37—home, condominium, and mobile home loans—of title 38, United States Code.

Require that a complaint instituting a civil action for court review of a decision relating to a claim for benefits include sufficient information to permit the VA to identify and locate the plaintiff's VA records.

Require the VA to file, together with its answer to a complaint, a certified copy of all of the materials that constitute the record or, if the cost of filing all such materials would be unduly expensive, a complete index of all of the materials. In the latter case, the court would, after considering the requests of the parties, order the Administrator to file certified copies of such indexed items as it deemed relevant to its consideration of the case.

Authorize a court, in an action for review of a VA denial of a claim for benefits, to enter a judgment on the pleadings and the records.

Limit judicial review, under the provisions added by this title of the committee bill, of denials of claims for benefits to cases in which the initial claim is filed with the Administrator on or before the last day of the fifth fiscal year beginning after the effective date of such provisions.

Authorize the reviewing court to decide all relevant questions of law; to interpret constitutional, statutory, and regulatory provisions, compel action of the Administrator unlawfully withheld; and to hold unlawful and set aside decisions, findings, and conclusions of the Administrator found to be, first, arbitrary, capricious, an abuse of discretion, or not in accordance with law; second, contrary to constitutional right, power, privilege, or immunity; third, in excess of statutory, jurisdiction, authority, or limitation, or in violation of a statutory right, or fourth, without observance of procedure required by law.

Require a reviewing court, before reversing an Administrator's decision on the basis of a court finding that a factual determination of the Administrator is arbitrary, capricious, or an abuse of discretion, to specify where it finds the record deficient and remand the matter a single time to the Administrator for further action within a reasonable, specified period of time.

Require a court, in making determinations, to review the whole record of those parts cited by a party and to take due account of the rule of prejudicial error.

Preclude a reviewing court from conducting a trial de novo on the Administrator's findings of fact.

Provide that, in a matter resolved by the VA solely on the basis of a party's failure to comply with a VA regulation, the reviewing court may consider only issues raised as to the validity of or a party's compliance with the regulation.

Authorize three different types of remands from the reviewing court to the Administrator: First, a single remand for not more than 90 days at the Administrator's request, before the Administrator files an answer, for the Administrator to reconsider the case; second, a remand in the court's discretion after the Administrator has filed an answer; and third, a remand if either party applies for leave to adduce further evidence and the moving party shows "good cause" for the requested remand.

Provide that any actions brought under the judicial review provisions added by this title of the committee bill will survive the tenure of any individual as Administrator.

Provide that decisions of the district court pursuant to the judicial review provisions added by this title shall be subject to review in higher Federal courts in the same manner as judgments in other civil actions.

Specify that the current-law limitation on the jurisdiction of Federal district courts in matters involving pensions shall not apply to VA pension matters.

Title IV: Attorneys' fees.—This title would revise the present title 38 limitation of $10 for claimants' attorneys' fees by providing for approval by the Administrator of reasonable attorneys' fees, within certain limits, for representation of individuals before the VA and for court approval of a reasonable attorneys' fee in a case appealed to court under the judicial review provisions added to title 38 by this title of the committee bill, with a specified limitation in cases in which the matter is resolved in a manner unfavorable to the claimant. Included in title IV are provisions that would:

Retain the $10 limitation on the amount an attorney may receive for services rendered prior to the time the claimant receives a statement of the case—a formal explanation of an initial denial of a claim.

Permit the Administrator to approve a reasonable attorneys' fee for representation within the VA after the statement of the case is issued, up to a maximum of $500 or, if the claimant and attorney have entered into a contingency-fee agreement, no more than 25 percent of any past-due benefits awarded the claimant.

Authorize the Administrator to increase the $500 maximum limitation in future years to reflect changed economic conditions.

Authorize the Administrator to disregard the $500 limitation in an individual case involving extraordinary circumstances warranting a higher fee.

Allow a reviewing court, in a case appealed from the VA, to approve a reasonable attorneys' fee. For cases not resolved in a manner favorable to a claimant, the maximum a court could approve would be $750. For cases resolved in a manner favorable to a claimant, the only limitation on the amount of the reasonable fee that a court could approve would be that, if a claimant, and an attorney had entered into a contingent-fee agreement, the fee approved by the court could not exceed 25 percent of the total amount of past-due benefits.

Authorize the VA to make payment to an attorney from past-due benefits, but preclude the VA from making payments from benefits received subsequent to the date of the decision entitling the veteran to benefits.

Provide for court review of either the Administrator's or a court's approval of attorneys' fees. With respect to approvals by the Administrator in cases resolved within the VA, either the claimant or the attorney would be permitted to bring an action, in the Federal district court in the claimant's home district, challenging the Administrator's action regarding the fee on the basis that it was an abuse of discretion. With respect to approvals by a court, either the claimant or attorney would be permitted to make a motion to modify the fee in the Federal district court where the appeal to court was considered.

Limit the applicability of the attorneys' fees provisions to cases involving claims for benefits.

Define, for the purpose of attorneys' fees provisions, a claim as being "resolved in a manner favorable to the claimant" when any or all of the relief sought is granted.

Authorize a court, in its discretion and as extraordinary remedy, to allow a prevailing party, other than the Administrator, reasonable attorney's fees as part of the costs awarded following its decision.

Provide criminal penalties for willfully and intentionally defrauding a VA claimant.

Title V: Effective dates.—This title provides for an effective date and authorizes the institution of civil actions, under the judicial review provisions added by title III of the committee bill, for the review of certain Board of Veterans' Appeals—BVA—decisions prior to such effective date. Included in this title are provisions that would:

Provide that the provisions added by the committee bill would become effective 180 days after the date of enactment.

Allow for court review of a BVA decision rendered on or after January 1, 1977, and prior to such effective date, if the action to review such decision is brought within 180 days after the effective date of the provisions added by the committee bill or after mailing of notice by the Administrator to the claimant of the right to such court review, whichever is later.

Mr. President, in order that all Senators and the public may have a full understanding of the various provisions of S. 330 as reported, I ask that there be printed in the RECORD at this point pertinent excerpts from Senate Report No. 96-178 accompanying this bill.

The excerpts follow:

DISCUSSION

TITLE I: ADJUDICATION PROCEDURES

Title I of the committee bill contains a number of provisions related to the proposed provision for judicial review of VA decisions under title III of the committee bill.

Throughout committee consideration of judicial review legislation, several witnesses expressed concern over the possible detrimental impact that the allowance of court review could have on internal VA claims procedures. Those who voiced this concern noted that, because of the VA's special mission of providing services to veterans and their survivors, the VA has developed regulations and procedures that result in a very supportive, nonadversarial, and informal atmosphere that is generally quite beneficial to veterans. In addition, it has been noted that, because the Board of Veterans' Appeals is the final arbiter of veterans' claims, it proceeds with particular care and concern in its evaluation of such claims.

Other witnesses and commentators, although not disagreeing with the viewpoint that the VA's present internal procedures are generally beneficial to veterans, expressed concern that because many of the VA's regulations and procedures relating to the adjudication of claims have no clear statutory basis, and because court review of administrative actions is precluded, claimants' rights may depend on the whim of particular individuals in the adjudications process. In addition, it was suggested by some witnesses that it was not clear that current VA procedures lead to the development of a sufficient administrative record to provide a reviewing court, in the event of judicial review, with an adequate basis on which to evaluate the VA's decision.

In response to these various points of view, the committee bill contains provisions relating to VA adjudication procedures that fall into three broad categories—provisions intended to codify certain VA adjudications procedures (some set forth in regulations and some only a matter of practice) so as to assure claimants of procedural protections while preserving the informality that characterizes VA procedures at present; provisions intended to promote the development of an administrative record that should enable a reviewing court to understand and evaluate the VA's proceedings in a given case; and provisions intended to enhance the VA's ability to carry out its mission of service to veterans and their dependents and survivors after judicial review has been authorized.

All of the veterans groups that testified before the Committee on S. 330, including The American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, AMVETS and the Paralyzed Veterans of America, expressed their general support for the various provisions of title I. Likewise, the VA, in its testimony, indicated general support for the provisions of title I.

Codification of VA adjudications procedures

In the category of provisions intended to codify present VA adjudications procedures, section 101(a) of the committee bill includes a provision to codify the burden of proof and reasonable doubt standards currently provided for by VA regulation (38 CFR 3.102). The reason for proposing such codification of a current practice based on regulation is to ensure that the VA's present practice of making every effort to award a benefit to a claimant is not abandoned, as many witnesses suggested might occur, in response to court review, especially if the agency believed that reviewing courts were relying on the standard of giving the claimant the benefit of the doubt in cases where evidence clearly failed to establish entitlement to the benefit in question, in order to decide factual issues in a manner contrary to the Administrator. The committee does not believe that such a result is likely, particularly in light of the restricted scope of review that is proposed for court review of factual VA determinations under title III of the committee bill, and believes strongly that the existing regulatory standards relating to a claimant's burden and the VA's evaluation of the claim should be maintained.

Under the provision included in the committee bill, as in current VA regulation, a claimant for benefits has the burden of submitting evidence sufficient to justify a belief that a "claim is well grounded." Thus, the claimant would have the burden of adducing some evidence on each element necessary to warrant the granting of the benefit at issue. In determining whether this form of a "prima facie" showing requirement has been met, only the evidence favorable to the claimant should be considered; of course, in making the ultimate determination of entitlement to the benefit in question, all of the evidence of record should be considered. Issues regarding the weighing of conflicting and other adverse evidence are to be resolved under the provisions regarding the benefit of the doubt.

In that regard, the committee bill clarifies and codifies the "reasonable doubt" standard, which, under VA regulation, is stated, in equivocal and sometimes internally inconsistent terms, as follows:

§ 3.102 Reasonable doubt.

It is the defined and consistently applied policy of the Veterans' Administration to administer the law under a broad interpretation, consistent, however, with the facts shown in every case. When, after careful consideration of all procurable and assembled data, a reasonable doubt arises regarding service origin, the degree of disability, or any other point, such doubt will be resolved in favor of the claimant. By reasonable doubt is meant one which exists by reason of the fact that the evidence does not satisfactorily prove or disprove the claim, yet a substantial doubt and one within the range of probability as distinguished from pure speculation or remote possibility. It is not a means of reconciling actual conflict or a contradiction in the evidence; the claimant is required to submit evidence sufficient to justify a belief in a fair and impartial mind that his claim is well grounded. Mere suspicion or doubt as to the truth of any statements submitted, as distinguished from impeachment or contradiction by evidence or known facts, is not a justifiable basis for denying the application of the reasonable doubt doctrine if the entire, complete record otherwise warrants invoking this doctrine. The reasonable doubt doctrine is also applicable even in the absence of official records, particularly if the basic incident allegedly arose under combat, or similarly strenuous conditions, and is consistent with the probable results of such known hardships. In the committee's view, the various parts of the VA's present "reasonable doubt" rule are difficult to follow—for example, the statement that the rule is not to be used to reconcile actual conflict or contradiction in the evidence.

In addition, the VA and others have urged that the term "reasonable doubt" be deleted from any statutory codification of the rule in order to avoid confusion with the more familiar usage of that term in criminal matters.

After extensive consultations with the VA with respect to the current VA interpretation of the rule and practices under it, the Committee bill provision has been fashioned to require that where the totality of the evidence is such that "there is an approximate balance of positive and negative evidence regarding the merits" of a material issue, the doubt is to be resolved in the claimant's favor. Thus, under the provision in the Committee bill, where on the basis of all the relevant evidence an element of a claim is neither clearly established nor clearly refuted, the benefit of the doubt is to be given to the claimant. Where the evidence clearly calls for a finding of fact for or against the claimant, such a rule would be unnecessary and would thus not apply; the finding would simply follow the clear direction of the evidence.

The committee notes that the above-described provisions, in codifying current procedures, are not intended in any way to diminish the VA's obligation, by regulation (38 CFR 3.103), to provide complete assist-

ance to the veteran or other claimant in the development of the claim. Although the claimant has the burden of submitting evidence in support of the claim, that evidence may be in the veteran's service record or other governmental records and, therefore, in the control of the Federal Government. In such situations, the VA should be responsible for providing the material—or seeing that it is provided—needed to make the determination on eligibility.

The committee bill, at section 106(1), also would codify a right currently provided by regulation (38 CFR 19.133) to an opportunity for a hearing before the Board of Veterans' Appeals. In the committee's view, the right to a hearing is so fundamental to fair proceedings that it should be elevated to the level of a statutory guarantee.

* * * * *

In large measure, the procedures specified in the new section are generally applicable in present VA proceedings. Those procedures that represent a change in VA proceedings have been included primarily to provide a claimant with a clear opportunity to develop a complete administrative record before the agency so that, in the event of a denial of a claim, there will be a record on the basis of which a reviewing court will be able to understand and evaluate the VA's decision.

Many of the procedures included in the proposed "Adjudication procedures" section are derived from sections of the Administrative Procedure Act (5 U.S.C. 554, 555, and 556). However, before including similar provisions in the committee bill, the committee was careful to evaluate each for any detrimental impact that could result from codifying any such procedure in the context of the particular nature of VA proceedings, and rejected provisions that it considered to be potentially disruptive. One example of this approach was in the area of cross-examination of witnesses before the Board of Veterans' Appeals and the concomitant need for authority to subpena such witnesses. A number of witnesses before the committee strongly advocated the need for the provision of such authorities, basing their position on the belief that cross-examination is a critical tool for testing the assertions and opinions of witnesses. The Committee is well aware that such authority is available in other administrative proceedings for Federal benefits (for example in administrative action for benefits under the Social Security Act). However, the committee believes that such authority could significantly disrupt existing VA adjudications procedures. Thus, in an effort to provide a discovery tool to a claimant while striving to maintain the existing informal and supportive tenor of VA proceedings, the committee bill includes authority for a claimant to submit interrogatories to any person, with mechanisms provided for the enforcement of this authority through the Administrator, after reviewing the interrogatories and determining their reasonableness, issuing a subpena to compel a witness to answer the questions posed by the claimant at a deposition in a location convenient to the witness.

Among the procedures in the proposed new section that are intended to codify existing procedures are those that would: (1) authorize the Administrator to administer oaths and affirmations, examine witnesses, and receive evidence; (2) provide for the admission of any evidence in VA proceedings, even if such evidence were inadmissible under the rules of evidence applicable to judicial proceedings, subject only to exclusions, if the Administrator provides by regulation therefor, for irrelevant, immaterial, or unduly repetitious evidence; (3) permit a claimant (or claimant's representative) to examine all of the materials to be considered in the proceeding and—on the payment of a fee, which may be waived in specified circumstances, including the claimant's inability to pay—to receive a copy of any or all such materials; (4) provide authority for a hearing officer to disqualify himself (herself) on the basis of personal bias or other cause and permit a claimant to challenge a hearing or adjudication officer on such basis; (5) define the contents of the administrative record following Board determination and permit a claimant (or a claimant's representative)—on the payment of a fee, which may be waived in specified circumstances, including the claimant's inability to pay—to receive a copy of the materials constituting the record; and (6) specify that the adjudication and hearing procedures prescribed in title 38 and in regulations of the Administrator are exclusive.

This last provision is included to reaffirm the committees' belief that the existing internal adjudications procedures of the VA are generally fair and workable and to preclude, therefore, judicial incorporation of other procedures beyond those codified in title 38 or provided by regulations in accordance with such statutory authority. The committee believes that such a clear statement of the exclusive nature of VA adjudications procedures is necessary to prevent a court from requiring that VA proceedings be in compliance with all Administrative Procedure Act provisions on the grounds that the "trigger" provision in the Administrative Procedure Act (5 U.S.C. 554(a)), which provides that the requirements of that "section apply * * * in every case of adjudication required by statute to be determined on the record after opportunity for any agency hearing" might otherwise be activated by the amendment to section 4004(a) proposed in section 106 of the committee bill codifying the claimant's right to a hearing before the Board.

Development of administrative record

The committee bill includes provisions designed to promote the development of a record of the agency proceeding that would permit a reviewing court to understand and evaluate the proceedings as part of its review without having to remand the matter for further development by the Administrator. The bill also contains provisions, relating to the administrative proceedings, that provide the claimant with a full opportunity to participate in the development of the record so that all relevant issues would be considered by the Board of Veterans' Appeals prior to any judicial review.

The provision most directly concerned with the development of a sufficient record by the Board is in an amendment to section 4004(d) of title 38, as proposed to be made by section 106(3) of the Committee bill, which would require that each decision of the Board be in writing and include a "statement of the Board's findings and conclusions, and reasons or bases therefor, on all material issues of fact, law, and matters of discretion presented on the record", together with the appropriate order in the case. The committee anticipates that this provision, derived from a similar provision in the Administrative Procedure Act (42 U.S.C. 557(c)), would result in a decisional document from the Board that will enable a claimant to understand, not only the Board's decision but, the precise basis for that decision, and would also permit a claimant to understand the Board's response to the various arguments advanced by the claimant. With such an understanding, the Committee believes that a claimant would be able to make an informed decision on whether or not to request court review, and that, if an appeal is taken, the decisional document should assist the reviewing court to understand and evaluate the VA adjudication action.

New section 4010 of title 38, as proposed to be added by section 109 of the committee bill, contains provisions intended to provide a claimant with an opportunity to present fully his or her case in support of a claim for benefits. The key provisions in this respect would authorize a claimant (or a claimant's authorized representative) to: (1) Present witnesses and evidence (subject only to regulations of the Administrator excluding irrelevant, immaterial or unduly repetitious evidence); (2) present arguments, either orally or in the form of written brief or similar documents, on substantive and procedural issues; (3) submit rebuttal evidence; (4) present medical opinions and request an independent medical opinion; and (5) serve written interrogatories to any person. As discussed earlier, the Committee was guided in its decisions relating to procedural matters by a sense that existing VA procedures are generally fair and workable and that any changes should be made with the intent of preserving such procedures and the informal atmosphere of VA adjudications proceedings while providing claimants with statutory assurance of a full opportunity to have their arguments and evidence presented to the Board.

The new authority for a claimant to submit written interrogatories is, as discussed earlier, an attempt to reconcile two conflicting viewpoints: That claimants should have an opportunity to subpena potential witnesses, then cross-examine them and that such an authority would lead to serious disruption of the VA adjudications system and would serve to turn supportive, informal hearings into adversarial ones. Under the provision in the committee bill, a claimant would have the opportunity to submit interrogatories to any person who, unless that person objected to the Administrator, would have to answer the questions fully and under oath. If the person served with the interrogatories objected to them, the Administrator, pursuant to regulation, would evaluate the objection, under standards consistent with standards for protective orders under Rule 26(c) of the Rules of Civil Procedure for the U.S. district courts, and accordingly would determine if the interrogatories were appropriate or were designed to annoy, embarrass, or oppress, or would otherwise place an undue burden or expense on the person to whom they were submitted. Thereafter, the Administrator would issue an order directing that the interrogatories be answered as submitted or as modified or indicating that they need not be answered. If a person served with interrogatories failed to answer them or answered them in an unresponsive manner, the party submitting such interrogatories would be able to request the Administrator to issue a subpena compelling the person's attendance at a deposition on written questions at which the unanswered interrogatories would be asked. The design of the committee bill is that such a subpena would be issued, and enforced pursuant to section 3313 of title 38, only if the Administrator was satisfied that the evidence sought by the interrogatories was both relevant and reasonable in scope.

Other improvements in internal procedures

The committee bill contains a number of provisions in title I that are designed to improve internal VA procedures in order to enhance the agency's ability to carry out its mission of service to veterans and survivors once judicial review becomes available pursuant to the provisions of title III of the committee bill.

Thus, the committee bill proposes two changes relating to the Board of Veterans' Appeals that are intended to assist the Board in handling the increased workload that judicial review of VA decisions is expected to generate and to enable the Congress to monitor that progress. First, section 103(1) of the committee bill proposes an expansion of the maximum size of the Board from the present limit of 50 members to 65 members.

In authorizing this increase in the size of the Board's membership, the committee is aware, from extensive correspondence between the chairman and the Administrator, that minority representation among members of the Board of Veterans' Appeals is very limited. As of October 1978, the following constituted the entire minority membership of the Board: 1 black woman and 1 Hispanic-surnamed man out of a total of 47 members. It is the committee's view—concurred in by the Administrator of Veterans' Affairs—that this disparate representation must be remedied as rapidly as possible so that the Board will have a prima facie appearance of a fair and impartial body. The prolonged failure to achieve a fairly representative Board membership inevitably has a serious impact on the confidence of minority group veterans and other claimants that their appeals will be fairly and sensitively considered. Thus, the committee expects that the Administrator will use the opportunity presented by the increase in the size of the Board to undertake an aggressive outreach and recruitment effort aimed at improving the extent of minority representation on the Board.

Second, the committee bill would add a requirement that the Board dispose of appeals properly before it in a "timely manner" and that the Chairman of the Board report to the Congress annually on the Board's record of meeting that requirement, together with an evaluation for the coming fiscal year, of the Board's ability to meet this requirement. The requirement of timely disposition of appeals, together with the annual reporting requirement, should afford the committee the opportunity to monitor closely the Board's ability to handle its caseload after judicial review is allowed so that, if the Board is overwhelmed by new requirements, the Congress will be in a position to take any appropriate remedial action.

Another proposal in title I of the committee bill, section 108, would expand the availability of independent medical opinions (IMO's) of the type authorized under present section 4009 of title 38—outside evaluations of the medical records before the Board generally made by a medical school faculty member. The new provision is intended, in part, to provide claimants with increased statutory opportunity to influence the development of the record before the Board, but it also reflects the view of the committee that IMO's may be a valuable tool to assist in resolving claims involving disputed medical evidence. In fiscal year 1978, the Board requested 201 such independent medical opinions, but the VA predicts that, under the proposal in the bill, it would request approximately 2,600 IMO's. These facts indicate to the committee that current procedures for evaluating the need for an IMO may not result in acquiring such opinions as often as might be desirable to provide assurance that the Board's resolution of a disputed medical issue is, in fact, correct.

Under the procedure proposed in the committee bill, a claimant would be able to request that the Board seek to secure an IMO when the evidence before the Board indicates a "substantial disagreement" between the "substantiated findings or opinions" of two physicians on an "issue material to the outcome of the case" and such disagreement cannot be resolved in any other way (by, for example, submitting interrogatories to either physician in order to probe the basis for the physician's findings). It is the committee's intention that, when the evidence before the Board is as described above, the Board should secure an IMO because, without such an independent opinion, it would appear if the Board found against the claimant that it had simply taken the VA physician's view without giving credence to the view expressed by the claimant's physician. In suggesting this position, the committee does not mean to suggest that the Board would in all cases be required to resolve the disputed matter in the way that the IMO suggests—only that it believes that a well-substantiated IMO that disagrees with VA-physician findings or opinions would be entitled to substantial weight.

The committee bill IMO provision differs from the provision as introduced in S. 330 in three ways. First, the committee bill adds the word "substantiated" to modify "findings or opinions of two physicians" in order to indicate the committee's view that a bare statement in the record from a private physician setting forth only a medical or legal conclusion, without stating the diagnostic techniques employed and the specific resulting findings and other facts and reasoning that support the conclusion, would not be sufficient to require the Board to secure an IMO. The second change in the committee bill commits the decision on whether to grant an IMO solely to the discretion of the Administrator and explicitly precludes judicial review of such decision. In so doing, the committee recognizes that this preclusion of court review could lead to abuse. However, the committee believes that the Board will fully and fairly evaluate requests for IMO's pursuant to the provisions of the new authority, and the committee intends to monitor closely the Board's actions in this regard. Third, a provision is included in the committee bill to require the Board, if it denies a request for an IMO, to provide a claimant with a statement setting forth the basis for its denial; the committee believes that this requirement should act as further assurance of responsible Board action in this respect.

Finally, new section 4011 of title 38, as proposed to be added by section 109 of the committee bill, would require the Administrator, at each procedural stage of a claim, to provide a claimant and the claimant's authorized representative, if any, written notice, in easily understandable language of the procedural rights of the claimant and of opportunity for further review. By inclusion of the requirement that such notices be "in easily understandable language", the committee intends that the required notices be available in languages other than English, such as Spanish, when a substantial percentage of a particular VA facility's clientele have a limited English-speaking capacity and generally use such other language as their primary tongue.

Study of methods to speed claims resolution

Section 110 of the committee bill would mandate the Administrator to test alternative methods of resolving claims for VA benefits in a speedier fashion and at locations more convenient to claimants' residences. S. 330 as introduced included a provision to be added as a permanent authority in title 38 to authorize the Administrator to establish and evaluate one such method, a procedure whereby a claimant, following an initial denial at the regional office, could receive a *de novo* hearing, generally in the same regional office, from a new panel of three regional office adjudications personnel. Under that proposal, the claimant, after such a hearing, would have still had the opportunity for review by the Board of Veterans' Appeals (BVA) but would not have had an entitlement to a hearing before the Board (although the Board, as a matter of discretion, could have provided opportunity for such a hearing).

The Committee's interest in evaluating alternative means of speeding the claims resolution process at locations as convenient as possible for each claimant was based, in part, on its awareness of the increased success rate of claimants who appear personally before the Board as compared with the rate of allowance where there is no personal appearance (in fiscal year 1978, the Board's overall allowance rate of claims before it was 12.4 percent; in cases where the claimant had a hearing before the Board at VA's Central Office in Washington, D.C., the allowance rate was 16.8 percent; and, for cases heard by BVA traveling panels, the allowance rate was 19.9 percent). Although these statistics are not conclusive, they are very suggestive that a personal appearance before the Board makes a significant difference in achieving favorable resolution of a claim. However, the current alternatives for appearing before the Board (travel to Washington, D.C., or waiting for up to a year or more, in some locations, to appear before a traveling panel) provide little opportunity for such an appearance in a timely manner without the difficulty and expense of travel to Washington, D.C.

* * * * *

The Administrator would be directed to report the results of the study, which would be conducted for a period of between 24 and 36 months, not later than 42 months after the date of enactment of the committee bill. The report of the study is to include an evaluation of the cost of each alternative and the impact of each on the workload of the regional offices in question as well as on the BVA, together with recommendations for such administrative or legislative action, or both, as may be indicated by the results of the study.

The committee is very concerned that alternatives for speeding claims resolution, particularly those that permit the claim to be resolved at a location as convenient as possible for each claimant, should be explored and thus, will closely monitor this study and very carefully review the Administrator's final report of the results.

TITLE II: VETERANS' ADMINISTRATION RULE MAKING

Title II of the committee bill consists of only one substantive provision, which would require that the VA's promulgation of rules and regulations be subject to the provision of the Administrative Procedure Act (APA) relating to rule making (5 U.S.C. 553). That APA provision generally requires an agency to provide public notice of proposed rule making (or proposed regulation issuance) in the Federal Register and opportunity for public comment on the proposed rule or regulation. As noted by one scholar in the field of administrative law:

"[t]he rulemaking procedure marked out by the Administrative Procedure Act . . . is especially successful . . . . The procedure is both fair and efficient. Much experience shows it works beautifully. K. C. Davis, Administrative Law Text 139 (3d ed. 1972)."

* * * * *

The VA, which states that, pursuant to regulation (38 CFR 1.12), it has been in voluntary compliance with the requirements of section 553 since April 1972, indicated in its report on S. 330 that it has no objection to having such compliance made mandatory.

All of the witnesses who testified before the committee on S. 330, including all of the representatives from the various veterans groups that appeared, indicated their support for mandating VA compliance with the provisions of the APA relating to rule making.

TITLE III: JUDICIAL REVIEW

Background

Although there were various earlier legislative and judicial actions pertaining to the availability of court review of decisions concerning veterans' benefits, the modern predicate for the current statutory preclusion of judicial review (38 U.S.C. 211(a)) was section 5 of the Economy Act of 1933 (Public Law 73-2), a particularly harsh measure in its impact on veterans, which, in title I of

the measure, cut severely into the then-existing scheme of veterans' benefits.

For example, using authority provided him in the Economy Act to revise amounts paid to veterans for pensions and compensation, President Roosevelt issued an Executive order that resulted in a reduction of $361 million, from $592.7 million to $231.7 million in funding for VA compensation and pension benefits for fiscal year 1934 (see H.R. Rept. No. 73-61, 73d Cong., 1st Sess. 9 (1934)). Clearly, both the Congress and the President believed at that time that the benefits provided to veterans by law could be summarily reduced, a viewpoint which, without regard to what it expressed about how veterans were perceived generally as a particular group in the population, obviously demonstrated the viewpoint that veterans' benefits were mere gifts or gratuities, to be freely given or taken. While much of the viewpoint demonstrated in that legislation has disappeared over the years since 1934, the statutory bar codified in that legislation to preclude veterans and their survivors from receiving review by a court of a decision denying benefits remains in force.

This bar to court review has been challenged on numerous fronts over the years, both in litigation and legislative proposals. However, other than some short-lived breaches in the bar to review (see the discussion of *Wellman* v. *Whittier*, 259 F.2d 163 (D.C. Cir. 1958) and *Tracy* v. *Gleason*, 379 F.2d 469 (D.C. Cir. 1967) in the VA's March 21, 1979, report on S. 330 (reprinted beginning at page 83, *infra*, and hereinafter referred to as "VA Report on S. 330" at pages 28-29), which were filed by subsequent legislative action (see H.R. Rept. No. 91-1166, 91st Cong., 2d Sess. 8 (1970) accompanying H.R. 17958, legislation ultimately enacted as Public Law 91-376), veterans and other claimants whose claims for benefits have been denied by the VA have been unable to obtain review of such a decision outside of the agency.

In attempting to discover the congressional purpose for the continued existence of the no-review clause, the Supreme Court of the United States, in *Johnson* v. *Robison*, 415 U.S. 361 (1974), after noting that the legislative history accompanying the predecessors to present section 211(a) "is almost nonexistent", analyzed a 1952 letter, from the Administrator of Veterans' Affairs to a subcommittee on the House of Representatives Committee on Veterans' Affairs, in connection with a proposed revision to the no-review clause that was then before the Congress. From the Court's review of that correspondence and later Congressional action, the Court identified two primary purposes for the no-review clause:

"(1) to insure that veteran's benefits claims will not burden the courts and the Veterans' Administration with expensive and time-consuming litigation, and

"(2) to insure that the technical and complex determinations and applications of Veterans' Administration policy connected with veterans' benefits decisions will be adequately and uniformly made. 415 U.S. at 370."

Although it is clear that there is some merit to these purposes, it is equally clear to the committee, from the testimony and related correspondence received on S. 330 and the predecessor bill, S. 364, that there are significant reasons to reconsider the application of the concept of judicial review to VA decisions on claims matters as proposed by that legislation.

A number of witnesses who appeared before the committee during the five hearings held on S. 364 testified in general support of the concept of allowing judicial review of VA decisions. . . .

* * * * *

The Committee also received testimony and submissions to the S. 364 record detailing numerous examples of instances where the claimants involved had received arguably improper treatment from the VA but were precluded from receiving any redress from these wrongs by the preclusion of judicial review. For example, beginning on page 315 of the printed S. 364 hearing record, Mr. Robert Landers of the International Veterans Association, described two cases involving former prisoners of war and their inability to secure, in one case, any service-connected disability compensation and, in the other, a proper amount of service-connected disability compensation, despite what Mr. Landers described as the serious physical and psychological after-effects of their imprisonment. Beginning on page 454 of the hearing record, Dr. Alcide D. Pellerin, a former member of the Board of Veterans' Appeals, described the case of a veteran he called "Frank X". Dr. Pellerin's testimony indicated that the VA had made a clear error in the original assignment of a service-connected disability rating, an error that was not corrected for over 20 years, at which time the rating awarded the veteran was doubled (from a 30-percent disability to a 60-percent disability). Despite this clear error, the Board of Veterans' Appeals, according to Dr. Pellerin, who was on a BVA panel that considered the claim, refused to award any retroactive benefits for the extended period that the veteran had been wrongly denied the proper service-connected disability rating.

Two other witnesses, Mr. Carlos Soler-Calderon, representing the National Congress of Puerto Rican Veterans, and Mr. Frederick Gross, an attorney in private practice with experience before the VA, both discussed cases involving VA actions in cases involving disabilities. Mr. Soler-Calderon, in testimony on page 473 of the hearing record, described the plight of an individual veteran who was hospitalized five times in 4 years for a psychiatric disability before receiving only a 30-percent disability from the Board of Veterans' Appeals, and the Board, according to Mr. Soler-Calderon, did not even mention the numerous hospitalizations in rendering its decision. Mr. Gross' testimony, which begins on page 476 of the hearing record, described a case involving a veteran who, according to Mr. Gross' analysis, became psychotic while in the service but was denied service-connected disability compensation because an Army psychiatrist relied on the disabled veteran's fantasies to determine that the individual was psychotic before entering the service.

* * * * *

These cases, together with numerous other examples (see, for example, the testimony of Mr. George Lively at pages 508-509 of the hearing record, of Mr. Dennis W. Carroll and Mr. Dennis M. Sweeney at pages 689-690, and the submission from Mr. Gary Bradford, reprinted at pages 791-792) support the committee's view that there is a genuine need for legislation providing for some form of judicial review of VA decisions.

Because of the significant amount of general testimony and supporting material that the committee had received on the concept of judicial review of VA decisions in connection with its consideration of S. 364 in the 95th Congress and because S. 330 represented such a significant change in the form of judicial review legislation, the Committee requested potential witnesses before the committee on S. 330 to "focus [their] testimony most directly on the specific provisions of [S. 330] rather than principally on the broader, underlying issues". Thus, rather than receiving further specific examples of alleged misfeasance or malfeasance involving the VA and the Board of Veterans' Appeals, the Committee heard testimony generally directed at the specific provisions in S. 330.

Nevertheless, a number of witnesses took the opportunity of their appearance before the committee to voice general support for judicial review legislation. For example, Mr. Gabriel P. Brinsky, the National Service and Legislative Director of AMVETS, testified: "AMVETS favors judicial review of Veterans' Administration decisions as proposed by S. 330." Likewise, Mr. Gerald Jones, legislative director of the Paralyzed Veterans of America, stated:

"May we begin by stating that the veterans' right to judicial review can be valuable to both the individual veteran and to the Veterans' Administration. Furthermore, a claimant's right to redress certainly would be in keeping with the American tradition of allowing any aggrieved citizen to present his claim to a reviewing body."

The representative of the Disabled American Veterans, Mr. John F. Heilman, national legislative director, indicated that, although the DAV did not support the specific form of judicial review incorporated in S. 330, the DAV does "believe that a veteran, or the dependent or survivor of a veteran, whose claim has been denied in the VA appellate process should be able to seek further redress in judicial proceedings outside the Veterans' Administration."

Other expressions of support for judicial review during the S. 330 hearings came from witnesses representing the National Association of Veterans Program Administrators, the Non Commissioned Officers Association of the United States of America, the American Veterans Committee, the American Association of Minority Veterans Program Administrators, the National Association of Concerned Veterans, the National Veterans Law Center, the California Community Colleges Federal Affairs Council, and the Legal Aid Bureau, Inc., of Baltimore, Maryland.

The representative of the Veterans of Foreign Wars, Donald H. Schwab, director, National Legislative Service, although indicating that his organization had passed a mandate at its 1978 National Convention opposing judicial review of VA decisions, based on a number of concerns that the organization had regarding the impact of S. 364, testified that "a number of the foregoing impediments [raised by S. 364] have been made moot by [S. 330]" and noted that the VFW had advocated delaying the S. 330 hearings "until after the major veterans' organizations had held their national conventions, thereby giving the voting delegates the opportunity to review their position in light of [S. 330]."

Thus, from the testimony and related materials presented to the Committee in connection with its consideration of S. 364 in the 95th Congress and S. 330 in this Congress, there appeared to be significant rationale for authorizing judicial review of VA decisions and widespread support for such legislation, and the committee decided to continue the consideration and development of appropriate legislation.

The committee's decision to consider judicial review legislation generated significant comments from individuals and groups favoring such a change. Among the arguments advanced by the proponents of judicial review, one of the strongest is a challenge to the continued characterization of veterans' benefits as "gratuities", as in the 1933 Economy Act. This characterization has been consistently applied to VA benefits over the years. For example, in 1953, a United States court of appeals, in *Hahn* v. *Gray*, 203 F.2d 625, 626 (D.C. Cir. 1953) stated, "Congress withdrew from the jurisdiction of the courts every final decision in relation to benefit payments * * * and * * * there can be no doubt as to its power so to do, because such benefits are mere gratuities * * *." Two years later, a Presidential commission headed by General Omar N. Bradley, in its comprehensive 1955 report on veterans' benefits, entitled "Veterans' Benefits in the United States," stated:

"The gratitude of the Nation to those who served it in time of war is fundamental in the whole concept of American veterans' benefits. This tends to place benefits in the category of a gratuity to which the recipient (the veterans) has no legal "right" and which the giver (the Government) has a right to withhold. Id. at 407."

Many individuals who commented on S. 330 and S. 364 questioned whether such a characterization could be sustained today, particularly in light of court decisions over the past decade, such as *Goldberg* v. *Kelly*, 397 U.S. 254 (1970). In *Goldberg*, which involves a claim for welfare benefits, the Supreme Court stated, "Such benefits are a matter of statutory entitlement for persons qualified to receive them." In a footnote to that statement, the Court noted "[I]t may be realistic today to regard welfare entitlements as more like 'property' than a 'gratuity' ".

This argument, together with Committee concern that the continuing preclusion of court review relegates veterans to a second-class citizenship when compared with almost all other claimants for benefits before other Federal agencies, such as those pursuing claims under the Social Security Act, convinced the committee, despite the long-lived statutory preclusion of court review, to evaluate seriously changing the statutory bar to judicial review.

Yet a further consideration motivating committee action was that, although neither present section 211(a) nor any statute precluding judicial review of a specified agency action has ever been declared unconstitutional, if present section 211(a) were struck down on such a basis in a particular case, the result might be to subject all of the internal VA procedures to judicial scrutiny and determination. Such a result could constitute a usurpation of the proper role of the Congress to assure that the VA's procedures are most beneficial to veteran and could hinder the VA in the performance of its mission of providing services to veterans. The committee's concern that section 211(a) could be declared unconstitutional is based, in part, on the decision of the Supreme Court in the *Robison* case, discussed above, in which although the Court did not decide the constitutionality of present section 211(a), it held that that section was not a bar to certain constitutional challenges to veterans' benefits legislation. Rather, the Court stated that the bar in section 211(a) "would appear to be aimed at review only to those decisions of law or fact that arise in the administration by the Veterans' Administration of a statute providing benefits for veterans" (emphasis in original). The difficulty with this analysis is, as one commentator has noted, the "conceptual distinction between cases involving individualized application of the benefit provisions and those arising under the Constitution is considerably more troublesome than the Court was willing to recognize." Rabin, "Preclusion of Judicial Review in the Processing of Claims for Veterans' Benefits: A Preliminary Analysis", 27 Stan. L. Rev. 905, 908 (1975). Whether this analysis ultimately proves correct and a court, using the *Robison* decision as its authority, determines that there is authority, derived from the Constitution, to review questions directly relating to claims remains to be seen. At least one Federal court has read *Robison* to support a holding that it had jurisdiction to hear a constitutional challenge to the procedures utilized by the Administrator in a benefit determination. *Plato* v. *Roudebush*, 397 F. Supp. 1295 (D.Md. 1975).

The Committee's consideration of judicial review legislation also generated a significant volume of comments from individuals and groups opposing such a change. Among the principal concerns of those who questioned the need for allowing judicial review were ones that reflected the purposes underlying the present statutory bar as described by the Administrator in 1952 and discussed in the *Robison* case: Fear of overburdening the courts and the VA with claims for VA benefits and concerns about shifting responsibility for deciding complex issues relating to VA benefits determinations from a body expert in such matters, the Board of Veterans' Appeals (BVA), to a Federal court with no expertise in matters relating to VA benefits. In addition, concerns were expressed that allowing judicial review could disrupt existing internal VA procedures by turning them into more formal, adversarial proceedings; that allowing review of VA claims in the Federal courts would add inordinate delays to the claims resolution process; and that, with courts deciding VA cases, rigid precedents would be developed in VA cases lost by the veteran in court that would preclude the BVA from exercising its discretion in favor of other veterans in later, similar cases, and, also, that a court decision adverse to a particular claimant would bar that person from reopening a claim before the Board for the consideration of new and material evidence as is possible under existing law.

The committee recognized the legitimacy of these concerns and, in drafting S. 330, made a concerted effort to minimize the possible impact of the problems that had been raised. In reference to the concern about shifting decisional authority in a complex area away from the BVA to a Federal court, the Committee bill, as will be discussed more fully below, incorporates a scope-of-review provision which defines a reviewing court's authority to review factual determinations of the Board in as narrow a manner as possible while still allowing some recourse for a claimant where the VA's decision was plainly in error. Further, the Committee bill specifically precludes a court from conducting a de novo trial on any factual issue. The Committee believes very strongly that the Board should remain, to the maximum extent consistent with providing recourse to a judicial authority to overturn arbitrary or capricious actions, the final, expert arbiter of VA claims matters.

Likewise, the committee bill specifically addresses the concerns raised about the possible impact of judicial review on the internal adjudicatory procedures of the VA and the possible impact of an adverse court decision on a claimant's right to reopen a claim. Title I of the Committee bill, "Adjudication procedures", codifies many existing VA procedures relating to claims resolutions, including the requirement that the agency give a claimant the benefit of the doubt when the evidence of record on the merits of the claim is relatively evenly divided, and the practice of admitting any evidence in a VA proceeding, even if the evidence would be inadmissible under the formal rules of evidence applicable in court proceedings. Because many of the procedures that are proposed to be codified by title I are now based only on regulation or even informal VA practice, the committee believes that the proposals in the Committee bill would actually provide greater protection for existing internal VA practices than is available at present.

In response to the concerns about the effect of the res judicata doctrine on a claimant's ability to reopen a claim after an adverse court ruling, the committee bill includes a provision specifically providing that an adverse court decision would in no way limit the Board's discretion to reopen a claim on the submission of "new and material evidence".

With respect to the concerns raised about the impact on the court system of allowing judicial review of VA decisions, the committee acknowledges that there would be additional cases brought to Federal courts under the provisions of the committee bill, but fails to see the justification for veterans and their survivors with claims for VA benefits being singled out to bear the burden of efforts to protect the Federal judiciary from too-high workloads. There are a wide variety of other methods for dealing with judicial workload problems, such as eliminating or further limiting Federal court diversity, jurisdiction, without precluding a certain class of claimants from any judicial recourse at all.

Likewise, the committee does not believe that concerns raised about undue delay or the development of precedents that would be applicable in other cases present valid reasons for precluding opportunity for court review in the event of a denial of a claim for benefits by the VA. The committee does not anticipate that authorizing judicial review should result in a significant slowing of the claims resolution process within the VA (title I contains authority for an additional 15 members for the Board of Veterans' Appeals to preclude that result), and any delay encountered by a disappointed claimant during the judicial review stage is obviously preferable from the claimant's point of view to a final, unappealable, adverse decision, in which case the delay in receiving the benefit is infinite. As to concerns raised about the creation of rigid precedents, the committee is not persuaded that this would prove to be a significant problem. The committee believes that VA claims cases authorized by the committee bill will involve greatly varying fact patterns, each being virtually unique. Thus, only those cases involving pure questions of law regarding the interpretation of specific provisions of title 38 would have significant precedential effect. In other cases, decisions as to whether or not, on the basis of a particular administrative record, the agency's actions were arbitrary, capricious, or an abuse of discretion will have little precedential value for subsequent cases involving, inevitably, somewhat different factual situations.

The Committee also considered proposals, similar to that contained in H.R. 1813, for the establishment by the Congress of a special court, a Court of Veterans' Appeals, to resolve cases appealed from the VA. Although such a proposal has some merit, in that it creates a court that could, over time, develop an expertise in matters relating to claims for benefits under laws administered by the VA and also, because such a court could establish its own rules relating to admission to the court to represent claimants, thereby providing opportunity for individuals who are not attorneys, such as nonattorney veteran service officers, to appear before the court, the Committee believes that providing access to the existing Federal judicial system is more desirable. First, a special court would most likely be situated in one location (the court proposed in H.R. 1813 would be located in Washington, D.C.) and, unless panels of the court traveled frequently to a large number of locations around the country, claimants would not have the opportunity to participate as fully in the development of their case before the reviewing court as they would in a Federal district court located in their State. If such traveling panels were provided for, the costs would seem to be high. Further, such a court would, at least in part, perpetuate a disparate treatment of veterans and their survivors when compared with claimants for benefits before other Federal agencies. In response to Chairman Cranston's request at a hearing on S. 364 for the Department of Justice's view of this issue of a Court of Veterans' Appeals, the Department responded:

"The creation of specialized courts has been the subject of extensive consideration in the past by several committees of the Congress, the Federal courts, and a number of leading scholars and legal practitioners. While the creations of specialized courts in certain areas offer the prospective benefits

of specific judicial familiarity with a defined aspect of substantive law and accompanying procedure, such selective specificity may have costs that outweigh any benefits that might be realized. This specific issue was considered at length by the Study Group on the Case Load of the Supreme Court, chaired by Prof. Paul Freund of the Harvard Law School, which reported in 1972:"

Federal specialities such as taxation, labor law, or, more broadly, administrative law, have been candidates for a specialized tribunal, either supplementing the Federal courts of appeals as a new tier of review, or supplanting those courts as a reviewing tribunal for cases from designated agencies. It is not necessary to rehearse the considerations for and against such tribunals in the general context of judicial review of administrative bodies. We would suggest that, in general, the more specialized the appellate tribunal the greater the risks. There would be a loss of the judicial perspective afforded by a broader range of review, and inconsistencies would develop among various specialized appellate tribunals in resolving pervasive, common problems of administrative justice. Moreover, there is the possibility that in dealing with a narrow subject-matter that judges might form polarized blocs; and that, as a corollary, there might be a politization of the appointing process around a single set of issues.

• • • • •

Provisions of the committee bill

Although the committee believed that providing opportunity for judicial review was an appropriate action, it was concerned that the specific formula chosen must reflect the committee's intention to retain the BVA as the primary, expert arbiter of VA claims matters. The committee was aware of the criticism of the experience in cases appealed to court involving disability benefits under the Social Security Act, and particularly of concerns that have been expressed in that regard that reviewing courts have felt too free to substitute their judgments, without having seen or heard the witnesses and without the expertise of the administrative decision makers, for that of the administrative tribunal.

The committee believes that such a situation needs to be avoided in relation to VA claims. Thus the provisions of the committee bill are designed to avoid that result in VA claims matters.

Jurisdiction

Section 302 of the committee bill would provide for judicial review of a final decision of the Administrator adverse to a claimant in a matter involving a claim for benefits under any law administered by the VA. An action to commence such a review would have to be brought within 180 days of the date the notice of the Board's decision was mailed to the claimant pursuant to section 4004 of title 38, as proposed to be amended by section 106 of the committee bill. It is the committee's intention to include all matters involved with an individual's seeking, receiving, or losing a VA benefit under the phrase "claim for benefit". Thus, judicial review would be authorized for decisions relating to an initial claim for benefits, a reduction in the amount of a benefit, or a suspension or termination of benefits.

Final action of the Administrator, a prerequisite to bringing an action under the authority proposed in the committee bill, would be defined to include not only a decision on the merits pursuant to section 4004(a), as proposed to be amended by section 106 of the committee bill, but also a refusal to reopen a claim pursuant to section 4004(b), as proposed to be amended by section 106 of the committee bill, or a refusal—on the basis of nonconformity with present chapter 71 provisions relating to the form or manner of appeals action, pursuant to present section 4008, or a lack of timeliness, pursuant to present section 4005—to consider a claim. Of course, the committee bill specifies that if a court reviews a final decision rendered on a basis other than on the merits of the claim, its review would be restricted to a review of the lawfulness of the Board's action on that basis and it could not consider the merits of the claim, but would have to return the matter to the Board for a decision on the merits if it held the Board's action unlawful.

The committee bill also provides that, in a case not involving claim for benefits under laws administered by the VA, nothing in present section 211(a), the section which generally precludes judicial review of decisions of the Administrator, would bar a Federal civil action otherwise authorized by law. This provision, which is not a grant of jurisdiction, is intended to clairify that present section 211(a), as the Supreme Court held in the Robison case, discussed above, is aimed only at review of findings of fact and law involved in the administration of a particular statute and in no way is intended to bar challenges to regulations, practices, or procedures that would be open to challenge if implemented by any other Federal agency. The principal purpose of this provision is to codify an emerging body of case law to this effect, and it is not intended to withhold from the VA any defense generally available for Federal agencies to resist judicial review, such as standing, ripeness, or a failure to exhaust administrative remedies.

Scope of review

In framing the judicial review provisions in the bill, the Committee's single greatest concern centered on defining the scope of review to be made available to a reviewing court. As discussed above, the committee is keenly aware of the criticism of the experience with court review of disability claims under the Social Security Act, and the committee wishes to prevent such a situation from arising in the area of VA claims cases.

In its agency report on S. 364, 95th Congress, the VA advocated "that the scope of review of individual cases should be based on the substantial evidence test" and S. 330, as introduced included that formula in the scope of review provision. Under that test, for example, under the Administrative Procedure Act (5 U.S.C. 706) a court is required to set aside an agency decision "unsupported by substantial evidence". However, the exact meaning of that phrase and court application of it in reviewing the record of an administrative decision have been far from clear or consistent. There has been substantial criticism that courts use this standard in reviewing disability claims cases under the Social Security Act so as to freely substitute their judgment for that of the Secretary. As Professor Kenneth C. Davis has noted:

"Whatever impression a literal-minded reader may get from the words in the statute book, the plain reality is that the substantial-evidence rule as the courts apply it is a variable. K. C. Davis, *Administrative Law Text* 530 (3 ded. 1972)."

Based on a review of the testimony received at the hearings on S. 330 and concerns expressed by various commentators, including cautions presented by the VA in its 1979 testimony, the Committee rejected the "substantial evidence" test. In addition, the Committee was aware of recent Administration proposals to amend the Social Security Act with respect to judicial review of disability claims under that law so as to preclude any authority for court review of factual determinations made during the administrative proceedings and, instead, to restrict court review to review of questions of law.

In the study of S. 330 as introduced for possible modifications to the scope-of-review provision, consideration was given to incorporating the formula proposed by the Administration for review of disability cases under the Social Security Act. However, the committee was quite concerned that that formula—providing for the review of questions of law but no review of questions of fact—proposed by the Administration might be far easier to describe than to apply in actual practice. It is the committee's view that a greater number of VA cases, while involving resolution of factual issues, present a mixture of legal and factual questions. For example, a claim for service-connected compensation could require resolution of some simple factual issues, such as whether the veteran had the requisite service in the Armed Forces and whether, in fact, the veteran is currently suffering from a disability. However, the same claim could also require the application of a complex rating schedule to the apparent disability to determine the degree of service-connection, which would not be a simple factual determination. Likewise, the decision as to the time of the onset of the disability might be very difficult if the veteran's military records did not contain a clear statement describing an occurrence during the period of service, again, a question that is not simply factual in its makeup, especially if the disability in question is listed in present section 312, which provides for statutory presumptions of service-connection if the disability became manifest within a stated period of time after the end of the individual's period of service.

In addition, the same claim for service-connected compensation could ultimately be resolved on the basis of the legal sufficiency of evidence relating to a factual matter—for example, whether particular affidavits from individuals with whom the veteran served, relating to an alleged occurrence, are sufficient to support a finding of service connection in the absence of any supporting evidence in the veteran's military records—another situation in which a formula of permitting review of legal questions while precluding review of questions of fact might prove unworkable. A court, feeling bound by the precise terms of such a preclusion, might refuse to review mixed questions of law and fact so as to avoid any review of a factual issue, thereby leaving a claimant with incomplete judicial review; or a court might feel free to examine all questions on the record by characterizing some facet of a particular question as legal, thereby allowing review, under no significant restraints. As Professor Kenneth Davis has written, describing civil actions for damages:

"In any particular case the question whether the defendant was negligent may be a question of fact or a question of law or both, depending on whether the parties are in dispute about what the defendant did or whether they agree on what he did and are in dispute about the legal consequences, or both. The same kind of analysis can be made of all questions of application of legal concepts to facts. K.C. Davis, *Administrative Law Text* 545 (3d ed. 1972)."

The Committee is concerned that this analysis may be precisely correct and, for that reason, is questioned and decided against the advisability of including the law/fact review provision, as proposed by the Administration for the Social Security Act, in S. 330.

In addition, the Committee was aware that the subcommittee of jurisdiction in the House of Representatives, the Social Security Subcommittee of the Ways and Means Committee, that considered the Administration's proposal to amend the judicial review provisions under the Social Security Act, as incorporated in H.R. 2854, rejected in March 1979, the Administration's proposal by a vote of 7 to 2, and that the full Ways and Means Committee did not include the proposal in the measure that it later reported favorably, H.R. 3236, the proposed "Disability Insur-

ance Amendments of 1979", which proposes various amendments to disability insurance programs under the Social Security Act.

Thus, had the committee included a provision similar to that proposed by the Administration for Social Security Act cases in the Committee bill, it would have endorsed a concept with uncertain ramifications and would also have continued to allow claimants before the VA dramatically less opportunity for court review than is available to claimants before other agencies.

In order to reflect the concerns that had been raised about the impact of the substantial evidence test as included in S. 330 without resorting to adoption of a proposal totally foreclosing review of questions of fact, section 302 of the committee bill was amended to delete the substantial evidence test and to restrict a reviewing court's authority in reversing a decision of the VA on a factual issue to a finding that such a decision was based on an arbitrary or capricious factual determination or that the factual determination constituted an abuse of discretion. In addition, the provisions in section 302 were modified to include a provision specifying that, even on a finding by the reviewing court that a BVA factual determination was arbitrary or capricious or constituted an abuse of discretion, the court may not reverse the Administrator's determination on the issue without first remanding the case, for a time-limited period, to the Administrator, so as to provide the Administrator with the opportunity to reconsider or substantiate the record. This formula, which is intended to strike an appropriate balance between the proper functions of the reviewing court and the Administrator, would permit the court to exercise its own judgment in resolving issues of law but restricts narrowly the court's review of questions of fact.

The committee was aware, in selecting this formula, that the precise impact of restricting a court's ability to review factual determinations using the arbitrary, capricious, or abuse of discretion standard is not clearly predictable in all cases. As the VA noted in its agency report on S. 330, "legal scholars are still undecided on such basic questions as whether the substantial evidence test and the arbitrary or capricious test are equivalents or whether they differ." However, the Committee intends, by eliminating the authority for a reviewing court to review a decision using the substantial evidence test and leaving only the arbitrary or capricious test, to narrow the court's reviewing authority and, in taking this position, relies on the statement by the Supreme Court in *Abbott Laboratories* v. *Gardner*, 387 U.S. 136 (1967), where the Court noted, in discussing the Administrative Procedure Act provisions relating to scope of review,

"The act as it was finally passed compromised the matter by allowing an appeal on a record with a 'substantial evidence' test, affording a considerably more generous judicial review than the 'arbitrary and capricious' test available in the traditional injunctive suit. 387 U.S. at 143."

The real difference with respect to types of scope-of-review provisions is also borne out in later Supreme Court cases, such as *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402 (1971), and *Camp* v. *Pitts*, 411 U.S. 138 (1973), where the Court explicitly found the "substantial evidence" test inapplicable to the cases before it and described the appropriate standard of review for the reviewing court as whether the administrative adjudication was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." In *Citizens to Preserve Overton Park*, the Court described a review under this standard as follows:

"Although this inquiry into the facts is to be searching and careful, the ultimate standard of review is a narrow one. The court is not empowered to substitute its judgment for that of the agency. 401 U.S. at 416."

Thus, the committee intends to indicate clearly its view that the Administrator, in the person of the Board of Veterans' Appeals, is the expert arbiter of claims involving veterans' benefits, and the committee does not desire nor does it expect reviewing courts to second guess the Administrator on factual determinations.

The committee is aware that some commentators have suggested that allowing a court any review of the facts in a case would ultimately encourage a *de novo* review and court substitution of its findings on factual determinations for that of the administrative decision maker. However, the committee does not believe that such a result is inevitable and suggests that this view indicates a belief that reviewing courts will not follow Congressional mandates in conducting statutorily-authorized review of administrative proceedings. The committee does not accept such a view and believes that a court, using the standards set forth in the committee bill, will not disturb findings of fact made by the Administrator unless it determines that such findings are arbitrary, capricious, or constitute an abuse of discretion. Even upon making such a finding, the Committee would stress, the court would be required to return the matter to the Administrator so that the Board will have a further opportunity to reconsider the record or to substantiate the finding in question.

A final provision included in the committee bill under the scope-of-review provisions in section 302 would incorporate a reference to the "rule of prejudicial error" as included in the APA (5 U.S.C. 706) so as to limit still further a court's role on review. Acting in accordance with the prejudicial error rule, a court should pass over errors in the record of the administrative proceedings that the court finds not to be significant to the outcome of the matter. As the U.S. Court of Appeals for the Ninth Circuit noted in *NLRB* v. *Seine and Line Fishermen's Union of San Pedro*, 374 F.2d 974, 981 (9th Cir. 1967):

"[A] court, on review of an administrative determination, should take due account of the rule of prejudicial error. Procedural irregularities are not per se prejudicial; each case must be determined on its individual facts and, if the errors are deemed to be minor and insubstantial, the administrative order should be enforced notwithstanding."

Thus, by an express inclusion of a reference to the rule of prejudicial error, the committee is suggesting that a reviewing court should consider such a reversal only after determining that the identified error caused substantial prejudice to the claimant's case.

Remand provisions

Section 302 of the committee bill contains provisions authorizing three additional forms of remands, in addition to the one discussed above in connection with the scope-of-review provisions, that would apply once a matter has been appealed to court.

Under the first, a court would be required to remand the case to the Administrator, upon the Administrator's request, after it is appealed to court but before the Administrator files an answer, for a single reconsideration, with such reconsideration to be completed within 90 days of the remand or the matter would be returned to court. This provision, which is based on similar authority in section 205(g) of the Social Security Act (42 U.S.C. 405(g)), is included in the committee bill in order to provide a mechanism whereby the time and expense of litigation could possibly be avoided through VA reconsideration of the case and possible agreement with the claimant. The committee is aware of the criticism that has been made of similar authority under the Social Security Act and of the proposal in H.R. 3236 as reported, discussed above in connection with the scope-of-review provisions, to amend this Social Security Act authority so as to require the Secretary to show good cause for the requested call-back, but the committee believes that the modifications made in the call-back authority as it appears in the committee bill, limiting the call-back to a single, time-limited period, should satisfactorily guard against possible abuses of the agency authority.

The second remand provision would permit the court, in its discretion, to remand a case at any time after the Administrator files an answer; and the third would require a court to remand a matter when either party applies for leave to adduce further evidence and shows good cause for the requested remand. In S. 330, as introduced, this last remand authority was limited by a requirement that the moving party show good cause for having failed to adduce the evidence in question when the matter was previously before the VA, which is also the standard that is being proposed in H.R. 3236 as reported for such remands under the Social Security Act; present section 205(g) of the Social Security Act, U.S.C. 405(g), currently has a provision similar to that in the committee bill requiring only a showing of "good cause". The provision now in the committee bill was changed to reflect the committee's view that a "good cause" showing was sufficient to protect the parties, and the administrative and judicial processes, from dilatory practices while not creating undue impediments to the Administrator's consideration of additional evidence bearing on the merits of the claim. This standard seems best designed to preserve the informal, nonadversarial nature of the BVA adjudication process, although the Committee does not expect a reviewing court to remand a matter to the Administrator to adduce further evidence if it is clear that the claimant has deliberately engaged in dilatory behavior or withheld evidence from the prior administrative proceeding.

On the other hand, however, the committee sees little purpose to be served by a reviewing court entering into an exhaustive analysis of the reasons for the evidence not having been presented when the matter was before the agency; based on the VA's "open file" system of reopening previously decided claims to admit new evidence, pursuant to the authority in section 4004(b), as proposed to be amended by section 106 of the committee bill, it would appear to be a poor use of judicial resources for a court to deny such a requested remand and resolve the appealed case against the claimant, only to have the claimant, following such final court action, return to the agency so as to submit the new evidence, thereby creating the possibility of further court review. Obviously, the committee does not desire a reviewing court to remand a case when the evidence in question is of little potential significance; however, if the court determines that the evidence is potentially material to the claim, it should generally remand the matter.

The committee appreciates the impetus to amend the remand provisions under the Social Security Act so as to curb abuses that have been highlighted in court review of cases under that Act, but believes that the significant difference in the adjudicatory proceedings before the VA when compared with those applicable in Social Security Act cases, particularly the difference between appellate review by the Appeals Council (the final administrative appeal) for SSA cases (the Council does not review all requests for review and, in those cases it does review, it does not conduct a de novo

(the Board conducts a de novo review of all cases appealed to it), suggests that different standards relating to remand provisions for VA matters are appropriate. Nevertheless, the Committee intends to monitor closely the changes proposed in H.R. 3233 if enacted in the Social Security Act as well as the experience under the provisions in the committee bill, and will consider alternative provisions if it appears that the remand authority proposed in the committee bill is being abused.

Sunset provisions

Section 302 of the committee bill would provide that the jurisdiction of Federal courts to review decisions of the VA relating to claims for benefits as provided for in the new chapter 72 added to title 38 by the committee bill will not apply to claims for benefits, the initial claim for which is filed with the Administrator pursuant to present section 3001(a) after the end of the fifth fiscal year following the fiscal year in which the Act becomes effective. This 5-year "sunset" provision on new claims is designed to require a thorough Congressional evaluation of the operation and effects of the new judicial review provisions before they are made permanent or are further extended.

Although the committee recognizes that "sunset" provisions are normally associated with specific programmatic rather than procedural efforts, the committee believes that, particularly in light of the implications of permitting judicial review for the VA's procedures, the 5-year "sunset" provision provides an important safeguard to ensure further Congressional scrutiny of the full impact of the changes made by the committee bill.

TITLE IV: ATTORNEYS' FEES

Background

Title IV of the committee bill contains provisions that would substantially revise the current title 38 provision that generally limits the amount an attorney may receive for representing an individual in a claim for benefits to $10 (present section 3404). This current limitation, which has statutory precedents dating back to the Civil War, was set in 1924 as part of the codification of the War-Risk Insurance Act as the World War Veterans' Act, 43 Stat. 628 (June 7, 1924).

Although the limit on the amount an attorney may receive under current law (present section 3404(c) limits the amount an attorney may receive for services rendered in connection with "any one claim" to a maximum of $10; to be eligible for this fee, which is paid to the attorney from the monetary benefits awarded to the claimant, the claim must be allowed) is not directly linked to preclusion of judicial review, it seems clear that the bar to judicial review has contributed to nonparticipation of attorneys in VA claims matters. In fiscal year 1977, only 2.2 percent of all claimants before the Board of Veterans' Appeals were represented by attorneys (Annual Report 1978, Administrator of Veterans' Affairs, pages 114–115), a phenomenon that is undoubtedly most directly influenced by the limit on the fee that an attorney may receive. However, providing opportunity for judicial review of VA decisions, as proposed in title III of the committee bill, does require a change in the limitation on fees to effectuate the new authority. Without the assistance of an attorney, a claimant would, effectively, be precluded from filing a proper appeal of an adverse VA decision in Federal court and, without a change in the $10 limitation, there would continue to be little or no attorney representation in VA claims cases.

Recognizing this fact, the committee is concerned that any changes relating to attorney's fees be made carefully so as not to review in each such case) and by the BVA induce unnecessary retention of attorneys by VA claimants and not to disrupt unnecessarily the very effective network of nonattorney resources that has evolved in the absence of significant attorney involvement in VA claims matters. The mainstays of that network are veterans' service officers, employees of national veterans' service organizations, and other organizations approved pursuant to present section 3402 of title 38, who provide representation without charge to veterans and other claimants before the VA, without regard to whether the individual claimant is a member of the service officer's organization. It is widely recognized, as the VA noted in its agency report on S. 330, that veterans' service officers "render sophisticated and expert assistance in prosecuting a claim" (VA report on S. 330 at page 19); and the committee strongly believes that the availability of their services should be maintained and fostered.

The committee, in its consideration of the issue of attorneys' fees also recognized that the existing limit on attorneys' fees is generally appropriate with respect to the initial claims stage in the sense that applying for VA benefits is a relatively uncomplicated procedure, with the VA generally securing the relevant military records as well as evaluating the merits of the claim. In light of the availability of national service officers and other nonlegal forms of free assistance, there would seem to be no need for the assistance of an attorney in order to initiate the claims process by completing and filing an application. Continuing to discourage attorney representation at the initial application and decision stage would thus appropriately serve to protect claimants' benefits without prejudicing the claimant's ability to obtain effective legal representation for purposes of reconsideration of, or appeal from, an initial denial of a claim.

As discussed in the VA's agency report on S. 330 (VA report on S. 330 at pages 16–17), the basis for Congressional action, first, after the Civil War and then after World War I, limiting the amount an attorney could receive for representing a claimant before the VA was grounded in a belief that the lawyers of that day were unscrupulous and were taking unfair advantage of veterans by retaining an unwarranted portion of the veterans' statutory entitlement in return for very limited legal assistance. Whatever the merits of such a view at the time that the limitation was imposed, and despite numerous court opinions upholding the validity of the statutory limitation in the face of challenges to its constitutionality (see discussion of *Staub* v. *Roudebush*, 424 F. Supp. 1346 (D.D.C. 1976) (VA report on S. 330 at page 18), it is the committee's position that such a view of the organized bar, particularly in light of the widespread network of local bar associations that now generally police attorney behavior, is no longer tenable.

The committee is also of the view that the current statutory limitation is an undue hindrance on the rights of veterans and other claimants to select representatives of their own choosing to represent them in VA matters. As noted above, there is a strong and vital system of veteran service officers who provide excellent representation at no cost to claimants. The committee fully expects and believes that this system will continue and prosper, with no significant impact from the allowance of judicial review or attorney participation after an initial claims denial in the administrative process before the VA. However, an individual should not be restricted by arbitrary legislation in retaining an attorney if he or she so desires, either because of personal preference or because of a concern that his or her claim is likely to be denied by the Board of Veterans' Appeals and will be appealed to court. A claimant could well conclude, for example, that the proper development of the administrative record in a complex case while the matter is before the agency would be of critical importance and that an attorney would be better able to produce such a result.

Based on these various considerations and after reviewing and incorporating suggestions from a wide variety of sources, the committee developed a formula for allowable attorney's fees for representation of a VA benefits claimant that is intended to continue to restrict attorney representation at the initial claims level, and that provides for approval by the Administrator of a reasonable fee, within certain specified limits, for representation before the VA and for court approval of a reasonable fee, within certain limitations, for attorney representation in court proceedings.

Fee approval for attorney representation within the VA

The committee bill contains provisions authorizing dual levels of fees that may be approved for representation in conjunction with claims resolved within the VA. For claims resolved at the initial level, that is, prior to the time a claimant is issued a statement of the case pursuant to present section 4005(d), the proposal in the Committee bill would retain the present $10 limit on the amount an attorney may receive. As discussed above, the Committee believes that there is no requirement for attorney representation at this initial level since, in most instances, all a claimant need do is file the claim and the agency will obtain the military service and medical treatment records, where appropriate, necessary to make an initial evaluation of the merits of a claim. Should the materials in the records be insufficient to permit a decision on the claim, the effort is made to inform the veteran or other claimant what evidence would be required and the possible sources for acquiring such evidence.

If an initial application for a claim is denied, all a claimant need do to initiate an appeal is to file a notice of disagreement pursuant to present section 4005. The notice of disagreement is a very simple document; as described in the applicable VA regulation (38 C.F.R. 19.113):

The notice should be in terms which can be reasonably construed as evidencing a desire for review of that determination. It need not be couched in specific language. Specific allegations of error of fact or law are not required.

Following a filing of a notice of disagreement, the VA office that made the original determination (called the agency of original jurisdiction) reviews the matter, pursuant to present section 4005(d)(1), in a final attempt to resolve the disagreement. Again at this stage, no need for attorney representation is foreseen since the VA assumes the primary responsibility for assuring that the claim is properly considered. Should the further review action not resolve the matter in a manner acceptable to the claimant, the VA prepares and provides to the claimant a statement of the case pursuant to present section 4005(4)(1). A statement of the case must include:

(A) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed;

(B) A citation or discussion of the pertinent law, regulations, and, where applicable, the provisions of the Schedule for Rating Disabilities;

(C) The decision on such issue or issues and a summary of the reasons therefor.

It is at this point, after a claimant has received a statement of the case, that the committee believes that an individual may require the services of an attorney to help analyze the statement of the case so as to

prepare to refute the adjudicators' factual or legal analysis and to further develop any deficient areas in the presentation of the claim. Thus, for claims resolved within the VA but after the claimant is issued a statement of the case, the formula for approval of attorneys' fees proposed in the committee bill would allow the Administrator to approve a reasonable fee not in excess of $500 or, in the event that a claimant and an attorney have entered into a contingent-fee agreement, an amount not in excess of 25 per centum of any past-due benefits awarded in the case. Under the proposal in the Committee bill, a claimant and an attorney would still be able to agree to a fee lower than authorized and the Administrator would be limited to approving the agreed upon amount.

The formula proposed in the committee bill is similar to that provided for in section 206(a) of the Social Security Act (42 U.S.C. 406(a)), with the one significant difference that, in addition to the contingent-fee percentage amount authorized under the Social Security Act, the proposal in the committee bill incorporates a separate dollar amount of $500 as an alternative to the percentage figure. This difference is incorporated because, in many VA benefit cases, the amount of past-due benefits awarded is quite small or even nonexistent (as in a case establishing a service-connected disability with a 10- or 0-percent rating) while still being quite beneficial to the claimant in terms of eligibility for VA medical care and related service-connected benefits under chapter 17 of title 38.

The $500 limit provided for in the committee bill would be subject to being increased in two different ways. First, the Administrator might, by administrative action, raise this general maximum in future years in response to changed economic conditions. The committee anticipates that the Administrator would use great care in the exercise of this authority.

The second way in which the $500 limit might be increased would be in unusual cases that require extraordinary effort and time on the part of the attorney. The committee expects that occasions for use of this authority would be extremely rare. An approval of a fixed fee award above $500 should occur only when the Administrator was persuaded that the attorney, due to the complexity of the case, was required to expend such time and effort that the $500 limitation is plainly inadequate. In making such a determination, the committee expects that the Administrator would remain mindful that the claimant and the attorney negotiated an agreement with presumed awareness of the fee limitation and that, at that time, the attorney had an opportunity to evaluate the claim and determine if he or she wished to pursue it. Clearly, this authority in the committee bill should not be used to relieve an attorney from the consequences of an ill-advised decision to devote great amounts of time on a poorly-founded claim or any aspect thereof. Further, the committee does not believe that this extraordinary authority would be appropriately applied to compensate an attorney, who, because of an unfamiliarity with VA proceedings, the provisions of title 38, or the regulations issued thereunder, devotes a great number of hours to what is otherwise an ordinary claim for benefits, primarily to achieve a basic understanding of the applicable law.

Fee approval for attorney representation in court

For claims cases appealed to court, the Committee bill provides for court approval of a reasonable fee, subject to specific limitations in particular types of cases. First, if an attorney and claimant have entered into a contingent-fee agreement, the same limitation would apply as in cases resolved before the VA, 25 per centum of any past-due benefits awarded.

In the event that a case appealed to court is resolved in a manner unfavorable to a claimant, the court's authority to approve a fee would be limited to a maximum dollar amount of $750. S. 330 as introduced provided for an attorney to receive no compensation for representation in a case appealed to court if the matter was not resolved in a manner favorable to the claimant, a provision derived from section 206(b)(1) of the Social Security Act (42 U.S.C. 406(b)(1)). However, the Committee found persuasive the suggestion to the opposite effect of a witness, Donald H. Schwab, Director, National Legislative Service of the Veterans of Foreign Wars, who testified as follows on this preclusion of a fee for unsuccessful representation in cases taken to court: "if a claimant desires to enter into a client-attorney relationship even though the odds for success are adverse, the claimant should have the option to do so." Thus, the Committee chose to provide authority for a court to award a fee in such a situation, limited by a statutory maximum of $750. The committee bill also includes a direction to the reviewing court to take into consideration, in determining the amount to be approved, the extent to which the attorney could have predicted the unfavorable result at the time the appeal was taken. This specific direction is designed to stress to reviewing courts that the $750 fee allowable under this section is not to be regarded as the amount to be approved automatically but rather that the court should act so as to discourage attorney representation in cases lacking in any significant merit by approving fee amounts at lower levels when appropriate.

In cases appealed to court when the matter is resolved in a manner favorable to the claimant, which is defined in a proposed new subsection (h) of present section 3404 to include the granting of all or any part of the relief sought, the committee bill would authorize court approval of a reasonable fee with no other restriction. It is the Committee's intention, by this formulation, to allow courts to exercise their expertise in evaluating the difficulty of the case and the attorney's performance in order to arrive at a reasonable fee. Specifically, the Committee believes that the guidelines adopted by the U.S. Court of Appeals for the Fifth Circuit in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 174 (5th Cir. 1974) would be appropriate for use by a court in its determination of the fee to be approved under the provision in the Committee bill. Those guidelines, in brief, suggested that a court should examine:

1. The time and labor required.
2. The novelty and difficulty of the questions involved.
3. The skill requisite to perform the legal services properly.
4. The preclusion of other employment by the attorney due to the acceptance of the case.
5. The customary fee charged in the locality for similar legal services.
6. Whether the fee was fixed or contingent.
7. Time limitations imposed on the attorney by the client or by the circumstances.
8. The amount involved and the results obtained.
9. The experience, reputation, and ability of the attorneys.
10. The "undesirability" of the case.
11. The nature and length of the professional relationship with the client.
12. Awards in similar cases.

Appeal of fee approvals

The committee bill would authorize either a claimant or an attorney to appeal a fee approved by either the Administrator or a court.

For a fee approved by the Administrator in a case resolved within the VA, the right to seek judicial review of the amount approved may be exercised by either the claimant or the attorney by filing a civil action in the Federal district court in the claimant's home district, within 30 days after the notice of the award is mailed to the claimant and the attorney. The committee bill would restrict the court's review to a determination of whether the Administrator's action constituted an "abuse of discretion". It is the Committee's expectation that this limited review authority would serve to discourage frivolous challenges to a fee approval or challenges in arguable cases in which there may be disagreement but the Administrator's judgment is clearly not without reasonable foundation. Thus, the principal reason for including such authority in the committee bill is not to suggest that the committee believes that the Administrator will not act fairly in the approval of a fee award, but only to provide some remedy for either aggrieved claimant or attorney to have recourse outside of the agency for review—within clear limits—of the amount approved.

For fees approved by a court in a case appealed to court, either the claimant or the attorney would be able, within 30 days after the award, to make a motion, in the district court where the appeal was considered, to modify the amount approved.

Punitive award of attorneys' fees

The committee bill includes a provision whereby a court could, as an extraordinary remedy in a matter involving a claim for benefits appealed to the court, award a claimant, who has prevailed in court, reasonable attorneys' fees to be paid by the VA as part of the court's award of costs following judgment. This authority is intended to be used very sparingly—only in situations where the reviewing court is persuaded that the claimant clearly should have prevailed when the matter was before the agency and that the only necessity for having to seek court review and thus incur attorneys' fee costs was patently unwarranted action on the part of the VA in its consideration of the claim. It is the committee's intention that a court evaluation of the VA's position should be similar to that undertaken by courts in Freedom of Information Act (5 U.S.C. 552) cases when the issue to be resolved is whether the Government agency involved had a reasonably colorable basis in law for its action (for example, *Kaye v. Burns*, 411 F. Supp. 897, 903 (S.D.N.Y. 1976)). Accordingly, an award against the VA would be appropriate under the provision in the committee bill only upon a finding by a court that the VA had been "recalcitrant" in its denial of a valid claim or had otherwise "engaged in obdurate behavior" in the adjudication of the claim. One situation that might warrant such a finding and thus, an award of attorneys' fees, would be where the reviewing court finds a factual determination of the Administrator to be arbitrary, capricious, or an abuse of discretion and, therefore, remands the matter to the VA pursuant to proposed new section 4026 for further review or substantiation of the record, following which the matter is returned to the court with the Administrator's original finding unchanged and with no further significant substantiation or development of the record.

Ancillary attorneys' fees provisions

Title IV of the committee bill contains two other provisions relating to the approval of attorneys' fees which are intended to clarify the application of the new fee-approval provisions. The first such provision would provide that, to the extent past-due benefits are awarded in a claim, by either the Adminis-

trator or a court, the Administrator is required to direct payment of the approved fee to the attorney out of the past-due benefits. This authority, similar to that in section 206 of the Social Security Act (42 U.S.C. 406), would not be applicable if no past-due benefits were awarded so that, even if the resolution of the claim resulted in a claimant qualifying for a monthly payment from the VA for, for example, service-connected disability compensation, the Administrator would not be authorized to arrange for any portion of such future benefits to be paid to the attorney. Thus, in a case with no award of past-due benefits, the claimant and the attorney would have to make their own arrangements for payment of any fee that is approved.

The second ancillary provision in title IV would specify that the provisions proposed in the title are applicable only to cases involving claims for VA benefits and that where no claim for benefits is involved (for example, in constitutional challanges to regulations, Freedom of Information Act cases, and other nonclaim cases), the individual and the attorney would not be restricted by the provisions proposed by the title.

TITLE V: EFFECTIVE DATES

Section 501 of the committee bill provides for a 180-day delayed effective date (following the date of enactment) in order to provide the VA with a full opportunity to make necessary adjustments in its internal procedures in preparation for full implementation. In addition, section 502 authorizes judicial review of decisions of the Board of Veterans' Appeals rendered between January 1, 1977, and the effective date of the act, and requires the Administrator to notify the individuals affected, at their last known address, of this opportunity. The provision specifies that action under this authority would have to be instituted within 180 days of the effective date of the act or of the date of the mailing of the required notice to the claimant.

After considering the pros and cons of providing for some authority for judicial review of decisions rendered by the Board before the effective date of the act, the committee determined that it would not be equitable to provide for judicial review only in a prospective manner. However, the committee also recognized that it would produce an unmanageable workload for the VA and the courts to reach back over an extended period of years to reopen previously denied claims. As a balance of these concerns, it was determined to provide opportunity for review of more recently denied claims and, therefore, included the authority for review of claims decided on or after January 1, 1977—so as to be generally consistent with the beginning of the Congress (the 95th) in which S. 364 was introduced.

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 $2.2 million in fiscal year 1980; $5.9 million in fiscal year 1981; $7.2 million in fiscal year 1982; $7.9 million in fiscal year 1983; and $8.1 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—MAY 3, 1979

1. Bill number: S. 330.

2. Bill title: A bill to amend title 38, United States Code, to establish certain procedures by the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Administration; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Veterans' Affairs, May 3, 1979.

4. Bill purpose: Under current law, disputed VA adjudication decisions cannot be appealed beyond the jurisdiction of the Board of Veterans' Appeals. This bill would expand VA's in-house appellate system and would provide veterans and their survivors with access to the Federal court system to appeal VA decisions. This would be accomplished by the five major provisions of the bill: To expand the Board of Veterans' Appeals from its present statutory limit of 50 members to 65 members, to provide for judicial review of certain VA decisions, to provide for independent medical opinions in certain disputed claims, to provide for reasonable attorneys' fees for those who represent claimants before the VA and the courts, and to provide certain codified procedures for adjudicative proceedings before the VA that would bring VA's rulemaking activity under the Administrative Procedure Act.

5. Cost estimate: The following section-by-section cost estimate deals only with those sections of S. 330 that would be expected to affect Federal costs. The remaining sections of the bill pertain to administrative and adjudicative procedures and should have no budgetary impact.

With the exception of title III, all costs resulting from S. 330 would fall within budget function 700. That portion of the cost of title III that relates to Federal judges would fall under function 750. The costs applicable to each function are shown separately.

[In millions of dollars]

	Fiscal year—				
	1980	1981	1982	1983	1984
TITLE I					
ec. 103:					
Estimated authorization level	0.9	1.9	2.9	3.4	3.6
Estimated outlays	.9	1.9	2.9	3.4	3.6
Sec. 108:					
Estimated author zation level	.2	.4	.4	.4	.4
Estimated outlays	.2	.4	.4	.4	.4
Sec. 109:					
Estimated authorization level	(1)	(1)	(1)	(1)	(1)
Estimated outlays	(1)	(1)	(1)	(1)	(1)
Sec. 110:					
Estimated authorization level	.2	.3	.3	.2	
Estimated outlays	.2	.3	.3	.2	
TITLE III					
Sec. 302—Function 700 impact:					
Estimated authorization level	.4	3.3	3.6	3.9	4.1
Estimated outlays	.4	3.3	3.6	3.9	4.1
Sec 302—Function 750 impact:					
Estimated authorization level	.7	2.4	3.1	3.2	3.3
Estimated outlays	.7	2.4	3.1	3.2	3.3
TITLE V					
Sec. 502:					
Estimated authorization level	.5				
Estimated outlays	.5				
Total costs:					
Function 700:					
Estimated authorization level	2.2	5.9	7.2	7.9	8.1
Estimated outlays	2.2	5.9	7.2	7.9	8.1
Function 750:					
Estimated authorization level	.7	2.4	3.1	3.2	3.3
Estimated outlays	.7	2.4	3.1	3.2	3.3

[1] Less than $100,000.

6. Basis for estimate:

Section 103: This section would expand the maximum number of members on the Board of Veterans' Appeals (BVA) from 50 members to 65 members. The level of support staff per Board member is assumed to be the same for the new members as for current members. It is further assumed that the 15 new members and their support staffs would be hired gradually over the first 3 years, reaching full strength by the beginning of fiscal year 1983. The estimate includes $60,000 in each of the first 3 years for office furnishings and equipment for the new personnel. Salaries were inflated in the outyears for projected Federal pay raises.

Section 108: This section establishes a mechanism whereby a claim, in dispute on the basis of opposing medical opinions, can be settled by the procurement of an independent medical opinion at VA expense. This estimate is based on a VA estimate that approximately 2,600 decisions a year would require independent medical evaluations at a cost of $150 per case. The cost of the medical evaluations is fixed in an agreement between VA and the medical schools that conduct the evaluations, and therefore, would not be affected by inflation in the first 5 years. The increase in the workload of the Board of Veterans' Appeals, where the independent medical opinions would be processed, should not require any increases in staffing beyond that provided for in section 103.

Section 109: This section requires the Administrator to provide, at each stage in the proceedings, notice to the claimant of his procedural rights and options. VA officials maintain that, for the most part, such notifications are provided now. It is, therefore, not expected that the increase in cost would be significant.

Section 110: This section mandates a pilot program to review disputed claims prior to the hearing by BVA. The review would be conducted by a panel of three VA adjudication employees. It is assumed that a 3-year pilot program would be established in six regional offices: Two large stations, three medium stations, and one small station.

Section 302: This section would provide access to the Federal court system for veterans and their survivors to appeal disputed decisions of the Board of Veterans' Appeals. These provisions would increase slightly the workload of the BVA, would substantially increase the workload of the Office of the General Counsel, and would add to the workload of the Federal courts. The added workload for the BVA as a result of cases

remanded by the courts should not require any additional staffing beyond that provided for in section 103.

The Office of the General Counsel would have the responsibility of developing and pleading the case of the government before the courts. In the absence of any independent information on the number of manhours acquired to prepare a case, the estimate of the increased costs anticipated for the General Counsel's office was based on the estimate prepared by the Veterans' Administration.

In the judicial impact statement prepared by the Department of Justice last year in connection with a similar bill, S. 364, it was stated that an additional eight district judges and one appellate judge would be required to handle the influx of veterans cases into the Federal court system. Although this bill does not authorize the establishment of any new judgeships, the estimate assumes that such authorization would be forthcoming. In addition to the salaries of the assumed new judges, this estimate includes the cost of support personnel and services. The appointment of the new judges and the hiring of their staffs is assumed to occur gradually over the first 3 years, with full staffing attained by the end of fiscal year 1982. The cost of this section, as it affects the Federal court system, would fall in budget function 750.

It should be noted that the expansion of the appeals process for VA decisions would probably result in some number of new awards that would not otherwise be approved. While it is not possible to estimate precisely how many new cases would result, the number is not expected to be substantial.

Section 501: This section establishes the effective date of the bill to be the first day of the first month beginning 180 days after the date of enactment of the bill. This cost estimate assumes an effective date of April 1, 1980.

Section 502: This section provides that all cases denied by the Board of Veterans' Appeals since January 1, 1977, would be eligible for appeal in the Federal courts, and should be notified by VA of such eligibility. VA states that, because of the configuration of their computer system, it would be cheaper to notify all cases reviewed by the BVA in the designated time period than it would be to determine which cases had been denied. Notifying the approximately 90,000 cases reviewed, assuming an average cost of $5 per case, would result in a one-time cost of $450,000.

7. Estimate comparison: In an informal estimate submitted by VA to the Senate Committee on Veterans' Affairs, the agency estimates the cost of S. 330 as follows:

Estimated cost

Fiscal year:	[In millions]
1980	$5.0
1981	6.6
1982	8.1
1983	8.0
1984	8.0

The CBO and VA estimates differ for every cost-related section of S. 330. There are two major differences in assumptions that affect all sections: The VA assumes an effective date of October 1, 1979, while CBO assumes an effective date of April 1, 1980 (see "Basis for Estimate," Section 501); CBO assumes annual Federal pay raises in the outyears while VA does not. Additional variances are explained below by section.

Section 103: The VA estimate includes additional BVA staff personnel, above that which would be associated with the 15 new Board members, to handle the additions to BVA workload resulting from S. 330. The CBO estimate that the additional staff resulting from the expansion of the Board would be sufficient to handle the increased workload.

Section 108: See above explanation for Section 103.

Section 110: At the time the VA estimate was made, the pilot program was proposed as a 2-year program involving five regional offices. The reported version of the bill proposes a 3-year pilot program covering six regional offices. The CBO estimate extends the VA costs to cover the larger pilot program.

Section 302: The CBO estimate differs from the VA estimate only as a result of the later assumed effective date and the inclusion of anticipated costs in function 750.

Section 502: The VA estimate assumes an average cost of $11 per letter to notify claims denied by BVA. The CBO estimate assumes an average cost per letter of $5.

8. Previous CBO estimate: None.

9. Estimate prepared by K. W. Shepherd (225-7766).

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum,
Deputy Director for Budget Analysis).

SECTION-BY-SECTION ANALYSIS OF S. 330 AS REPORTED

SECTION 1

Subsection (a) of section 1 provides that this Act may be cited as the "Veterans' Administration Adjudication Procedure and Judicial Review Act".

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—ADJUDICATION PROCEDURES

SECTION 101

Subsection (a) of section 101 would amend chapter 51 of title 38, United States Code, relating to applications for, the effective dates of, and the method of payment of veterans' benefits, to add a new section 3007 codifying, for VA adjudication purposes, the burden of proof and reasonable doubt standards currently provided for by VA regulation (38 C.F.R. 3.102). These standards would be codified in order to ensure that the VA's present practices of making every reasonable effort to assist a claimant and construing the evidence favorably to the claimant are not abandoned in response to the provisions of title III of the bill proposing to amend title 38 to authorize court review. The new section 3007 would be added to chapter 51, as follows:

New section 3007.—Burden of proof: benefit of doubt: Subsection (a) would provide that, except where otherwise provided by the Administrator in accordance with provisions of title 38, a claimant would have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that a claim is well grounded. Thus, as presently provided for in VA regulations (38 C.F.R. 3.102), the initial burden of going forward with evidence to establish all elements of a claim would be on the claimant. This subsection would not affect existing statutory or regulatory procedures that specify a different procedure relating to burden of proof (for example, the statutory presumptions relating to certain diseases in section 312 of title 38, United States Code, pursuant to which certain such diseases are considered service-connected without a showing that the particular disease existed during active duty service if it became manifest within a specified period after the individual's discharge from such service). In addition, this subsection is not intended to affect the obligation of the VA (pursuant to 38 C.F.R. 3.103) to provide complete assistance to the veteran or other claimant in the development of a claim.

Subsection (b) would provide, without shifting the burden specified in subsection (a) of this section, that, if, after reviewing all of the evidence in a case, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the claim, the VA is to give the claimant the benefit of the doubt on each such issue, thus resolving the issue in favor of the claimant. This provision is derived from an existing VA regulation (38 C.F.R. 3.102) but the rules are simplified and the phrase "benefit of the doubt" is used in lieu of the phrase "reasonable doubt" in order to avoid confusion with the meaning of the latter phrase in the criminal law context.

Paragraph (1) of subsection (b) of section 101 would amend the table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part IV of such title, relating to general administrative provisions, to strike, in the item relating to chapter 51, "Applications" and insert in lieu thereof "Claims" in order to reflect the change made in that chapter heading by paragraph (2) of this subsection.

Paragraph (2) of subsection (b) of section 101 would amend the heading of chapter 51 to read "Chapter 51—Claims, Effective Dates, and Payments" in lieu of "Applications, Effective Date, and Payments" in order to indicate more accurately the subject matter of that chapter.

Paragraph (1) of subsection (c) of section 101 would amend the table of sections at the beginning of chapter 51 of title 38, United States Code, relating to claims, effective dates, and payments, to strike, in the item relating to subchapter I, "Applications" and insert in lieu thereof "Claims" in order to reflect the change made in that subchapter heading by paragraph (2) of this subsection.

Paragraph (2) of subsection (c) of section 101 would amend the heading of subchapter I of chapter 51 to read "Subchapter I—Claims in lieu of "Subchapter I—Applications" in order to indicate more accurately the subject matter of that subchapter.

Subsection (d) of section 101 would amend the table of sections at the beginning of chapter 51 of title 38, United States Code, relating to claims, effective dates, and payments to reflect the addition of the new section 3007 proposed to be made by subsection (a) of this section of the Committee bill.

Section 101—Cost.—Enactment of the provisions of section 101 are estimated to entail no cost.

SECTION 102

Would amend present section 3311, relating to the Administrator's authority to issue subpenas, to provide that subpenas authorized under that section may be served either by personal delivery to the person named or by registered or certified mail. This provision is derived from (and intended to have the same substantive effect as) section 205(d) of the Social Security Act (SSA) (42 U.S.C. 405 (d)).

Section 102—Cost.—Enactment of this provision would entail no costs.

SECTION 103

Clause (1) of section 103 would amend subsection (a) of present section 4001, relating to the composition of the Board of Veterans' Appeals, to increase from 50 to 65 the limitation on the size of the Board of Veterans' Appeals membership in order to enhance the Board's ability to handle the increased workload, in the form of longer, more detailed opinions and court-ordered remands for further development of the record in individual cases that the judicial review of VA decisions (as would be authorized by the amendments proposed to be made by title III of the Committee bill) is expected to generate; to make a technical amendment in the statutory description of members of the Board (striking "associate" in the description of members of the Board based on the VA's explanation that there is no dif-

ference between "members" and "associate members"); and to require expressly that the Board dispose of appeals properly before it in "a timely manner."

Clause (2) of section 103 would further amend present section 4001 by adding a new subsection (c), as follows:

New subsection (c): Would require the Chairman of the Board of Veterans' Appeals to submit a report to the appropriate committees of Congress, not later than February 1, 1980, and annually thereafter, on the Board's activity for the prior fiscal year, together with a projection for the fiscal year in which the report is submitted and the subsequent fiscal year. The report must include detailed information of the Board's workload, including a report on the average length of time cases were before the Board, and an evaluation of the Board's ability, based on existing and projected personnel levels, to dispose of cases before it in a "timely manner" as expressly required by the amendment to subsection (a) of present section 4001 as proposed to be made by clause (1) of section 103 of the Committee bill.

Section 103—Cost.—Enactment of the provisions of section 103 of the Committee bill is estimated to cost $0.9 million in fiscal year 1980.

SECTION 104

Would amend present section 4002, relating to the assignment of members of the Board of Veterans' Appeals, to make a technical amendment in the statutory description of members of the Board (that is, to delete "associate" from the description of members of the Board for the reason set forth in the analysis of clause (1) of section 103 of the Committee bill, above).

Section 104—Cost.—Enactment of this provision would entail no costs.

SECTION 105

Would amend subsections (a) and (b) of present section 4003, relating to determinations by the Board of Veterans' Appeals, to require that the Board, before reversing its prior decision in an individual case on the basis of additional official information from the service department concerned, to provide the claimant with notice of such additional information together with an opportunity to be heard in connection with such information.

Section 105—Cost.—Enactment of the provisions of section 105 are estimated to entail no cost.

SECTION 106

Would amend present section 4004, relating to the jurisdiction of the Board of Veterans' Appeals, to codify a number of existing practices of the Board and to clarify other practices and procedures in conjunction with court review of VA decisions, as would be authorized by the amendments made by title III of the Committee bill.

Clause (1) of section 106 would amend subsection (a) of present section 4004, relating to a claimant's right to one appeal, which is to be decided by the Board, to provide claimants with appeals before the Board with the express statutory right to an opportunity for a hearing before the Board, and to require that Board decisions be based exclusively on evidence and material of record in the proceeding and on applicable provisions of law. These changes codify the general practice now followed by the Board, derived from the provisions of present section 4005(a) as to a right to a hearing (made express in 38 CFR 19.133(a)) and present section 4005(d)(5) as to the record, which provision is proposed to be deleted by section 107 of the Committee bill.

Clause (2) of section 106 would amend subsection (b) of present section 4004, relating to the reopening of Board decisions, to eliminate the requirement that new and material evidence sufficient to allow the Board to reopen a previously disallowed claim be in the form of "official reports from the proper service department" (this change is consistent with the Board's current practice of allowing previously denied claims to be reopened on the basis of new and material evidence from any source, although the applicable regulation, 38 CFR 19.155, does not clearly articulate this process; and to specify that a judicial decision (pursuant to the new judicial review provisions added by the amendments made by title III of the Committee bill) upholding, in whole or part, a prior decision of the Board disallowing a claim shall not diminish the Board's discretionary authority to reopen a claim on the basis of new and material evidence. This latter provision is designed specifically to make it clear that nothing in the new provisions authorizing judicial review is intended to allow the doctrine of res judicata to affect the VA's "open file" system of claims adjudication.

Thus, the fact of an adverse court ruling on a claim in no way is intended to preclude a veteran or other claimant from continuing to pursue the claim by gathering and offering new and material evidence sufficient to reopen the matter.

Clause (3) of section 106 would amend subsection (d) of present section 4004, relating to the form of Board decisions, by requiring that Board decisions state separately findings of fact and conclusions of law on each material issue in the case, and that the Board mail a copy of its final decision to the last known address of the claimant and of the claimant's authorized representative, if any. These requirements would codify current Board practices not expressly provided for in regulation, and provide a statutory basis for procedures that would precede and should facilitate court review of a matter appealed to court. The date on which the decision is mailed to the last known address of the claimant and the claimant's authorized representative would serve as the date from which time would begin to run on the 180-day period following a Board decision that would be allowed for the commencement of a civil action under new section 4025 of title 38 (as added by subsection (a) of section 302 of the Committee bill). The provision relating to the contents of the Board's decision, which is derived from the Administrative Procedure Act (APA) (5 U.S.C. 557 (c)), is intended to assure that decisions of the Board are sufficiently explicit and detailed so as to enable the claimant to understand clearly the basis of the Board's action and, if the case of an appeal to a court, to enable the claimant to state specific grounds for disputing the decision; and to provide the reviewing court with a basis to understand and interpret the decision of the Board.

Section 106—Cost.—Enactment of the provisions of section 106 are estimated to entail no costs.

SECTION 107

Would amend present section 4005(d)(5), relating to the Board's disposition of appeals, to delete the requirement that the Board base its decision on the entire record because that requirement would be included in present section 4004(a) by an amendment made by section 106(1) of the Committee bill.

Section 107—Cost.—Enactment of this provision would entail no costs.

SECTION 108

Would amend present section 4009, relating to the obtaining of independent medical opinions by the Board in medically complex or controversial cases, to add a new subsection (c), as follows:

New subsection (c): Would provide the claimant with the right to request an independent medical opinion when the Board has a case in which there is a substantial disagreement between the substantiated findings or opinions of two physicians with respect to a material issue in the case and the Board cannot resolve the disagreement in any other way (for example, by interrogatories to one or both physicians, probing the basis for such physician's findings or opinion). In the case of a denial of such a request, the Board would be required to provide the claimant and the claimant's authorized representative, if any, with a statement of its reasons for denying a request for an IMO under this subsection, but the Board's decision on such a request would be committed to agency discretion and thus would be final and not subject to judicial review.

Section 108—Cost.—Enactment of this section is estimated to cost $0.2 million in fiscal year 1980.

SECTION 109

Would amend chapter 71 of title 38, United States Code, relating to the Board of Veterans' Appeals, by adding two new sections, one establishing certain procedures to be followed in adjudicatory proceedings within the VA (largely derived from provisions of APA (5 U.S.C. 554, 555, and 556)) and the other setting forth requirements for the Administrator to apprise claimants of their procedural rights before the VA.

Subsection (a) of section 109 would amend chapter 71 by adding two new sections, as follows:

New subsection 4010.—Adjudication procedures: Subsection (a) would authorize the Administrator, in any hearing, investigation, or proceeding in the VA, in connection with a claim for benefits under laws administered by the VA, to administer oaths, examine witnesses, and take evidence. This fundamental authority codifies existing VA practice, derived, insofar as subpenaed witnesses are concerned, from present section 3311 and not required from a specific regulation, and is based on an APA provision (5 U.S.C. 556(c)) and is similar to SSA section 205(b) (42 U.S.C. 405(b)).

Subsection (b) would provide for the admission of any evidence in VA proceedings, including before the Board, even evidence that would be inadmissible under the rules of evidence applicable in judicial proceedings, but would also authorize the Administrator to prescribe regulations allowing exclusion of irrelevant, immaterial or unduly repetitious evidence. This provision, which is based on similar APA (5 U.S.C. 556(d)) and SSA provisions (42 U.S.C. 405(b)), generally codifies the existing VA regulation, 38 CFR 19.133(c).

Subsection (c) would specify certain procedural rights of claimants in proceedings before the Board of Veterans' Appeals, the first four of which (clauses (1) through (4) below) are derived from the APA (5 U.S.C. 556(d)).

Clause (1) of subsection (c) would give the claimant or the claimant's authorized representative the right to examine the contents of the case files and all documents and records that the VA plans to use in the proceeding and, on the payment of a fee, prescribed pursuant to present section 3302(b), not to exceed the direct cost of duplicating the materials, the right to obtain copies of all such materials.

Clause (2) of subsection (c) would give the claimant or the claimant's authorized representative the right to present witnesses and evidence restricted only by regulations of the Administrator relating to irrelevant, immaterial, or unduly repetitious evidence as authorized by proposed subsection (b) of this section.

Clause (3) of subsection (c) would give the claimant or the claimant's authorized representative the right to make arguments to the Board, both orally and in the form of a

written brief or similar document, on both substantive and procedural issues.

Clause (4) of subsection (c) would give the claimant or the claimant's authorized representative the right to submit rebuttal evidence.

Clause (5) of subsection (c) would give the claimant or the claimant's authorized representative the right to present medical opinions as part of the case and to request an independent medical opinion pursuant to new subsection (c) of present section 4009 (as added by section 108 of the Committee bill).

Clause (6) of subsection (c) would give the claimant or the claimant's authorized representative the right to serve on any person written interrogatories that would have to be answered in writing separately and under oath unless the person makes an objection to the Administrator. (Other provisions of this subsection discussed below provide specific procedures for objection to and enforcement of such interrogatories.)

Subsection (c) would further provide, in a final paragraph, that the fee provided for in clause (1) of this subsection for the reproduction of the contents of case files and all materials that the VA plans to use in the proceeding may be waived, pursuant to regulations of the Administrator, either on account of a party's inability to pay or for other good cause. In addition, the final paragraph of the subsection would provide procedures that would apply in conjunction with the use of interrogatories authorized in clause (6) of this subsection. In the event an individual served with interrogatories objects to some or all of the interrogatories, the Administrator would be required, pursuant to regulations which the Administrator must prescribe establishing standards consistent with standards for protective orders under Rule 26(c) of the Rules of Civil Procedure for the United States District Courts, to evaluate the objection and either order the interrogatories to be answered as served or as modified by the Administrator or order that the interrogatories need not be answered. In this manner, the Administrator would be available to protect against the use of interrogatories to harass or unduly burden the person served with the interrogatories. This paragraph would also provide that, if a person served with interrogatories under this section fails to answer or to provide responsive answers and the party serving the interrogatories shows the general relevance and reasonable scope of the evidence sought, the Administrator is to issue a subpena pursuant to present section 3311 of title 38 with enforcement pursuant to present section 3313 of title 38, United States Code, to require the person served with the interrogatories to appear at a disposition on written questions at a location within 100 miles of the witness' residence or place of work. This procedure for enforcing the interrogatories, together with the check provided by the Administrator's evaluation of any objection, is designed to prevent abuse of this discovery tool while providing a claimant with a means of obtaining relevant evidence that would otherwise be unavailable to the claimant. The provisions relating to the use of interrogatories are proposed in lieu of allowing a claimant to subpena a witness to appear at a Board hearing for the purpose of cross-examination by the claimant or the claimant's authorized representative because of concern that such cross-examination would not be consistent with the goal of conducting proceedings by the Board in a nonadversarial fashion.

Subsection (d) would provide authority for a hearing officer in any VA proceeding to disqualify himself or herself because of personal bias or other cause and also would provide authority for a party to challenge a hearing officer on such basis. This provision is derived from the APA (5 U.S.C. 556(b)).

Subsection (e) would specify that the administrative record in a case would consist of the transcript or recording of testimony and the exhibits, all papers and requests filed in the proceeding, and the decision of the Board; and would require the Administrator, upon payment of a reasonable fee for the cost of duplicating, pursuant to present section 3302(b) of title 38, to copy the contents of the record for the claimant. The duplicating fee would be waivable on account of a party's liability to pay or for other good cause shown.

Subsection (f) would specify that, notwithstanding any other provision of law, the adjudication and hearing procedures contained in title 38, and in regulations prescribed by the Administrator are exclusive. This provision is designed to preclude judicial incorporation of other procedures from the Administrative Procedure Act or elsewhere in order to assure that VA procedures remain informal and nonadversarial in nature.

New section 4011.—Notice of procedural rights: Would require the Administrator to provide, at each stage of the proceedings before the VA, notice, in easily understandable language, to a claimant of procedural rights and the procedures available to obtain various opportunities for review. This provision is designed to assure that at each critical juncture in the adjudication/appeals process, the claimant is specifically notified of his or her rights, at that level and of remaining available options; and to assure that, where there are substantial populations of veterans with limited English-language proficiency, this notice is provided in a language other than English, such as Spanish, which is spoken by a significant percentage of the clientele of the particular VA facility.

Subsection (b) of section 109 would amend the table of sections at the beginning of chapter 71 to reflect the addition of new sections 4010 and 4011 made by the amendments in subsection (a) of this section of the Committee bill.

Section 109—Cost.—Enactment of the provisions in section 109 is estimated to cost less than $100,000 in fiscal year 1980.

SECTION 110

Would require the Administrator to conduct a study of alternative methods of providing speedier claims resolution at locations convenient to claimants' residences. The study would include two alternative procedures: First, in at least three VA regional offices, a procedure utilizing an intermediate review panel of regional office personnel from the Department of Veterans' Benefits, which would conduct a de novo review of the claim prior to any appeal to the Board of Veterans' Appeals; and, second, in at least three other VA regional offices, an enhanced schedule of visits by traveling panels of the Board of Veterans' Appeals (on at least a quarterly basis). The Administrator would be required to report to the Congress on the results of the study, including an evaluation of the cost factors associated with each alternative and the impact on the workload of the regional offices and the Board of Veterans' Appeals resulting from each alternative, together with any recommendations for administrative or legislative action, or both, as may be indicated by the study.

Section 110—Cost.—Enactment of this provision is estimated to cost $0.2 million in fiscal year 1980.

TITLE II—VETERANS' ADMINISTRATION RULE MAKING

SECTION 201

Subsection (a) of section 201 would amend subchapter II of chapter 3 of title 38, United States Code, relating to various administrative matters pertaining to the Veterans' Administration, by adding a new section 221, as follows:

New section 221.—Rule making: Would provide that, notwithstanding the preclusion in section 553(a)(2) of title 5, United States Code, of matters involving "loans, grants, benefits, or contracts" from Administrative Procedure Act rulemaking procedural requirements, the VA's rulemaking procedures must be in compliance with the provisions of the Administrative Procedure Act section relating to rule making, section 553 of title 5, United States Code. This section would generally codify the current VA regulations, 38 CFR 1.12.

Subsection (b) of section 201 would amend the table of sections at the beginning of chapter 3 of title 38, United States Code, relating to general administrative matters pertaining to the Veterans' Administration, to reflect the addition of the new section 221 proposed to be made by subsection (a) of this section of the Committee bill.

Section 201—Cost.—Enactment of this provision would entail no costs.

TITLE III—JUDICIAL REVIEW

SECTION 301

Would amend section 211(a) of title 38, United States Code, relating to decisions by the Administrator, which generally precludes judicial review of decisions of the Administrator in matters relating to claims for benefits under laws administered by the VA, to add to the matters to which such preclusion does not apply, chapter 72, the new judicial review chapter proposed to be added by section 302 of the Committee bill.

Section 301—Cost.—Enactment of this provision would entail no costs.

SECTION 302

Subsection (a) of section 302 would amend part V of title 38, United States Code, relating to VA boards and departments, to add a new chapter, chapter 72, entitled "Judicial Review", which would authorize and prescribe procedures for access to the Federal court system for review of certain VA decisions and would consist of new sections 4025 through 4029, as follows:

New section 4025.—Jurisdiction: Would define the reviewing court's jurisdiction to review a case involving a claim for benefits under laws administered by the Veterans' Administration.

Subsection (a) would authorize judicial review of a "final decision" (as defined in subsection (c) of this new section) in a matter involving a claim for benefits under laws administered by the Veterans' Administration. A civil action seeking such review could be brought in Federal district court in either the home district of the claimant or in the district court where the Board of Veterans' Appeals is situated (presently the District of Columbia), and must be brought within 180 days (the same period as is allowed for bringing an action in Federal court in connection with a tort claim against the United States, as provided for in 28 U.S.C. 2401(b), following final denial of such claim by the Federal agency involved, as required by 28 U.S.C. 2675(a)) after the notice of the Board of Veterans' Appeals decision is mailed to the claimant pursuant to new section 4004 (d) (as proposed to be added by clause (3) of section 106 of the Committee bill).

Subsection (b) would provide that, in matters not directly involving a claim for benefits, present section 211(a), which generally precludes judicial review of decisions of the Administrator, shall not bar a Federal civil action that otherwise would be authorized by law. This provision is intended to make clear that nothing in section 211(a) operates to bar judicial challenges to VA regulations, practices or procedures that would be open to such challenge if carried out by any other Federal agency. Thus, the provision is not a grant of jurisdiction and is in no way intended to vitiate any available defenses, such as standing, ripeness, and failure to exhaust

administrative remedies, in civil actions for the review of Federal agency conduct. Rather, this provision is intended to recognize and codify an emerging body of case law (for example, the decision of the United States Court of Appeals for the Sixth Circuit in *Wayne State University* v. *Cleland*, 590 F. 2d 627 (6th Cir. 1978), holding that section 211(a) does not preclude court review of the Administrator's authority to promulgate particular regulations) to the effect that present section 211(a) precludes judicial review of only those decisions that Administrator makes in the administration of a statute providing benefits to veterans or other claimants.

Subsection (c) would define "final decision of the Administrator", as used in subsection (a) of this new section, to include not only a decision on the merits pursuant to section 4004(a), as it is proposed to be amended by section 106 of the Committee bill, but also a refusal to reopen a claim pursuant to section 4004(b), as it is proposed to be amended by section 106 of the Committee bill, or a refusal on the basis of nonconformity with present chapter 71 provisions relating to form or manner of appeals actions, pursuant to present section 4008, or on the basis of a lack of timeliness pursuant to present section 4005, to consider a claim.

Subsection (d) would specify that the provisions of the new chapter 72 would not change the current law provisions governing judicial review of matters under present chapter 19 of title 38, relating to insurance, and under present chapter 37 of title 38, relating to home, condominium, and mobile-home loans and loan guaranties. There are in both chapters procedures established relating to judicial review and no need to change such procedures has been suggested or shown.

Subsection (e) would require the complaint seeking appeal of a decision relating to a claim for benefits, brought pursuant to new subsection (a) of this section, to include sufficient information in the complaint (for example, the date of the final Board of Veterans' Appeals decision and the claimant's VA claim number) to assist the VA in identifying and locating the claimant's file.

Subsection (f) would require the Administrator to file, together with the answers to the complaint, certified copies of all of the materials that constitute the record in the case or, if the Administrator determines that the cost of filing all of the records would be prohibitive, would permit the Administrator to file a complete index of all of the materials of record in the case. If such an index is filed, the reviewing court would consider requests from all parties for the filing of specific record materials, and thereafter order the Administrator to file certified copies of the indexed items that the court deems relevant to its consideration of the case.

Subsection (g) would provide that a reviewing court has the power to dispose of a case on the pleadings and record certified under subsection (f) of this new section. It is anticipated that court's use of this authority should reduce unnecessary expenditures of judicial resources. As noted in the "Final Report—Study of the Social Security Administration Hearing System" by the Center for Administrative Justice: "The amount of time invested in average case [under the SSA] is undoubtedly very small. Most disability cases present simple issues. There is no trial and often not even an oral appearance."

Subsection (h) would remove judicial review as provided in subsection (a) of this new section for cases in which the initial claim for benefits is not filed with the Administrator (pursuant to present section 3001(a)) before the end of the fifth fiscal year after the fiscal year in which the Act becomes effective. The provision would have no effect on the availability of remedies under new chapter 72 in connection with any claim filed before such time. This "sunset" provision on new claims is intended to require the Congress to evaluate the new judicial review provisions before making such provisions permanent or extending them further.

New section 4026.—Scope of review: Would define a reviewing court's role in considering actions brought under the proposed new judicial review chapter. The provisions are derived, with certain modifications, from the APA scope of review provisions in 5 U.S.C. 706.

Clause (1) of subsection (a) would authorize a reviewing court to decide all relevant questions of law and interpret constitutional, statutory, and regulatory provisions. As discussed above with respect to subsection (b) of new section 4025 (as proposed to be added by this subsection of the Committee bill), there is an emerging body of case law which holds that courts are not barred by present section 211(a) from reviewing questions relating to the legal authority of the Administrator, under the Constitution or statutory provisions, in matters not directly relating to claims for benefits (for example, the decision in *Plato* v. *Roudebush*, 397 F. Supp. 1295 (D. Md. 1975) where the court permitted a constitutional challenge to VA procedure relating to pension benefit termination). This new provision expands that case law to include questions of law in cases involving claims for benefits.

Clause (2) of subsection (a) would authorize a reviewing court to compel action of the Administrator that the Administrator has unlawfully withheld.

Clause (3) of subsection (a) would define a reviewing court's authority to hold unlawful and set aside decisions, findings, and conclusions of the Administrator. Specifically, a reviewing court would be empowered to reverse a decision of the Administrator if such a decision is found to be: (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege or immunity; (C) in excess of statutory jurisdiction, authority or limitations, or in violation of a statutory right; or (D) without observance of procedure required by law. As noted above, this authority to reverse is largely derived from the APA; however, it is specifically limited in cases where a reviewing court finds the Administrator's decision on a factual issue to be arbitrary, capricious, or an abuse of discretion so as to require the court, before reversing the decision, to specify where it finds the record to be deficient and to remand the case once, for a time-limited period, to allow the Administrator either to reconsider the decision or substantiate the record. It is the Committee's intention that these limits on a reviewing court's authority to reverse a decision of the Administrator on a factual issue, together with the limitation on a court's review of factual issues to an evaluation for arbitrariness, capriciousness, or abuse of discretion, should serve to restrict court review of factual matters more tightly than is the case where review is authorized (as in the APA, 5 U.S.C. 706) to determine whether a Federal agency's decision on a factual issue is "supported by substantial evidence". Thus, the role of the Board of Veterans' Appeals as the primary export arbiter of factual matters involving claims for VA benefits be preserved.

Subsection (b) would incorporate the rule of prejudicial error from the APA (5 U.S.C. 706) in order to define further a reviewing court's role. Thus, pursuant to this rule, a court would be expected to disregard errors in the administrative record that are not significant to the outcome of the matter.

Subsection (c) would clarify a reviewing court's role in relation to questions of fact decided by the Administrator by specifying that in no event shall such findings be subject to a trial *de novo* in the reviewing court.

Subsection (d) would provide that, in reviewing a matter resolved by the VA solely on the basis of a failure to conform to VA regulations or procedures, the reviewing court may consider only those issues relating to the validity of or conformity with the regulation or procedure. Thus, if a court were to uphold the validity of a regulation or procedure and its application to the facts of a case, the matter would be ended; but if, on the other hand, the court were to rule that the regulation or procedure is unlawful, the underlying claim for benefits must be returned to the VA for its consideration, and the VA's role as the principal arbiter of VA claims matters would thus be preserved.

New Section 4027.—Remands: Would provide for three different types of remands (two mandatory and one discretionary), in addition to the mandatory remand provision to be provided for under new section 4026(a). Under the first, the court would be required, at the request of the Administrator, to remand the case, after it is appealed to court and before the Administrator files an answer, for a single reconsideration by the Administrator, which, must be completed within 90 days or the matter would be returned to court. This provision is derived from a similar one in the SSA (42 U.S.C 405(g)) but modified to place a specific limit on the amount of time allowed before the case must be returned to court. The second remand provision would allow the reviewing court, in its discretion, to remand a case for further action after the Administrator has filed an answer. The third remand provision would require a court to remand a matter when either party applies for leave to adduce further evidence and shows "good cause" for the remand. In the Committee's view, the burden of showing good cause for the remand should be applied to protect parties and administrative and judicial processes from dilatory practices but not so as to create undue impediments to the Administrator's consideration of additional evidence bearing on the merits of a claim. The new section would thus authorize a reviewing court to specify a time period within which the Administrator must act on a matter remanded under either the second or third remand provisions in this new section.

New section 4028.—Survival of actions: Would provide that actions brought under new section 4025 would survive the tenure of any individual as Administrator.

New section 4029.—Appellate review: Would provide that decisions of district courts pursuant to the new judicial review chapter would be subject to review in higher Federal courts in the same manner as other civil judgments.

Subsection (b) of section 302 would amend the table of chapters at the beginning of title 38, United States Code, and the table of chapters at the beginning of part V of such title, relating to boards and departments, to reflect the addition of the new chapter 72 proposed to be made by subsection (a) of this section of the Committee bill.

Section 302—Cost.—Enactment of this provision is estimated by the Congressional Budget Office to result in costs of $0.4 million to the Veterans' Administration in fiscal year 1980 and of $0.7 million to the Federal court system. This latter cost estimate assumes that additional judgeships (and supporting staff) would be authorized by the Congress to deal with the judicial workload generated by allowing court review of VA decisions. This assumption may prove to be fallacious in

light of the enactment of Public Law 95-486 in the last Congress which authorized an additional 117 district court judgeships and 35 circuit court judgeships. Although it is clear that these additional judges were designed to reduce the Federal court workload existing at that time, it seems unlikely that the Congress would be prepared to act to add still more new judgeships so soon after such a significant increase. In any event, it is clear, as noted in the cost estimate of the Congressional Budget Office, that the Committee bill does not authorize any additional judgeships and any such authorization, and attendant cost, would have to be considered separately.

SECTION 303

Would amend present section 1346 of title 28, United States Code, relating to the jurisdiction of Federal district courts when the United States is the defendant, to provide that the exclusion contained therein limiting the jurisdiction of Federal district courts in matters involving pensions shall not apply to VA pension matters. This is a conforming amendment to effectuate the purpose of the new chapter 72 that would be added by section 302 of the Committee bill.

Section 303—Costs.—Enactment of this provision would entail no costs.

TITLE IV—ATTORNEYS' FEES

SECTION 401

Would amend present section 3404 of title 38, United States Code, relating, in connection with VA proceedings, to the recognition of agents and attorneys and to attorneys' fees, to revise the present title 38 limitation if $10 for claimants' attorneys' fees by providing for the approval by the Administrator of reasonable attorneys' fees, within certain specified amounts for representation of individuals before the Veterans' Administration and for approval by the court of a reasonable attorneys' fees in cases appealed to court.

Clause (1) of section 401 would amend present subsection (c) of present section 3404, to provide for approval by the Administrator of attorneys' fees above the present $10 maximum for services rendered in representing a claimant following the issuance by the Administrator of a statement of the case (a formal explanation of an initial denial of a claim) pursuant to present section 4005(d), but would retain the $10 maximum limitation for cases resolved upon the initial proceeding at the regional office level. With respect to claims resolved within the VA but following the issuance of the statement of the case, the Administrator's approval of an attorney's fee is limited to the lesser of:

(A) the fee agreed upon by the claimant and the attorney, or

(B)(i) $500 (an amount which could be increased administratively by the Administrator in future years as warranted by changed economic conditions) except that a greater amount may be approved by the Administrator in an individual case involving extraordinary circumstances warranting such a higher fee, or

(ii) if the claimant and attorney have entered into a contingent-fee agreement, an amount not in excess of 25 per centum of the total amount of past-due benefits awarded.

Thus, approved fees for legal representation before the VA following the issuance of a statement of the case will generally be limited to a maximum of $500 unless the claimant and attorney have entered into a contingent-fee agreement and the matter is resolved in a manner favorable to the claimant, in which case the limitation would be 25 per centum of any past-due benefits awarded in the claim. The Committee does not anticipate that the Administrator will have occasion to approve a fee in excess of $500 on the basis of "extraordinary circumstances" except in the most unusual of cases where an attorney is able to demonstrate that the facts and circumstances of the case were so markedly different, in terms of complexity or difficulty, from the average case before the Administrator that an exceptional amount of time was legitimately required to prepare and present it.

Clause (2) of section 401 would further amend present section 3404 of title 38, United States Code, by adding six new subsections (d) through (i), as follows:

New subsection (d): Would define the court's role in approving attorney's fees in cases appealed to court under the new judicial review chapter as proposed to be added by section 302 of the Committee bill. In a case that is resolved in a manner favorable to the claimant (as that result is defined in new subsection (h) of this section), the court may approve a reasonable fee, with the limitation that, if the claimant and attorney have entered into a contingent-fee agreement, the amount of the fee is limited to 25 per centum of the total amount of past-due benefits awarded in the case. In the event that a matter is not resolved in a manner favorable to a claimant in court, the reviewing court may approve a limited reasonable fee, not to exceed $750, taking into consideration the extent to which success appeared reasonably probable when the action was filed. Of course, where the claimant and attorney have entered into a contingent-fee agreement, no fee could be approved unless court review ultimately results in an award of past-due benefits.

New subsection (e): Would provide authority for the Administrator to authorize payment to an attorney from any past-due benefits that are awarded by the Administrator or a court but would specifically preclude the VA from making payments out of any future benefits accruing to a claimant on the basis of the action.

New subsection (f): Would provide for court review of an approval of a fee award by either the Administrator or a court. Where the matter is resolved within the VA and the Administrator approves an award, the amount approved may be challenged as reflecting an abuse of discretion by an action brought by either the claimant or the attorney in the Federal district court in the claimant's home district. Where the fee is approved in a matter appealed to court, either the claimant or the attorney could make a motion, in the United States district court where the appeal was considered, within 30 days after the fee is approved.

New subsection (g): Would limit the applicability of the new attorneys' fee section, section 3404 (as proposed to be amended by this section of the Committee bill), to cases involving claims for benefits under laws administered by the VA. Thus, in all other types of cases (for example, constitutional challenges to regulations. Freedom of Information Act cases, and other claims for relief other than VA benefits) where no claim for benefits is involved, the fee agreement between the individual and the attorney would not be restricted by the provisions of this section.

New subsection (h): Would provide that, for the purposes of this section, a claim is to be considered as having been resolved favorably to a claimant when any or all of the relief sought is granted.

New subsection (i): Would provide that a court may, in its discretion and as an extraordinary remedy, allow a prevailing party, other than the Administrator, reasonable attorneys' fees as part of the costs awarded after the decision. This provision is intended to permit a court to evaluate all of the circumstances of a claim and, in particular, the VA's basis for denying the relief requested and its conduct with respect to the claimant. The Committee's intention is that the court's evaluation of the VA's action be similar to that undertaken by courts in Freedom of Information Act cases when the issue to be resolved is whether the governmental agency involved had a reasonable or colorable basis in law for its action (for example, the analysis in *Keye* v. *Burns*, 411 F. Supp. 897, 903 (S.D. N.Y. 1976) cited with approval in *Cueno* v. *Rumsfeld*, 553 F. 2d 1360 (D.C. Cir. 1977)). Accordingly, there should seldom be an award of attorneys' fees under this provision; an award would be appropriate only upon a finding by a court that the VA had been "recalcitrant" in its denial of a valid claim or had otherwise "engaged in obdurate behavior" in the adjudication of the claim. One situation that might, in particular cases, warrant such a finding and an award of attorneys' fees would be where the reviewing court has found a factual determination of the Administrator to be "arbitrary, capricious or an abuse of discretion" and remands the matter to the VA pursuant to proposed new section 4026 (as proposed to be added by section 302 of the Committee bill), following which the matter is returned to the court with the Administration's finding unchanged and with no further substantiation or development of the record.

Section 401—Cost.—Enactment of the provisions in section 401 are estimated to entail no cost.

SECTION 402

Would amend present section 3405 of title 38, United States Code, relating to penalties for certain acts, to delete a gender reference and to strengthen this provision by making it a Federal criminal offense for an attorney or other person willfully and intentionally to defraud a VA claimant.

Section 402—Costs.—Enactment of this provision would entail no costs.

TITLE V—EFFECTIVE DATES

SECTION 501

Would make the Act effective on the first day of the month beginning 180 days after the date of enactment.

SECTION 502

Would allow for judicial review, pursuant to proposed new section 4025 (as proposed to be added by section 302 of the Committee bill), of decisions of the Board of Veterans' Appeals rendered on or after January 1, 1977, and prior to the effective date of the Act. This section also specifies that any appeals of such decisions rendered prior to the effective date of the Act must be brought within 180 days after the effective date of the Act or after mailing of notice by the Administrator to the claimant of the right to such an appeal, whichever is later.

Section 502—Cost.—Enactment of this section is estimated to cost $0.5 million in fiscal year 1980.

CONCLUSION

Mr. CRANSTON. Mr. President, in closing, I want to express my thanks and appreciation to my good friend and colleague, the Senator from Colorado (Mr. HART) for his vision and strong leadership on this issue. He has been deeply interested in the issue of judicial review of VA decisions since coming to the Senate, and today's Senate action on S. 330 is a tribute to his perseverance. I also want to express my appreciation to the ranking minority member of the committee, the Senator from Wyoming (Mr. SIMPSON), for his excellent assistance and counsel on this bill and to the other members of the committee who voted to report the bill and have been so helpful—

Senators TALMADGE, RANDOLPH, STONE, MATSUNAGA, DURKIN, THURMOND, and STAFFORD.

The bill as reported was developed over many months by the committee staff, and I believe they did a truly outstanding job in blending together many aspects of the legislation and accommodating the many competing considerations. I particularly note the work on the bill and committee report of committee staff members Bill Brew, Ed Scott, Jon Steinberg, Kerry Shortle, and Harold Carter. They were extremely ably assisted by Janice Orr, Terri Morgan, Becky Walker, Mikki Day, Jim MacRae, and Walt Klingner.

I would also like to extend thanks for their efforts to committee minority staff members Garner Shriver and John Pressly, as well as former staff member Gary Crawford, and to Ken Bergquist of Senator SIMPSON's staff. In addition, I want to thank Bill Holen and Terry Johnson of Senator HART's staff for their close cooperation with us in developing the committee version of the legislation.

The committee staff received significant technical assistance during the long developmental process—from Hugh Evans, of the Senate's Office of Legislative Counsel, and from the VA, particularly from Guy McMichael, the VA's General Counsel, Dean Phillips, Don Zeglin, and Roland Halstead, all on the General Counsel's staff, and from Jan Donsbach, Special Assistant to the Chairman of the Board of Veterans' Appeals, to all of them, I express my gratitude.

Mr. President, I believe that this legislation is long overdue. There is no longer any reason, if there ever was, for denying veterans and other claimants before the VA access to the Federal court system to challenge arbitrary or capricious denials of claims for benefits, and I urge my colleagues to support this bill.●

● Mr. HART. Mr. President, today Senator CRANSTON, the distinguished chairman of the Senate Veterans' Affairs Committee, has brought to the floor for consideration a measure which will significantly reform the administrative procedures of this Nation's third largest Federal agency—the Veterans' Administration.

Senator CRANSTON and I introduced the Veterans' Administration Adjudication Procedure and Judicial Review Act on February 1. The bill would provide for judicial review of the administrative decisions of the Veterans' Administration, and allow for the payment of reasonable attorneys' fees by veterans who wish to be represented by counsel at VA hearings or in court. Additionally, this measure requires the VA to comply with the rulemaking provisions of the Administrative Procedures Act (APA) and clarifies and codifies VA adjudication procedures to assure veterans the opportunity to receive full and fair notice and hearings from the VA on their claims for benefits.

Mr. President, the Veterans' Administration is unique among major Federal agencies in that its benefit decisions are not subject to the scrutiny of the Federal courts. In addition, an outdated $10 limitation on the amount a veteran may pay an attorney to assist in the presentation of a claim before the VA prevents many veterans from being represented by counsel of their choosing.

Under existing law, a local VA board reviews a veteran's case to determine if he or she is eligible for disability compensation pension, or other benefits. If the local board renders an unfavorable decision, the veteran is entitled to appeal to the Board of Veterans Appeals (BVA) in Washington, D.C., which is a part of the VA. Unlike claimants before nearly all other Federal agencies, a veteran who feels that the BVA has misinterpreted the law or decided a case without taking all relevant facts into account has no further recourse outside the VA.

Mr. President, I first introduced corrective legislation to allow for judicial review of Veterans' Administration decisions in May 1976. In the 94th Congress, I had intended to introduce S. 3392 as an amendment to the then pending Veterans' Education and Employment Assistance Act of 1976. However, I agreed to refrain from pressing for passage of that measure after then-chairman of the Veterans' Affairs Committee, Senator Vance Hartke, promised to hold hearings on the issue of judicial review in the 95th Congress. In January 1977, I introduced S. 364, a bill to provide for judicial review of VA decisions and several other reforms in VA procedures. Senator CRANSTON, chairman of the Senate Veterans' Affairs Committee honored Senator Hartke's commitment and five hearings were held to consider the merits of S. 364.

The extensive hearings on the question of judicial review of VA decisions revealed a wide range of complicated and complex issues with significant implications for the adjudication and procedural operations of the VA. The committee concluded that much of the excellent testimony from the hearings pointed to the need for some refinement of my legislative proposal. Senator CRANSTON directed the committee staff to begin work on a substitute to S. 364. My staff, the Veterans' Affairs Committee staff, VA staff, and representatives of veterans organizations all participated in the development of a substitute to S. 364 which more closely fits the existing VA procedures and provides additional due process protection for the veteran.

On February 1, Senator CRANSTON and I introduced S. 330, the Veterans' Administration Adjudication Procedure and Judicial Review Act.

Mr. President this bill represents 3 long years of hard work by many people. I am particularly pleased by the strong support Senator CRANSTON has given this important issue. His dedicated staff on the Senate Veterans' Affairs Committee is to be commended for the excellent legislation before us today. In addition, I would like to recognize the effort of Mr. Dean K. Phillips, a Vietnam veteran and former legislative director of the United Veterans' Committee of Colorado, who first brought this issue to my attention over 3 years ago.

This bill represents an historic precedent in the administration of benefits for the American veteran.

S. 330 will provide for the establishment of certain procedures for the adjudication of claims for benefits under laws administered by the VA; will apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the VA; will provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; and will allow the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administrated by the VA.

Mr. President, the fundamental issue addressed in this bill is simple justice for the American veteran. To deny a citizen access to an attorney, to isolate an agency of the Federal Government from the scrutiny of the Federal courts, and to prevent citizens affected by the actions of an agency to participate in the development of its rules and regulations go against the very principles of our constitutional form of government.

I urge the Senate to act favorably and quickly on this measure.●

Mr. THURMOND. Mr. President, I rise in support of S. 330, the Veterans' Administration Adjudication Procedure and Judicial Review Act. This measure, if enacted, will produce four major changes in the adjudication process of claims by the Veterans' Administration.

First, title I would codify and establish various internal procedures of the VA applicable in the adjudication of claims for benefits under laws administered by the VA.

Second, title II would require the application of those provisions of the Administrative Procedure Act regarding rulemaking by the VA. These provisions would include the requirement of notice to the public of proposed regulations and an opportunity for comment on such regulations.

Third, title III would permit access to the U.S. Federal court system for review of decisions of the Administrator on claims for benefits. These decisions are primarily made by the Board of Veterans Appeals and, under current law, are final and not subject to review by the Federal court. Title III also would establish the criteria upon which the Federal court may review an individual claim. In addition, this title would provide that the jurisdiction of Federal courts to review these final VA decisions would terminate 5 years after enactment of this legislation.

Fourth, title IV would revise the present title 38, United States Code, limitation of $10 for attorney fees by providing for approval by the Administrator of a reasonable attorney fee, within certain limits, for representation of individuals before the VA. Also, this bill provides that the court could approve a reasonable attorney fee in a case appealed under the judicial review provisions of title 38, United States Code.

Mr. President, S. 330 and its predecessor in the 95th Congress, S. 364, have been subjected to close scrutiny by the Senate Veterans' Affairs Committee during the past 3 years. Seven days of hearings were held on these two legislative initiatives. Testimony was received from Senators, the Commissioner of Puerto Rico, VA, American Legion, DAV, VFW,

AMVETS, other veterans organizations, ABA, several State bar associations, various legal bureaus, legal scholars, private attorneys, and others, all of whom were concerned that veterans receive all benefits to which they are entitled under the law.

I, too, share this same concern and interest; however, I believe the Board of Veterans Appeals has been doing an excellent job. They bend over backward for the veteran claimant; furthermore, I have received very few constituent requests to change the procedures of the BVA which have worked so well for 45 years. However, I realize the apparent inequity in a system which does not permit court review of Federal administrative agency decisions. It has been my firm belief that no Federal agency, whether VA, EPA, OSHA, or the host of others should be allowed unfettered discretion to promulgate a rule that may affect even one person, and invariably, countless thousands.

Mr. President, as S. 330 was being considered in committee, it became apparent to me that the issue was no longer whether there should be judicial review of final VA determinations but rather what the scope of that review should be. This, I believe, is the gravamen of this legislation.

As S. 330 is presently written, court review would be permitted not only on questions of law, but also where there is an allegation that the decision of the Administrator is arbitrary, capricious or is an abuse of discretion. This review of nonlegal questions, I believe, would allow the Federal court to supplant its decision on factual matters for those determinations by the Board of Veterans Appeals—experts in veterans matters. Also, the work load on the Federal court system would be taxed further, thereby creating longer delays for the veterans claimant and other participants within our judicial system.

Mr. President, during the markup session of S. 330 on May 3, I offered an amendment that would strike the language which would authorize court review of questions of fact. One of the primary reasons for doing this was to protect the single agency concept regarding veterans' benefits. I believe that the VA and the Board of Veterans Appeals are experts in veterans matters. It is my firm belief that a veteran is unique. He served his country when duty called and returned home often experiencing events and suffering conditions that can only be understood by others who did similar service. Questions of combat conditions or injuries sustained in service should be determined by those who are experts in this field and not by someone who may have no idea of the conditions that existed during wartime and during military service.

I also offered my amendment because our Federal court dockets are entirely too crowded. The VA testified that approximately 5,000 VA benefit cases will be filed in Federal courts with a cost of $12 million during fiscal year 1980. This additional cost will ultimately fall upon the Department of Justice to litigate these cases and on the Federal court system for administration.

Finally, Mr. President, the major veterans organizations opposed the judicial review provision of S. 330 at the time of my amendment. However, these organizations held their national conventions during the past summer months at which time they thoroughly considered S. 330 as reported by the Senate committee. As a result of this reconsideration, the majority of these organizations favor some form of judicial review of final VA determinations. Also, the Chairman of the Board of Veterans Appeals recently indicated to me that his Board is not opposed to S. 330 as reported. In view of these recent decisions by the veterans organizations and others, who will be directly affected by S. 330, I removed my objection to this legislation.

Mr. President, I believe that some form of judicial review of final VA determinations is needed and it appears that S. 330 is one of the appropriate legislative vehicles to accomplish this goal. Our Nation's 30 million veterans, all of whom may be affected by S. 330, must be given their day in court so that they can proceed with their daily activities with some degree of certainty and finality regarding their claims with the VA. I will support S. 330 and urge my colleagues to do likewise.

● Mr. HUMPHREY. Mr. President, judicial review of veterans' claim, as proposed in S. 330, will be an unquestioned addition to the Federal court burden, yet such review will not lead to a fairer system of the benefits claims process. Who is to benefit from judicial review? Veterans certainly do not clamor for it. I urge Congress to think carefully before opening the Pandora's box proposed in S. 330.

Judicial review is not needed. The current claims process is fair—no one has come before the Senate Veterans' Affairs Committee to claim otherwise. Veterans are satisfied that the existing practice is fair. The current veterans benefits appeals process has been characterized as follows:

First. It is not an adversary proceeding;

Second. Strict rules of evidence are not applied;

Third. All evidence is accepted as long as it is reasonably relevant;

Fourth. While the burden of proof is on the claimant, the VA procures and assembles the evidence on the basis of leads furnished by the veterans;

Fifth. Reasonable doubts must be resolved in the veteran's favor; and

Sixth. The VA must make every effort to assist in proving the veteran's claim.

Compelling evidence that the current process is fair exists in the form of statements from major veterans organizations. Two major veterans organizations, speaking on behalf of many of the Nation's veterans, do not want judicial review. John Heilman, national legislative director of the Disabled American Veterans, states in a May 8, 1979, letter to me:

> Though the Committee has had a series of judicial review hearings during two sessions of the Congress, I believe the record is still lacking in terms of basic, fundamental information and documentation relative to the need and extent of judicial review for veteran claimants.

Mr. Heilman states later in the letter:

> In conclusion, Senator Humphrey, the DAV is opposed to the Congressional passage of S. 330 in its present form.

The American Legion also strongly opposes passage of S. 330. Mylio Kraja, director of the American Legion's National Legislative Commission, states in a May 1, 1979, letter to me:

> The Legion takes the view that the VA should be the sole agency responsible for dispersing benefits granted to veterans by Congress. History clearly documents that the Veterans Administration's Board of Veterans Appeals has been liberal in rendering its decisions and has traditionally not rigidly followed rules of evidence. With judicial review by the courts, we believe such informality would be lost and the BVA would have to formalize its proceedings and follow strict rules of evidence, often to the detriment of claimants.

In short, then, veterans do not want judicial review. And in the absence of any compelling need for judicial review, we should not loose a potential flood of cases onto an already overloaded Federal docket. Let us keep this Pandora's box closed.●

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

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

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

The motion to lay on the table was agreed to.

RECOGNITION OF THE ACTING MINORITY LEADER

Mr. ROBERT C. BYRD. Mr. President, I have no further use for my time. I will be glad to yield it to any Senator who wishes to do so.

How much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 3 minutes remaining.

Mr. ROBERT C. BYRD. I yield the time to the acting Republican leader, if he needs it.

The ACTING PRESIDENT pro tempore. The Chair recognizes the acting minority leader, the Senator from Alaska.

Mr. STEVENS. Mr. President, if there is no objection, I ask unanimous consent that I may be able to use the lead-

ership's time after the special order of the Senator from Massachusetts.

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

The Senator from Massachusetts is recognized for not to exceed 15 minutes.

UNITED STATES POLICY TOWARD ANGOLA

Mr. TSONGAS. Mr. President, before I get into the remarks I have prepared for this morning, I should like to insert in the RECORD an article on a somewhat related issue published in this morning's Washington Post, entitled "Young Blames United States Policy for Angola's Soviet Ties," with which I am in full accord.

A companion to this article is an editorial in this morning's Boston Globe, entitled "A Missed Opportunity in Africa," which outlines the same kind of concern.

These two items are in support of the statement I made last week on the same subject, and I ask unanimous consent to have them printed in the RECORD.

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

[From the Washington Post, Sept. 17, 1979]

YOUNG BLAMES U.S. POLICY FOR ANGOLA'S SOVIET TIES

(By Leon Dash)

NAIROBI, KENYA, Sept. 16.—The United States has pushed Angola into the arms of the Soviet Union by withholding recognition of the Marxist Angolan government, U.N. Ambassador Andrew Young said tonight.

Young said U.S. policy toward Angola, which achieved independence during civil war four years ago, was prompted by a fear of the 20,000 Cubans estimated to be stationed there.

"I have always felt it is stupid to be afraid of Cubans," Young said. "We should go in there and compete with them."

The Carter administration has made its recognition contingent on the withdrawal of Cuban soldiers from Angola.

"That is one of my biggest regrets," Young said of American failure to recognize Angola during his 2½ years as U.N. ambassador.

Young made the comments at a press briefing following a diplomatic reception at the home of the U.S. ambassador to Kenya, Wilbert J. LeMelle. Kenya is the fifth stop of a seven-nation African trade mission Young is heading.

The trade mission has slipped into the background as the loquacious, outgoing U.N. ambassador increasingly has concentrated his comments on U.S. domestic politics and foreign policy.

Most of his comments have been made in speeches or in answering reporters' questions.

Young's criticism of American policy toward Angola came in response to questions about Young's regret over the death of Angolan President Agostinho Neto. Young said he would have liked to attend Neto's funeral in Angola today.

"I would have liked to have been there because of the respect I have for Neto," he said.

Neto came to power in 1975 as head of the Popular Movement for the Liberation of Angola after more than a decade of anticolonial guerrilla war against the Portuguese. Independence was preceded and followed by civil war between the Popular Movement and two other groups who also had rebelled against the Portuguese.

In the ensuing strife, the United States' Central Intelligence Agency and South African soldiers aided the two movements fighting Neto's Popular Movement. Neto was able to win the conflict with the aid of Cuban soldiers.

Today there are Cuban doctors, technicians and a large contingent of Cuban troops in Angola. The Soviet Union also has large numbers of advisers there.

Angolan "leadership in the frontline states has been the most moderate," Young said. "They want to end the fighting [in Zimbabwe-Rhodesia] because they know the cost."

The front-line states of Angola, Tanzania, Zambia, Mozambique and Botswana have played a leading role in seeking a solution to the guerrilla war in Zimbabwe-Rhodesia.

Young said that while he was a congressman a delegation from the Popular Movement came to see him and asked that the Americans "not do to them what was done to the Cubans."

After it was clear that the Portuguese were leaving and the Popular Movement would win the civil war, "they wanted to stay nonaligned and they felt they couldn't do that if pushed into the Soviet camp." Young said.

Recent news accounts have reported three assassination attempts against Neto by leftists in his own party who wanted a closer alignment with the Soviet Union. Neto is said to have wanted Angola to remain independent of the Soviets.

The withholding of American recognition of their government pushed the Angolans closer to the Soviets than they wanted to be, Young said.

Young said he felt the transition of power to Neto's yet-unknown successor would be smooth. "If there is a smooth transfer and a new government emerges that still wishes to be nonaligned, then I think we ought to give them the chance to be nonaligned," he said.

Young also said Nigeria's transition from military to civilian rule in two weeks, will have a wide impact on Africa and other parts of the developing world under military governments. "Freedom is contagious," he said.

Young also said:

Future American foreign policy in Africa will have to include Nigeria, Africa's most populous and richest state.

Nigeria's President-elect Shehu Shagari's incoming civilian government "would be inclined to be a bit more cooperative with Britain" than the outgoing military government, which recently nationalized British Petroleum's holdings in Nigeria.

[From the Boston Globe, Sept. 17, 1979]

A MISSED OPPORTUNITY IN AFRICA

The death in Moscow this week of Angolan President Agostinho Neto ended the life of a man who was once one of the true heroes for black Africa's radicals and militant nationalists, a man who was hailed by Russia at his death as "one of the prominent leaders of the international revolutionary movement." It may seem paradoxical in light of the Soviet statement, but Neto's death may also have marked the passing of a major opportunity to reduce the Soviet role in Africa and enhance our own.

Neto, 56, a poet, a doctor and a Marxist intellectual, headed the Popular Movement for the Liberation of Angola—the MPLA—during its guerrilla struggles to liberate Angola from the control of Portugal. In that effort he sought aid from Russia and Cuba when Western assistance was denied. And when Lisbon granted Angola its independence, Neto refused Western and African calls to join a coalition Angolan government and, again with Cuban and Soviet assistance, emerged victorious from a bloody civil war less than four years ago. The United States supported a losing faction.

All this activity did not, of course, endear him to American politicians and policymakers. Yet, the fact of the matter is that within the MPLA Neto became in recent years a moderate. And for the last year he had not only been working actively with the United States on its efforts to secure a peaceful resolution of the Namibian situation but he had been actively seeking US recognition and said. His goal, it seemed to all who studied the situation, was to reduce his dependence on Russian and Cuban aid and to move toward more true nonalignment.

The Carter Administration, apparently worried about a conservative backlash, failed to respond. Now Neto is dead, apparently the victim of leukemia for which he sought treatment in Moscow at the time of his death. The shape of a new Angolan government is uncertain but, whether or not the Neto faction retains its control, the next president is expected to be more resolutely anti-American. In a speech on the Senate floor the other day, Sen. Paul Tsongas made the essential points:

"What is an African leader going to think about the United States and its refusal to respond to nonalignment? It is too late now. He is dead, and we do not know what is going to happen in Angola. . . . I really lament our situation because I believe the Soviets are now going to have opportunities in Angola that they did not have under Neto. They will have opportunities in Africa, not because of what they do right, but because of what we do wrong.

"It seems to me that, at some point, the United States should stop giving the Soviets entree into Africa. I am sorry that President Neto is dead, but I am more sorry that we do not have the courage of our convictions."

HYPOCRISY AT THE NONALINED CONFERENCE

Mr. TSONGAS. Mr. President, my colleagues in the Senate are well aware that I have a strong record in support of Third World aspirations. I have spoken often in defense of the world's disenfranchised, the racially oppressed, the hungry, and the poor. My respect and friendship for the Third World is beyond question.

Today, however, I must raise my voice in protest against what I believe is a shameful episode in Third World affairs. I refer, Mr. President, to the just concluded Conference on Nonalined Nations held in Havana, Cuba. Under the unscrupulous chairmanship of Fidel Castro, the conference delegates let themselves be bullied into accepting a final declaration which strayed far from the noble principles of nonalinement. Cuba, the Soviet Union's dependency in the Western Hemisphere, converted a nonalined conference into a partisan rally for Soviet foreign policy. Fault for this miscarriage of principle lies with Cuba, first and foremost. Fault, by default, however, belongs to the silent majority of moderate nations. The aims of a few prevailed over the supine majority. As Burma's foreign minister proclaimed, "The principles of the nonalined movement are not merely dim, they are dying."

Those principles were born in 1961 when President Tito of Yugoslavia convened the first nonalined conference.

Twenty-five nations from the developing world gathered in Belgrade that year and carefully constructed the foundations of their movement. I think some of these principles bear repeating. They included the final abolition of colonialism in all its forms and manifestations; a prohibition of intimidation, interference, or intervention in the affairs of sovereign peoples; the nonalinement of member nations with the two antagonists in the Cold War; and a commitment to self-determination for all peoples.

These are admirable and lasting principles. I heartily support them. The nonalined movement has faithfully supported them—until Havana. A week ago, disaster struck in Havana.

President Castro announced his objective at the beginning of the Conference—to convince the member states that the Soviet Union is their "natural ally." Standing nonalinement on its ear, Castro used his office of Chairman to aline this conference with the Soviet Union, to transform neutrality into belligerence; to replace nonalinement with allegiance. This brazen attempt did not go unopposed. President Tito of Yugoslavia, now 87 years of age, led the fight to retain the original principles of the movement. His brave appeals to a cowed majority touched only a few. In the wreckage and disarray of this failed conference, Castro scored significant victories for his warped concept of nonalinement. The scorecard goes like this:

The Conference declaration followed the Soviet line in condemning Egypt for its participation in the Camp David Peace Conference.

On the issue of Cambodia, the delegates unseated the Pol Pot delegation and effectively recognized the pro-Soviet regime installed by the invading Vietnamese, who in turn were supported by the Soviet Union.

Throughout the Conference, Castro and his allies harangued the delegates with anti-U.S. rhetoric and pro-Soviet slogans.

Those who wished to express other points of view were unable to gain recognition from Castro, the Conference chairman, until the halls were empty and the committee meetings disbanded.

It is inescapable that Fidel Castro has inflicted great damage on the nonalined movement. He orchestrated the pro-Soviet, anti-U.S. tone of this Conference, and he undoubtedly will continue his efforts to drag the member nations into the Soviet camp.

Castro's behavior, however, is not surprising. Cuba's brand of development requires $3 billion a year in economic subsidies and aid from the Soviet Union. Soviet capital, technicians, and managers can be found in every corner of Cuba's economic life.

The Soviets equip, train, advise, and arm the Cuban military. Soviet ships, planes, and troops are welcome in Cuba.

This intimate relationship with Soviet largesse can hardly be described as nonalinement. I would be the first to accept that Castro's Cuba has its own legitimate interests, but we must acknowledge the obvious—Castro's attempt to aline the nonalined serves Soviet aims. Castro's verbal attacks on China follow the same line. His position is more than ideological; it is an act of allegiance.

Castro's credibility as an authentic nonalined leader is almost nonexistent. Delegates to the Conference surely recognized that indisputable fact—yet they allowed him to misrepresent their movement, by announcing to the world that the Soviet Union is the natural ally of the nonalined nations. In numbers and influence, the true nonalined nations were more than capable of resisting Castro's bullying tactics, but only a few actively supported President Tito.

Perhaps these nations, the so-called silent majority, doubted the importance of the Conference and the movement. Perhaps they saw some political benefit to a pro-Soviet line at the Conference. Perhaps they calculated that back home they could act as if the Conference never happened.

If that was their reasoning, then they were wrong.

Their acquiescence to Castro's demands has already sent shock waves around the world, from the socialist East to the capitalist West. The signals from this Conference are clear. When the Soviet Union claims to be the leader of the Third World, people will listen. Many will view the nonalined movement as wounded and dying. Uninformed observers will now expect the Third World to follow the Soviet line.

These signals are nothing less than preposterous. The Third World has grown in diversity and independence every year since the first nonalined Conference in 1961. The reality of nonalinement is more in evidence now than it has ever been before. The idea that the Soviet Union is the natural ally of the Third World is absurd.

The track record of the Soviet Union in the Third World is a pageant of shifting alliances, Sino-Soviet rivalries, humiliating expulsions, and strained relations. In Africa, the Soviets have been expelled from Nigeria, Sudan, Somalia, and Egypt. Guinea is cutting ties with Russia and making overtures to the West. Angola, under President Agostinho Neto, who died last week, has been reaching out to the West in an attempt to end its dependence on the Soviet Union. The guerrilla organizations at war with the Rhodesian Army have not called in either Soviet or Cuban troops despite their desperate need for modern military assistance. The new government in postrevolutionary Nicaragua is charting an independent course. The upheavals in Southeast Asia demonstrate how selective Soviet alliances really are.

Nonalinement is a fact of life in the Third World. The vast majority of member nations in Havana support nonalinement in practice. Until last week they supported it in theory. Now they are faced with a contradiction between rhetoric and reality, a contradiction these states created for themselves. The truly nonalined states must speak out in support of their own convictions, or they too must face the consequences of hypocrisy.

I would like to add a personal note to my remarks today.

It is no secret that I have a deep personal sympathy for the Third World. I feel that I understand Third World problems because I have lived in the Third World, worked on development projects, and supported the Third World on a number of controversial issues.

I like to believe that I have given part of myself to developing nations, and in return the Third World has fulfilled me in many ways. All of this makes it painful for me to speak as critically as I have today. It is a sad occasion for me, both personally and professionally.

But I have never patronized my friends in the Third World, and I am not about to do so today. I cannot accept irresponsible behavior. I will not condone hypocrisy. Nearly all Third World nations are fiercely independent, solidly nonalined, and intensely nationalist. What happened at Havana was an affront to the nonalined movement and a discredit to the Third World.

I am confident, however, that the damage done will not last. I have great faith in the intregrity and maturity of Third World leaders. I know that they will reject the hypocrisy in Havana. They will reaffirm their commitment to the true principles of nonalinement. They will repair the damage, and I, for one, will applaud and support them.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the acting minority leader, the Senator from Alaska.

PHYSICAL FITNESS

Mr. STEVENS. Mr. President, I have just returned from Alaska, a trip that takes me through five different time zones, and only this morning learned of the news that President Carter had to drop out of a 6.2 mile race near Camp David over the weekend.

As one who has spoken critically of the President at times let me, as a fellow runner, make a few comments about the President's participation in that race. I think that it took a lot more guts and strength for him to listen to the advice of his White House physician and quit the race when he did than it would have to continue and avoid the possible embarrassment.

I mention my trip because I have found it impossible to run on the day after my return from Alaska. The impact of that phenomenon known as jet lag, coupled with the tension resulting from problems emanating from my responsibilities as a U.S. Senator and the personal problems of caring for my family since losing my wife last year, have made it necessary for me to forgo the daily run I usually enjoy.

It is very unfortunate to see some people use this as an opportunity to kick the President while he appears to be down. Rather, we should applaud his efforts to try and stay in shape by keeping

his body in good physical condition, as well as his efforts to demonstrate to the American people some concept of "wellness."

Many doctors refer to a state of "wellness" as opposed to illness and anyone who goes to the trouble to run and exercise his body deserves to be congratulated, particularly one such as the President who serves as an example to all Americans.

As a fellow runner over 50, I applaud the President for having the courage to heed that advice. Many of us "over-50" runners should consider the President's experience and not run when suffering from extra fatigue caused by tension.

The situation of the Soviet troops in Cuba would, by itself, constitute enough tension for any normal man to bear. I speak from experience in saying that as a runner, you do feel the tension brought on by your individual job and personal life.

You especially feel that tension if you are used to running on a flat course of 5 or 7 miles a day and then, in a race, find yourself running up and down hills trying to keep pace with younger, faster runners.

Fatigue is something that those of us who are getting a little older have to learn to recognize, and I think the President was correct in listening to the advice of his physician. I am sure that he will soon be out running again, demonstrating to the American people what it means to be in good physical shape through daily exercise.

I do not think that this one isolated incident reflects on his ability to run, nor do I think that this should be interpreted to mean that he is not capable of running 7½ minute miles.

I have run the same course at times and thought I was running a very fast pace, only to learn afterwards that it was one of my slower times. You just never know, and it is a matter of personal, individual feeling at the time.

The very fact that he tried is what we should look at, and if he continues to keep up his physical condition I think it will have a greater impact on his ability to meet the challenges of his office than anything else I know of.

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

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader for his observations and for his thoughtful comments.

I share the viewpoint that he has expressed, and I join with him in expressing this feeling about the President and about his need for exercise and also in recognizing that these times of stress, and particularly in these high-stress office positions that are held by certainly the President and others as ourselves, there is a need for doing what can be done to maintain good health and body fitness.

I think the Senator's statement is reasoned and very considerate, and I commend him on it and I thank him.

Mr. STEVENS. I thank the majority leader.

CITIZENSHIP DAY

Mr. STEVENS. Mr. President, on this day, September 17 in 1787, the delegates to the Constitutional Convention in Philadelphia signed their names to a new document, the Constitution of the United States. On the day of the signing, the document was termed "the finest expression of the determination of a free people to govern themselves and protect their liberty." Those words still hold true today.

Since that time, our Constitution has weathered many tests. Fortunately, the Founding Fathers had the wisdom to make the Constitution fairly straightforward and very difficult to change.

But today, I believe we are in the midst of a very serious constitutional crisis. Government policies have seriously eroded the constitutional rights of private citizens to own land in this country through devices like land acquisition, taxation, and manipulation of water rights.

The rights of citizens of States to determine their own destinies through the use of their lands have also been eaten away by Federal officials.

Congress needs to take stock of the Federal Government's relationship with the States. The agreement by the Constitutional Convention in 1787 and the subsequent ratification of the document by the States represented an unprecedented act by sovereign States to unify and, at the same time, relinquish some of their sovereign powers to cement the Union of the former colonies into a single Nation.

Yet, we must not forget that the Nation remains a Union of the States, and that the ultimate power of the government springs from the States and their populations.

As a westerner, I am greatly concerned that the Nation is rapidly dividing between East and West. Evidence of this political division appears daily and has been portrayed in numerous articles as the "Sagebrush Rebellion."

What we are seeing is the reaction to a Government which is increasingly overreacting and overregulating its populace because of lack of knowledge of the special circumstances which exist in the individual States.

The burden of this overreaction falls particularly heavily on the Western States because of the vast land holdings of the Federal Government. For example, in my State nearly 95 percent of the land is held in Federal ownership.

We are less able to deal with the Federal Government as sovereign because of this overbalance of land ownership. In all States east of the Mississippi, the Federal Government owns less than 10 percent of the land, usually less than 5 percent.

The Federal presence does not weigh so heavily on States and people residing within the Eastern States. In the West, it is different.

Congress deals daily with the unique concerns of the West: In energy matters, we are concerned that State and local control will be usurped in the name of energy development, most particularly as it relates to the appropriation of the lifeline of the West: water. In land policy, we fear that misperceptions fostered by outmoded theories of land use will be visited upon the citizens of Western States. Most of all we fear that this country is losing its sense of partnership between the States and Federal Government.

The basic concept of the Constitution and its unique beauty is that the Nation is a Union of the States.

Accepted as a given fact is that each of the States was in the best position to judge the effects of Federal policy on their populations.

That theory was unique in its time and remains the cornerstone of our Union. Many of us fear that this sense of uniqueness is being eroded and replaced by an attitude that the Federal Government is paramount and the States secondary.

This is a serious matter. The Constitution recognized as a fundamental fact that there could be no Union without a partnership between the States and the Federal Government. More and more, there are advocates asserting the Federal Government should ignore the States and deal with issues in a single, unitary fashion, in the national interest, without regard to the uniqueness of individual States and the lifestyles of their citizens.

To undermine the basic concepts of our Constitution is a grave mistake. The strength of our Nation rests in the Union upon which it is based. We should strive to keep that Union operating in the framework in which it was conceived—as an equal partnership between State and Nation.

On this day, the anniversary of the signing of our Constitution, I take this opportunity to call to the attention of the Senate the plight of those of us in the West who try to maintain the basic concepts of the Union.

I thank the Chair.

ROUTINE MORNING BUSINESS

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

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

DEAN MANION—A GREAT AMERICAN

Mr. HELMS. Mr. President, I have been remiss in not having paid my respects earlier to the late Dean Clarence Manion, who died on July 28 after suffering a stroke 2 weeks earlier.

Not a day has passed, however, that I have not thought of the great loss sustained by all Americans when Dean Manion departed. As so often is the case, I suppose, a great many citizens of this land may not be really familiar with the career, character, and dedication of

Clarence Manion. He was a brilliant man, a brave man. And he loved his God and his country as fervently as any man I ever knew.

Mr. President, I first met Dean Manion in the early 1950's when he came to Washington at the request of the Senate Committee on the Judiciary. The committee sought Dean Manion's counsel on a piece of legislation before the committee. Many of the congressional committees similarly sought the advice of this wise American through the years, and he always was willing to share his talents.

At that time, I was administrative assistant to Senator Willis Smith, who was a member of the Judiciary Committee. Following Senator Smith's death, and upon my return to Raleigh, my friendship with and for Dean Manion continued and grew. He came to Raleigh on more than one occasion at my behest to discuss various constitutional issues at public meetings in which I was a participant.

It would be impossible to detail here, in a brief time, the remarkable career of Clarence Manion, Suffice it to say that he was constantly aware of, and concerned about, the tendency in America to depart from constitutional principles. He was a valiant warrior against that trend. While many others were too timid to speak out, Clarence Manion wasn't. Day after day, week after week, he warned the American people that their liberties were being trampled by the disciples of big Government.

A quarter of a century ago, he began a nationwide weekly radio broadcast called the "Manion Forum." More than once I had the privilege of appearing with him on this broadcast. He did not create the "Manion Forum" as a means of making money. I suspect that he made little, if any. Money was not important to Dean Manion. Standing up for America was.

Mr. President, I speak today not in an attempt to pay tribute to Clarence Manion, because what he stood for, and the way he stood—these are a tribute to him. I don't possess the eloquence, and I doubt that anyone else does, really to "pay tribute" to him. I can say only that he was one of the most remarkable men I ever knew, and that my admiration and affection for him knew no bounds.

Dean Manion's splendid son, Dan, announced in mid-August that the broadcast, "Manion Forum," would be discontinued. As Dan put it: "The family wishes the 'Manion Forum' could continue, but realistically it cannot because Dean Manion was the 'Manion Forum.' "

I want the Manion family to know that this Senator from North Carolina is deeply grieved at the loss of Dean Manion. It is a loss to all Americans—even those who never realized that Clarence Manion was a courageous guardian of their liberties and a tireless defender of Christian principles.

Mrs. Helms joins me in extending our genuine sympathy to the Manion family.

THE BICENTENNIAL OF THE CONSTITUTION

Mr. HELMS. Mr. President, I would like to continue sharing with my colleagues the lectures given as part of the 1979 Winter Symposium presented by the Student Bar Association of the Campbell University School of Law. The symposium, entitled "In Anticipation of the Constitutional Bicentennial: The Philosophical Foundations of the Creation of a Nation," accomplished its goal of identifying and evaluating the roots of American fundamental law by inviting distinguished speakers to present lectures on the American Constitution and its English history.

This, the third lecture which I have submitted, was presented by Dr. J. Stanley McQuade, whose education in Ireland has made him particularly knowledgable on his topic "From Magna Carta to the Mayflower." Dr. McQuade received his law degree, Ph. D., and M.D. degrees from the Queens University of Belfast. He received his masters in theology from Union Theological Seminary. A certified anesthesiologist, he has taught in graduate and undergraduate schools; practiced medicine in Ireland, Canada, and the United States; and served for 20 years as a Methodist minister.

Dr. McQuade points out that the major difference between the Magna Carta and the U.S. Constitution is that the Magna Carta fails to give reasons to justify why people have the rights enumerated therein. But the Constitution, directly or by implication, has adopted many of the principles of the Magna Carta—including, but not limited to the concepts of trial by jury, due process, habeas corpus, the right to bear arms, the establishment clause, and the prohibition against cruel and unusual punishment.

Another important similarity pointed out by Dr. McQuade is that

> * * * [n]either Magna Carta nor the U.S. Constitution require that we conceive of the state as a secular institution. * * * [To do so] would involve the shift from a legal system based on rights, which imply moral ideals and ultimately religious ones, to a system based on power, the positive notion that what the state orders is right.

Mr. President, I ask unanimous consent that the lecture delivered by Dr. J. Stanley McQuade at the Campbell University School of Law Winter Symposium on January 25, 1979, be printed in the RECORD at the conclusion of my remarks.

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

FROM MAGNA CARTA TO THE MAYFLOWER

(By J. Stanley McQuade)

The old seal of the State of Massachusetts shows a citizen, dressed in the garb of the late seventeen hundreds, with a sword in his right hand and a copy of Magna Carta in his left. It may seem odd to us that the colonists should so value an ancient and indeed archaic statute such as Magna Carta, but the seal perfectly represents the political thinking of the colonists; force they were prepared to use as was necessary but it was force based on right and this right was expressed preeminently for them by Magna Carta. When the colonies were being founded, applicants had been encouraged by the statement that they would be given the full rights of Englishmen so far as these were suitable to the conditions in the New World. Governors and magistrates were then expected to use English Law but given discretion on how to use it.

When the magistrates began acting in an arbitrary and despotic manner without proper and fair legal procedure and it was round the provisions of Magna Carta that the dissatisfied citizens rallied. They demanded, as Magna Carta had, that government be of laws and not of men, and when the demand was expressed in New England that the colony should have written laws to free the citizens from the arbitrariness of the magistrates this demand was expressed in the form that the laws should resemble Magna Carta. In 1641 the Body of Liberties was produced in response and begins in terms reminiscent of chapter 39 of Magna Carta.

"No man's life, person, family or property should be proceeded against—unless it be by virtue of some express law of the Country warranting the same, established by a general Court and sufficiently published, or in the case of a defect of a Law in any particular case by the Word of God. Chapter 39 of Magna Carta states that "No free man shall be taken, imprisoned, disseised, outlawed, banished, or in any way destroyed, nor will we proceed against him or prosecute him, except by the lawful judgment of his peers and by the law of the land." Numerous other provisions of the Body of Liberties echoed the great charter and it is concluded with the requirement that it be read publicly in every place just as Magna Carta had been publicly read in every country in England.

The dissidents were not satisfied with this document. The provision that the Word of God could be used seemed to them to be a loophole for arbitrary decisions. The Massachusetts court felt obliged to defend itself and in 1656 published an answer to the complaints. It is interesting that the principal part of this answer consisted of a list of the principal provisions of Magna Carta and the laws of Massachusetts drawn up in parallel columns to show that no Englishman was denied his rights in the colony. A similar tale could be told for Virginia "the Old Dominion" where a provision of 1658 was passed on by the Court only when it was found that it was not contrary to anything in Magna Carta.

A century and more later the same Magna Carta would be used to protect the rights of the colonies as a whole against the English crown, focusing this time on the chapter which stated that no taxes should be imposed without consultation, or as the colonists expressed it "no taxation without representation." This and other provisions of the Charter were later to have a significant input into the United States Constitution and the Bill of Rights.

This emphasis on Magna Carta by the colonists was no accident. They brought Magna Carta with them to the New World as a prized possession, it was the basis of all their early efforts at codification. Nor was it just a memory of it that they carried with them from the old country. William Penn, before setting sail for West Virginia in 1682 had an exact replica made, including even the original illuminations, of the manuscript of Magna Carta in the Cottonian Library.

The reasons for this emphasis on Magna Carta are not difficult to find. The seventeenth century which saw the establishments of the American colonies was a period of constitutional struggle in England. The Stuart Kings and the established Church were employing prerogative powers and courts against the consciences of the Puritans and Catholics, and against the property of the lesser gentry (often the same people).

This was seen as a struggle between the rule of law on the one hand and tyranny on the other. Their great champion was Sir Edward Coke, chief justice of the Kings Bench. Coke had formerly been a staunch supporter of the crown but for unknown motives, which can hardly have been mercenary, felt obliged to champion the authority of the Common Law against the crown. He was no natural hero, trembling on

his knees before the wrath of King James he still felt obliged to argue from the floor, so to speak, that "the King is under the Law" (Bracton). Coke's weapon was learning.

Night after night he pored over the old Statute Books and the year books of the Common Law. Out of these old fields, he said, the new corn must grow. In particular he brought forth, refurbished and reapplied the provisions of Magna Carta embodied in the Common Law. Whether he did so accurately is very much open to question, but his learning was such that none but Sir Francis Bacon could argue with him, and Bacon was considered a Royal lackey and disregarded.

Coke it was who resurrected the Statute of Edward III declaring that any Statute contravening Magna Carta would be null and void, and the great chief Justice declared that he too would disregard any Statute or administrative provision which denied any of its provisions. This may be illogical in a country which believes that a statute may be altered or annulled by later statutes. Why should one Statute then be allowed to say that it or any other statute cannot be changed.

Nevertheless Coke said it and the dissidents agreed with him and so was planted the idea of a privileged set of legislative principles that could only with difficulty, if at all, be altered. Coke went on to describe these principles in detail and to apply them to the constitutional struggles of his day. In his court he refused to recognize any of the prerogative courts such as Star Chamber and the Ecclesiastical Commission and he used Habeas Corpus to liberate anyone imprisoned by them.

When he was finally dismissed from his post, he had himself elected to Parliament and continued the struggle there proposing the Petition of Rights in 1628. He refused to have it as a Bill, partly for political reasons but also partly because he believed that in principle his provisions were already contained in Magna Carta. His petitions were merely clarificatory. Nevertheless, the Petition was later passed on and became the Bill of Rights and was, of course, very similar to the document of the same name that was appended to the American Constitution as the first eight amendments.

The American constitutional law, both in general idea that there should be such law and also in its detailed provisions, was developed in a struggle in which the authority and meaning of Magna Carta was the central issue. The provisions of Magna Carta may have been warped and extended here and there in the course of the argument, but we cannot hope to understand American Constitutional Law without understanding the older Charter. So we skip back through the Middle Ages and then hopefully proceed forward again.

When William Duke of Normandy defeated King Harold at Hastings in 1066 he claimed the throne not by conquest but as lawful King, appointed, so he said, by Edward the Confessor. He came, however, to a people who believed that they had laws and rights which the King too must respect and obey. From their ancestors the Saxons of North Germany and the Danes they had inherited a tradition of yeoman independence. Every man who carried a weapon or plied the oar had a voice in decisions. Their kings were not hereditary entirely, they were elected from among the royal household by the thegns, (Harold had been so elected) who were simply those citizens who owned more than a certain amount of land, and the rights of such Kings were carefully circumscribed by custom.

The customs indeed had been put down in written form by the Christian King Ethelbert, in the Dooms of King Alfred, and most recently in the laws of King Canute. It was a well developed body of law, heavily influenced by Biblical ideas as well as folk custom and applied in a system of shire or county courts under the presidency of the shire reeve (or sheriff) representing the King, and the Bishop representing the Church. William the Conqueror professed respect for these laws as lawful king and swore to protect the ancient laws and customs. But he advanced the Royal Power and the central administration and put down brutally any resistance to his rule.

Almost one million people, about half of the population, died by the sword or starvation in the rebellions that followed Hastings, and the memory of that "pacification" lingered for centuries in England and may have contributed to their suspicion of all things Continental. But the memory of their ancient rights and freedoms lingered also. In 1290, almost 300 years after the conquest, a book called "The Mirror of Justice" was published by an English official harking back to the good old days and the good old ways of Canute and Alfred and Edward the Confessor.

As the Norman Population became absorbed into the larger English one they began to consider themselves as English and they too came to accept this tradition as their own. This process was virtually complete by 1200 and everyone spoke "English." This tradition of law and liberty continued to assert itself against the growing power of the Norman monarchy. When William Rufus, the tyrannical son of the Conqueror, died in a hunting "accident" his successor Henry I felt obliged to reaffirm the policy of William I to respect the ancient laws and freedoms of the land.

An ancient book, the Laws of Henry, may or may not represent his effort to set down just what those laws and freedoms were and a document has survived preserving his promises which is important since this "Charter of Henry" was used by Archbishop Stephen Langton in drafting Magna Carta.

The struggle between the rule of law and the power of the monarchy was to be a recurrent theme in English history and in 1215 it produced Magna Carta. Cynics have professed to see in this no more than a battle of interests, a contest between the Crown and the greater nobles, with no real issue of human rights involved at all. But my fellow countryman Mr. Oscar Wilde has defined a cynic as someone who knows the price of everything and the value of nothing, and I would submit that this is a case in point. Private interests there inevitably were but this struggle was preeminently conceived as an issue of rights, and by that they meant the rights of free men.

The evils of King John and the righteousness of the Barons may in the past have been overplayed. John was a complex character to be sure with bursts of the desire to be a good as well as a great king, but to his contemporaries he seemed the epitome of evil. He has since been described by Herodotus picture of the tyrant: "He disregards laws, violates women and puts men to death without trial." This fits him. He ravaged their womenfolk, pillaged their possessions and threatened their lives according to his whim. His wars made him perennially in need of money so that he was called "John Lackland," moreover he lost his wars, unforgivable in a Norman King, and so was called John Softsword. His sudden and unpredictable changes themselves followed no laws. He moved rapidly from defiance of the Pope to papal puppet, from enemy of Louise Phillippe of France to ally, now friend and patron of some great nobleman, now his implacable foe, following no patterns but his temporary interest.

In the literal meaning of that term he was an unprincipled man and so the perfect opponent of law and justice. The Barons were no saints either, but they had among them men of integrity and principle. These later rallied round the nine year old son of John to secure him on the throne and above all to establish law and order, and the early years of Henry III, when these men were in control, saw the establishment of the traditions of the English courts of justice. Bracton, writing in 1258 claimed that the justiciars of this period, men such as William Raleigh and Martin Pateshull were giants of the bench and the yearbook reports support his contention.

Moreover, it should not be forgotten that foremost among the nobles was the Archbishop of Canterbury Stephen Langton. He played a leading part both in the opposition to King John and in the drafting of Magna Carta. He gathered the chief barons together and exhorted them to play their part, he read to them the manuscript of the Charter of Henry I, and set up the commission to draft the demands on the King. Langton was himself the appointee of the Pope.

A cardinal was forced on King John only after an interdict, but he did not allow that to alter his position when the Pope became the ally of the King. He sat in the chair of Thomas à Becket and must have known that he was in daily peril of his life from the King but was no more moved apparently by fear than he was by favor. When John was pillaging the countryside with an army he faced him twice, alone, and won. He worked with the Barons and worked for their rights. He gathered them in council and made them swear an oath, one by one, to fight for liberty or die. But he would not permit the rights of lesser persons to be forgotten. Only the villains were left out. Magna Carta extended only to free men. But the Black Death, by making laborers scarce, remedied that defect later, and the great Charter was held to apply to all Englishmen.

The same issue was later to be raised in the American colonies, and Magna Carta was at first held not to apply to indentured persons until their bond was paid off. There is one noticeable difference between Magna Carta and the United States Constitution. In Magna Carta no reasons are given to justify the demands.

No one in the negotiations and struggles of the thirteenth century ever formulated the question as to why people had such rights. To Langton and any law minded person the answer would, I think, have been obvious. The English legal tradition had been long influenced by the Church and as we have seen the Bishops before the conquest sat in on the proceedings of the County Courts. That a man has value as a creature of God and so has rights would have seemed to them elementary. Langton moreover was acquainted with Roman Law as well as Ecclesiastical Law. He would then have seen law as the expression of the Law of Nature, enacted in the mind of the Creator and unchangeable, at least as regards its principles.

Within such a framework of ideas such a scheme as Magna Carta would seem natural. The universe is governed by the law and good purposes of God. A nation must then be governed by law not caprice, and this law should have central unchanging principles as well as more detailed adaptable rules. Moreover there is only one place for the king to be in such a scheme and that is under the law. He can only be conceived as its executive officer putting its principles into effect for the general good.

Magna Carta does not, of course, talk in such high flown terms. It is a most pragmatic document, dealing, for the most part with very particular things, but it treats them in a most humane way with a nice regard for human rights. Much of it has to do with the old feudal incidents; wardship, i.e., the rights of the Feudal Lord to have the use of the land of minors till they come of age;

or marriage, the right to have some say in the remarriage of the wife of a deceased and a fee for agreeing to it. These customs were part of the feudal theory of land holding and had reason enough in the beginning but had become legalized robbery, with women being forced to marry the feudal lord's choice with a large extortionate fee in addition, and orphans being like prisoners, their lands wasted during their minority and being ransomed only with extortionate payments at their majority.

Magna Carta did not abolish these incidents, time did that, but demanded that they be managed humanely and fairly. The widow may remain unmarried if she will, or marry only willingly and only a reasonable fee be demanded. The orphan heir must be properly educated, his lands not wasted and again a reasonable payment only required at his majority. And note, this was not only demanded of the King, the supreme feudal Lord, it was also enjoined on the Barons and lesser nobility. Fairness and humanity had to extend all the way down. The provisions dealing with foreign merchants breathe some spirit. They are to be allowed to come and go freely without interference to their person or goods, and "without any evil tolls."

In time of war, the merchants of an enemy country are to be held until it is seen if English merchants are being well treated by the enemy, if so, they are to be released to go about their business. This is not a demand dictated by baronial interest. It is a magnanimous attitude dictated by the idea that national policies, as well as the King, are under law and must be fairminded.

The same sort of thing could be said about all the other multifarious provisions of the charter, they relate to the length of time that the king can hold land escheated from felons, about the rights of common people to fish in the rivers and hunt in the forest. E.g. Ch. 48, all evil customs concerning forests, warrens, . . . rivers and their keepers, shall straight away be enquired into in each county, by twelve sworn knights of the same shire chosen by reputable persons of the same county, and within 60 days be abolished so as never to be restored again. A good many are about the administration of courts of law. Formerly the King's court of appeal followed him wherever he went and a litigant might have to track all over the country to have his case heard. Magna Carta says that the king's court of law must be established in one place. It also provides that the petty assizes, the speedy remedies that enabled small tenants, thrown off their land, to be reinstated quickly before they starved to death, these must be held every month and within the county as poor people cannot afford to run off to London to get their rights. Some of the provisions are more familiar. Ch. 28–31 says that no government officer shall take corn or goods or horses or timber or anything else of any man without paying for it, unless the man give it of his own free will. Ch. 12 says that no scutage (i.e. shield money, money required to wage war) shall be imposed unless by the general council of the realm. This is indeed the old Anglo-Saxon law and the original of the war cry of our colonial forefathers "no taxation without representation."

Ch. 20 speaks of amercement or the king's mercy. When we discover that the king's mercy is a fine we may think it badly named, but since the alternative was something like having your feet cut off or being hanged, disembowelled and your head displayed on a spike, it may indeed have seemed merciful. Magna Carta, however, provides that a free man shall only be amerced after the manner of the fault, a small fine for a small fault, a greater one for a larger fault "according to the heinousness of it." The important provision is that the fine shall be "after the manner of the faults." The punishment shall fit the crime. In this we see the forebear of our provision about cruel and unusual punishments. Ch. 20 also made provision that such fines should not be such as to take away the livelihood of the family and the livelihood of even the lowest class in society, the villains who were almost slaves, is expressly guaranteed. For "a villain shall be ammered after the same manner, saving to him his wainage" (his patch of ground and dwelling).

Ch. 36 speaks of a writ of inquisition of life or limb, which it is said, must be given freely and not denied. This refers to a writ that could be demanded by a prisoner held on a serious charge pending trial. It directs the sheriff to make enquiry whether the person is properly held or only accused out of spite and malice (De odio et atia). In this we can see the germ of the writ of Habeas Corpus.

Ch. 51 promises that all foreign mercenaries shall be sent out of the kingdom, an important provision. If government is to be by consent the principal impediment, outside force, must be removed. The right of the private citizen to possess arms had the same reason. It should not guarantee the right to keep a pistol—a nuclear rocket perhaps.

Ch. 45 is interesting and worth a little attention at the present time. "We will not make any justices, constables, sheriffs or bailiffs but of such as know the law of the realm and mean duly to observe it." This item was dropped from subsequent issues of the charter. Perhaps we ought to restore it.

Chs. 39 and 40 are perhaps the most famous provisions of the charter, and undoubtedly the forebearer of the due process clause of the fourteenth amendment and of the right to trial by jury. John's charter runs as follows: "No free man shall be arrested, nor imprisoned nor outlawed nor exiled nor in any way destroyed, nor will we come upon him nor will we send upon him, except by the lawful judgment of his peers, or by the law of the land. Ch. 40 states "We will sell to no man, deny to no man, nor delay to any man, justice or right."

As confirmed by Edward the First in the twenty-fifth year of his reign (around 1300 a.d.) the charter again states that no free man shall be arrested nor imprisoned but adds "nor shall he be deprived of any free tenement (landholding) nor of his liberties or free customs." This addition is the assertion of the sanctity of freedom. It is rooted not in any philosophy of will that a man may do as he pleases because he pleases. It is based on the idea of a sturdy Englishman, a citizen worthy of respect and good treatment, with the right to stand up and say his piece as a free man. Neither reason nor explanation is added to this bare statement but the provision requires some theory as to why a man should have this value and be so respected. That its roots are in the Christian Laws of the Anglo-Saxon kings with perhaps some additional flavor from the reviving natural law theory of Roman Law is not too hard to believe. That Archbishop Langton, the moving spirit in the whole enterprise, saw it in this way is virtually certain. Bracton, writing less than fifty years later, certainly did. Writing in the middle of a second Baronial uprising he comments "the King is under God and the law and if his exercise of power is unbridled, we must put one on him."

It remains only to comment on the first chapter of Magna Carta which states "That the Church of England shall be free." This simply meant that the Church shall no longer be a tool of the government but free to do its own work and free to elect its own bishops. The converse that the state shall not be the tool of the church, nor its power used to coerce the consciences of citizens was to be the subject of another struggle in the early years of the seventeenth century when crown and established church combined to oppress the puritans. The established Church of England was able to use the royal prerogative courts of the Stuart Kings to bring pressure to bear on all nonconformists. The puritans bitter experience of this time and their distaste for the idea of Established Church has become enshrined in our constitutional provision that Congress shall not pass any laws to Establish any Religion. This is not a direct deduction from chapter one of Magna Carta, but it is a development of the idea implicit in it, of the Church as a spiritual entity in the community, contributing to its government but not identical with it, free to protest as Langton protested when wrong was being done.

As Dr. Lowry has pointed out the Constitution does not express this relationship as the separation of church and state, and I would agree with him that it is unfortunate that it has been so expressed. Neither Magna Carta nor the United States Constitution require that we conceive of the state as a secular institution. We have never done so. As Mr. Justice Douglas has expressed it, our laws and political institutions imply the Deity. To secularize it would require drastic surgery on our political theories, and I am not sure that the people who are pushing the secular interpretation of the constitution would like it. Prof. Levinson has contended, and I agree with him, that this would involve the shift from a legal system based on rights, which imply moral ideals and ultimately religious ones, to a system based on power, the positive notion that what the state orders is right. It is paradoxical then that the secular forces in our society, since they insist on their rights, are using arguments derived from a natural law and Biblical heritage.

But I digress!! We have looked at the broad outline of the great charter and it remains to trace the use made of it in our constitutional history. It was no sooner made than John capitulated to the Pope and even paid him an annual rent for the privilege of being King. The Pope thereupon declared the charter void, and John treacherously prepared to reassert himself against his enemies. He died in 1216 (before the issue could be decided) from overindulgence, so it is said, in peaches and Malmesey wine. The principal barons, to their credit, rallied around his nine year old son Henry III and as their first measure reissued and reaffirmed the charter. In 1254 the barons again revolted and captured Henry III and his son Edward and imprisoned them. Edward felt that the grievances of the barons were genuine but he did not express himself openly; he escaped, rallied support and defeated the barons in 1255. However he immediately proceeded with reforms.

Edward was virtually ruler for almost a score of years following although his father was still alive. Edward I had a talent for law and efforts were made to expand the charter into a proper detailed code of law. These were not successful, however. English law expanded by judicial decision rather than statute, but Magna Carta was enrolled as the first Statute in the Statute Book.

In the reign of Edward III, as Coke was later to notice, a statute was enrolled declaring any legislation appealed to from time to time in suits of law, and became incorporated in the common law. Less and less tended to be heard of it, however, until the civil unrest of the Stuart period when Sir Edward Coke wrote a commentary upon Magna Carta to support his claims that there could be no courts established save by the consent of Parliament, and that no one could be imprisoned under Royal prerogative but only by the law of the land and the judgment of his peers, which for Coke meant jury trial.

King James insisted that he was a judge and could try and adjudicate cases, too. His argument to Coke was, "Is not the Law reason, and have I not my share of reason?" Coke's answer was that law was reason certainly, but reason that had become incorporated into law, so that mere natural reason was not sufficient to learn it; many years of study were also required. Coke is in essence here establishing the supremacy of law. Indeed he explicitly quoted Bracton's words that the king is under the law, but politely forbore to mention the passage about putting a bridle on the royal pretensions.

This was the high noon of Magna Carta's prestige among the English people. The great days of Stephen Langton and King John were relived. Magna Carta spoke of the privileges of being an Englishman, and Magna Carta was the law, indeed with solemn oaths it had been enjoined on the English Kings forever. When William Penn was being tried for preaching in the streets in London, he was charged with sedition, disturbance of the peace, etc. The jury were directed by the judge to find him guilty of these. They would only return him guilty of preaching in the street.

The judge was furious and threatened to keep them incarcerated without food, water, heat nor so much as a chamber pot until they returned the verdict he demanded. They refused. The judge wished to charge them again without the presence of Penn, so he had him removed from the court and then harangued the jury again. Penn, however, was within hearing and shouted in to the jury, "remember Magna Carta, remember that you are Englishmen." The foreman of that jury, Bushel, was imprisoned, but freed under a writ of Habeas Corpus. Bushel's case is supposed to establish the proposition that a jury must be free to do its work. This proposition was surely already established under Magna Carta. What happened in the struggle with the Stuart monarchy was that the principles of Magna Carta were brought out of the closet and reestablished firmly in the English constitutional tradition. These were expressed by Coke's Petition of Rights which was later incorporated in the Bill of Rights after William of Orange was established on the Throne in 1689. Coke's petition cites all the provisions of Magna Carta that we have noted concerning fair trial, etc. A number of these provisions, such as the prohibition of quartering troops on the population, the right to bear arms, and jury trial are almost directly incorporated into the American Bill of Rights.

That all this was taking place at the time when the American Colonies were being established may be regarded as a fortuitous accident of history or as Divine Providence, but whatever your preference the principles of Magna Carta and indeed a number of its detailed provisions found their way into the Constitutional Law of the United States. The monument erected by the Virginia Bar Association states:

THE COMMON LAW

Here the Common Law of England was established on this continent with the arrival of the First Settlers on May 13, 1607. The first charter granted by James I to the Virginia Company in 1606 declared that the inhabitants of the colony ". . . shall have and enjoy all liberties, franchises and immunities . . . as if they had been abiding and borne within this our realme of Englande. . .". Since Magna Carta the Common Law has been the cornerstone of individual liberties, even as against the crown. Summarized later in the bill of rights its principles have inspired the development of our system of freedom under law, which is at once our dearest possession and proudest achievement.—Presented by the Virginia State Bar May 17, 1959.

(Plaque at Jamestown commemorating the introduction of the common law into America.—Courtesy, Jamestown Foundation.)

This has been considered by some to be an overstatement of the case. Whether it is statement or overstatement, I will leave you to judge.

CONCLUSION OF MORNING BUSINESS

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

SECOND CONCURRENT RESOLUTION ON THE BUDGET

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, Senate Concurrent Resolution 36, which the clerk will state by title.

The legislative clerk read as follows:

Senate Concurrent Resolution 36 revising the congressional budget for the U.S. Government for fiscal years 1980, 1981, and 1982.

The Senate resumed consideration of the concurrent resolution.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

The PRESIDING OFFICER. Without ob'ection, it is so ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on the Budget be allowed to remain on the floor during consideration of and votes on Senate Concurrent Resolution 36:

John McEvoy, Karen Williams, Sid Brown, Susan Lepper, Cornie Motheral, George Merrill, Brenda Tremper, John Tillson, Liz Tankersley, Bob Sneed, Jim Capra, Eric Hemel, Tom Sliter, Martin Kress, Joe Ridge, Jim Conroy, Jack Conway, Charlie Flickner, Chuck Riemenschneider, Porter Wheeler, Allan Mandel, Ann Hadley, Ann Erfle, John Nelson, Gina Knoll, Mark Bobseine, Bob Boyd, Carol Cox, Becky Davies, Bob Fulton, Bob Helm, Janis Moore, Susan Petrick, Joyce Purcell, Tom Sullivan, Gail Shelp, Jill Wissler, and Steve Bell.

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

Mr. MUSKIE. I ask unanimous consent that the use of small electronic calculators be permitted on the floor during the consideration of Senate Concurrent Resolution 36.

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

UP AMENDMENT NO. 554

(Purpose: Complete substitute to reflect compromise proposal)

Mr. MUSKIE. Mr. President, I have an amendment at the desk which I call up at this time.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Maine (Mr. MUSKIE, for himself, Mr. BELLMON, Mr. HOLLINGS, Mr. CHILES, Mr. BIDEN, Mr. JOHNSTON, Mr. SASSER, Mr. HART, and Mr. EXON) proposes an unprinted amendment numbered 554.

Mr. MUSKIE. 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:

Strike all after the resolving clause and insert the following:

"Sec. 1. That the Congress hereby determines and declares, pursuant to subsection 310 of the Congressional Budget Act of 1974, that in order to achieve a balanced budget in fiscal year 1981 and deficit reductions in fiscal year 1980, the following reconciliation instruction is appropriate:

(a) The allocation pursuant to section 302 (a) of the Budget Act to the Committee on Appropriations for all legislation within its jurisdiction shall not exceed $383.6 billion in budget authority and $338.4 billion in outlays as assumed in this budget resolution. If some rescission of appropriations proves necessary to prevent any regular or supplemental appropriation for fiscal year 1980 exceeding the ceilings provided in this section, the Committee on Appropriations shall report legislation to rescind the necessary amounts.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Committees on Agriculture shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Committees on Armed Services shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly, their recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdiction of those committees sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $250,000,000 in budget authority and are instructed to report promptly, recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Finance and the House Committee on Ways and Means shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $300,000,000 in budget authority and $1,400,000,000 in outlays and are instructed to report prompt-

ly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Senate Committee on Governmental Affairs and the House Committee on Government Operations shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to section 310 of the Congressional Budget Act of 1974, the Committees on Veterans Affairs shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in budget authority and $100,000,000 in outlays and are instructed to report promptly recommendations for changes in new budget authority for fiscal year 1980, budget authority initially provided for prior fiscal years, and new spending authority which is to become effective during fiscal year 1980 contained in reported or enacted laws, bills, and resolutions within the jurisdictions of those committees sufficient to accomplish the reduction required by this section.

Pursuant to sections 300 and 310 of the Congressional Budget Act of 1974, the committees specified herein shall report the recommendations required by this resolution within thirty days after Congress completes action on this resolution, but not later than November 1, 1979.

"Sec. 2. The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1979, October 1, 1980 and October 1, 1981:

(a) the recommended level of Federal revenues is as follows:

Fiscal year 1980: $514,700,000,000;
Fiscal year 1981: $603,600,000,000;
Fiscal year 1982: $658,400,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1980: +$2,000,000,000;
Fiscal year 1981: +$9,700,000,000;
Fiscal year 1982: —$38,700,000,000;

(b) the appropriate level of total new budget authority is as follows:

Fiscal year 1980: $632,200,000,000;
Fiscal year 1981: $649,200,000,000;
Fiscal year 1982: $722,600,000,000;

(c) the appropriate level of total budget outlays is as follows:

Fiscal year 1980: $543,100,000,000;
Fiscal year 1981: $589,500,000,000;
Fiscal year 1982: $634,700,000,000;

(d) the amount of the deficit or surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1980: —$28,400,000,000;
Fiscal year 1981: +$14,100,000,000;
Fiscal year 1982: +$23,700,000,000;

(e) the appropriate level of the public debt is as follows:

Fiscal year 1980: $887,500,000,000;
Fiscal year 1981: $906,300,000,000;
Fiscal year 1982: $921,800,000,000;

the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1980: $57,500,000,000;
Fiscal year 1981: $76,300,000,000;
Fiscal year 1982: $91,800,000,000.

"Sec. 3. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (b) and (c) of the preceding subsection of this resolution, the Congress hereby determines and declares pursuant to subsection 310(a) of the Congressional Budget Act of 1974 that, for the fiscal years beginning on October 1, 1979, October 1, 1980, and October 1, 1981, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are respectively as follows:

(a) National Defense (050):
Fiscal year 1980:
(A) New budget authority, $136,800,000,000;
(B) Outlays, $127,400,000,000.
Fiscal year 1981:
(A) New budget authority, $147,300,000,000;
(B) Outlays, $138,300,000,000.
Fiscal year 1982:
(A) New budget authority, $159,000,000,000;
(B) Outlays, $148,900,000,000.

(b) International Affairs (150):
Fiscal year 1980:
(A) New budget authority, $13,100,000,000;
(B) Outlays, $8,300,000,000.
Fiscal year 1981:
(A) New budget authority, $14,000,000,000;
(B) Outlays, $8,700,000,000.
Fiscal year 1982:
(A) New budget authority, $14,900,000,000;
(B) Outlays, $8,700,000,000.

(c) General Science, Space, and Technology (250):
Fiscal year 1980:
(A) New budget authority, $5,900,000,000;
(B) Outlays, $5,700,000,000.
Fiscal year 1981:
(A) New budget authority, $5,900,000,000;
(B) Outlays, $5,800,000,000.
Fiscal year 1982:
(A) New budget authority, $5,600,000,000;
(B) Outlays, $5,700,000,000.

(d) Energy (270):
Fiscal year 1980:
(A) New budget authority, $41,000,000,000;
(B) Outlays, $7,000,000,000.
Fiscal year 1981:
(A) New budget authority, $4,700,000,000;
(B) Outlays, $7,600,000,000.
Fiscal year 1982:
(A) New budget authority, $24,200,000,000;
(B) Outlays, $9,500,000,000.

(e) Natural Resources and Environment (300):
Fiscal year 1980:
(A) New budget authority, $12,700,000,000;
(B) Outlays, $11,900,000,000.
Fiscal year 1981:
(A) New budget authority, $13,400,000,000;
(B) Outlays, $12,700,000,000.
Fiscal year 1982:
(A) New budget authority, $14,100,000,000;
(B) Outlays, $13,500,000,000.

(f) Agriculture (350):
Fiscal year 1980:
(A) New budget authority, $5,000,000,000;
(B) Outlays, $2,600,000,000.
Fiscal year 1981:
(A) New budget authority, $4,800,000,000;
(B) Outlays, $3,200,000,000.
Fiscal year 1982:
(A) New budget authority, $3,900,000,000;
(B) Outlays, $3,600,000,000.

(g) Commerce and Housing Credit (370):
Fiscal year 1980:
(A) New budget authority, $6,800,000,000;
(B) Outlays, $3,000,000,000.
Fiscal year 1981:
(A) New budget authority, $5,900,000,000;
(B) Outlays, $3,500,000,000.
Fiscal year 1982:
(A) New budget authority, $6,200,000,000;
(B) Outlays, $3,200,000,000.

(h) Transportation (400):
Fiscal year 1980:
(A) New budget authority, $19,500,000,000;
(B) Outlays, $18,600,000,000.
Fiscal year 1981:
(A) New budget authority, $21,700,000,000;
(B) Outlays, $19,800,000,000.
Fiscal year 1982:
(A) New budget authority, $20,400,000,000;
(B) Outlays, $20,800,000,000.

(f) Community and Regional Development (450):
Fiscal year 1980:
(A) New budget authority, $8,900,000,000;
(B) Outlays, $8,400,000,000.
Fiscal year 1981:
(A) New budget authority, $9,900,000,000;
(B) Outlays, $9,200,000,000.
Fiscal year 1982:
(A) New budget authority, $9,500,000,000;
(B) Outlays, $9,600,000,000.

(j) Education, Training, Employment, and Social Services (500):
Fiscal year 1980:
(A) New budget authority, $29,700,000,000;
(B) Outlays, $30,500,000,000.
Fiscal year 1981:
(A) New budget authority, $30,400,000,000;
(B) Outlays, $30,000,000,000.
Fiscal year 1982:
(A) New budget authority, $30,300,000,000;
(B) Outlays, $30,000,000,000.

(k) Health (550):
Fiscal year 1980:
(A) New budget authority, $58,800,000,000;
(B) Outlays, $54,200,000,000.
Fiscal year 1981:
(A) New budget authority, $70,500,000,000;
(B) Outlays, $61,100,000,000.
Fiscal year 1982:
(A) New budget authority, $82,100,000,000;
(B) Outlays, $68,100,000,000.

(l) Income Security (600):
Fiscal year 1980:
(A) New budget authority, $216,600,000,000;
(B) Outlays, $188,700,000,000.
Fiscal year 1981:
(A) New budget authority, $242,200,000,000;
(B) Outlays, $211,300,000,000.
Fiscal year 1982:
(A) New budget authority, $273,400,000,000;
(B) Outlays, $234,700,000,000.

(m) Veteran Benefits and Services (700):
Fiscal year 1980:
(A) New budget authority, $21,200,000,000;
(B) Outlays, $20,600,000,000.
Fiscal year 1981:
(A) New budget authority, $21,900,000,000;
(B) Outlays, $21,400,000,000.
Fiscal year 1982:
(A) New budget authority, $22,800,000,000;
(B) Outlays, $22,700,000,000.

(n) Administration of Justice (750):
Fiscal year 1980:
(A) New budget authority, $4,200,000,000;
(B) Outlays, $4,400,000,000.
Fiscal year 1981:
(A) New budget authority, $4,400,000,000;
(B) Outlays, $4,500,000,000.
Fiscal year 1982:
(A) New budget authority, $4,500,000,000;
(B) Outlays, $4,500,000,000.

(o) General Government (800):
Fiscal year 1980:
(A) New budget authority, $4,400,000,000;
(B) Outlays, $4,400,000,000.
Fiscal year 1981:
(A) New budget authority, $4,700,000,000;
(B) Outlays, $4,400,000,000.
Fiscal year 1982:
(A) New budget authority, $4,900,000,000;
(B) Outlays, $4,600,000,000.

(p) General Purpose Fiscal Assistance (850):

Fiscal year 1980:
(A) New budget authority, $9,300,000,000;
(B) Outlays, $9,300,000,000.
Fiscal year 1981:
(A) New budget authority, $8,200,000,000;
(B) Outlays, $8,600,000,000.
Fiscal year 1982:
(A) New budget authority, $8,200,000,000;
(B) Outlays, $8,200,000,000.
(q) Interest (900):
Fiscal year 1980:
(A) New budget authority, $58,100,000,000;
(B) Outlays, $58,100,000,000.
Fiscal year 1981:
(A) New budget authority, $60,900,000,000;
(B) Outlays, $60,900,000,000.
Fiscal year 1982:
(A) New budget authority, $62,300,000,000;
(B) Outlays, $62,300,000,000.
(r) Allowances (920):
Fiscal year 1980:
(A) New budget authority, —$100,000,000;
(B) Outlays, —$100,000,000.
Fiscal year 1981:
(A) New budget authority, —$100,000,000;
(B) Outlays, —$100,000,000.
Fiscal year 1982:
(A) New budget authority, $0;
(B) Outlays, $0.
(s) Undistributed Offsetting Receipts (950):
Fiscal year 1980:
(A) New budget authority, —$19,700,000,000;
(B) Outlays, —$19,700,000,000.
Fiscal year 1981:
(A) New budget authority, —$21,500,000,000;
(B) Outlays, —$21,500,000,000.
Fiscal year 1982:
(A) New budget authority, —$23,900,000,000;
(B) Outlays, —$23,900,000,000.

Mr. MUSKIE. Mr. President, I yield myself such time as I may consume, and ask unanimous consent that it be taken from the time on the concurrent resolution.

The PRESIDING OFFICER. The Senator has that right.

Mr. MUSKIE. Mr. President, just 4 months ago, the Senate agreed to the most thoroughly considered and stringent spending plan in the history of the budget process. It answered the need for a fiscal policy to help control inflation and the public demand that we scale down Federal spending.

Those needs and the goal of a balanced Federal budget have not changed since we approved the first resolution 100 days ago.

The budget we adopted to meet those goals included savings in every significant area of Federal activity. It assumed outlay reductions of $5.6 billion below current law. It projected a balanced budget in 1981.

The Senate adopted that anti-inflationary plan by a 2 to 1 margin.

The country and the world are watching to see if we stand by that commitment.

The world and our fellow citizens are watching to see if we can actually bring the budget under control.

They are skeptical about our intentions and our will.

Confidence in America's ability to control its own economic future has eroded badly. We need only look to the soaring price of gold and the declining value of the dollar for evidence of that.

Twenty-nine States have asked Congress to call a Constitutional Convention to force a balanced budget because they have lost faith that we can do it ourselves.

In public opinion polls, inflation ranks highest among American concerns and Congress ranks lowest in public confidence to deal with it.

Senate adoption of this binding second budget resolution and its instructions to reduce spending by $4 billion will give a clear answer to this deep public skepticism.

This resolution continues the orderly plan Congress has pursued for 5 years to reduce Federal spending and the deficit each year as a percentage of gross national product.

Despite inflation and recession, this budget forces the deficit for 1980 below the deficit for 1979.

This budget will help restore public confidence that Congress can respond to public needs. It responds to citizen demands for a more frugal fiscal policy.

It will give some assurance that progress is being made toward fiscal stability, at a time when other facts of economic life seem to be out of control.

Central to any such reassurance, however, is the adoption of the savings provisions—the so-called reconciliation instructions—of this resolution.

There is nothing new about these savings. They are the same savings the Senate approved last spring when it adopted the first budget resolution for 1980, which set the spending targets for the year. They are the savings upon which the totals in both resolutions have been based.

These savings, and the committees responsible for them, were explicitly spelled out in the report and the debate on that resolution.

The excerpts from that report on the first budget resolution describing those savings and the committees responsible for them have been reprinted in the report on the second budget resolution. I ask unanimous consent that they be printed in the RECORD at the conclusion of these remarks.

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

(See exhibit 1.)

Mr. MUSKIE. These savings and the committees responsible for them were also spelled out in the debate on the first budget resolution. I ask that a portion of that debate discussing those savings be reprinted in the RECORD at the conclusion of these remarks.

(See exhibit 2.)

Mr. MUSKIE. When the Budget Committee reported the second budget resolution for 1980 last month, we advised the Senate that most of these savings had not been made.

We pointed out that unless concrete action was taken promptly to reduce spending under already enacted legislation, the deficit for 1980 would rise more than $2 billion higher than the deficit for 1979.

The Budget Committee recommended that reconciliation legislation be adopted under the Budget Act to reduce spending by $4 billion in savings to control the deficit.

The reconciliation recommendation by the Budget Committee is based upon the explicit provisions of the Budget Act. But they had rarely been employed before.

A number of committees and Senators had concerns and questions about the implications of our recommendations. Before the Senate debated that recommendation, it was appropriate for Members of both parties to thoroughly understand what we had recommended and why we had done so, for the Senate alone can determine whether the Budget Committee's recommendation should be adopted.

As a result of thorough consultation with the Members on both sides of the aisle, an agreement was reached last week to modify an important but limited part of the reconciliation instructions.

The principal modification will be to symbolize that the social security and veterans income programs need not be reexamined or reduced as a result of this reconciliation process.

So we propose to reduce the spending to be saved by the reconciliation instruction in the case of the Committee on Finance from $1.7 billion in outlays to $1.4 billion and in the case of the Veterans' Committee from $200 million in outlays to $100 million.

The remaining savings will need to be achieved from other programs, not from social security or veterans income programs.

The second modification is to set a ceiling for the Appropriations Committee into which all appropriations bills for 1980 must be fit. If any appropriation bill would exceed that total ceiling, the Appropriations Committee will agree to report a rescission of other spending to avoid a breach of the ceiling.

This change recognizes that the appropriations process has missed the deadline provided for it in the Budget Act. This ceiling replaces the immediate rescission called for in the budget resolution as it was reported, so that the Appropriations Committee can enact all of its regular bills before determining where appropriations spending needs to be cut. If the committee stays within the ceiling, no further cuts will be necessary.

At the same time, the total allocated to the Appropriations Committee under this provision will be no greater than if spending were actually reduced now by that committee by the $2.5 billion in outlays proposed in the reconciliation instructions originally reported by the Budget Committee.

No similar problem exists for the authorizing committees involved in the budget reconciliation process.

No need exists to vary the instructions proposed in the budget resolution for those committees, except, as I have mentioned, to eliminate the need to look at the social security and veterans' income programs for savings.

But the compromise we have reached recognizes the fact that reconciliation has not previously been undertaken by the Senate. Several committees asked for more time to make the required legislative changes. So in the modification upon which we will vote, the period of time to recommend changes in legislation to

achieve these savings has been extended to 30 days after adoption of the conference report on the budget resolution.

The net result of all these changes is to reduce the savings under the reconciliation instructions by $400 million. The deficit will be $28.4 billion, $1.5 billion below the deficit for 1979.

I recognize that we face a hard choice on the reconciliation issue. If the choice were easy, these savings would already have been made. We would not be talking about them today.

I know that some powerful lobbies have combined forces to increase spending and the deficit by striking the reconciliation instructions.

They are opposed to saving this money.

These lobbyists do not share our view that we should try to keep the 1980 deficit below the deficit for 1979. As one of them said, "We want a bigger deficit."

Well, if the reconciliation instructions are defeated, these lobbyists will get that bigger deficit.

And all of our people will have to pay for it in higher taxes and greater inflation.

And that is really the issue, isn't it? The question is not one committee's interests or another's. The question is the public interest.

The question is not the merits of the specific savings our committee has proposed. Under the Budget Act, any committee can use its own judgment as to where to make the savings—as long as the savings are actually made with its own plan.

The simple fact is that Congress approved a fiscal plan last spring which included these savings. Now we must ask whether the Congress will stick with that plan.

These lobbies have been telephoning and writing Senate offices against saving these $4 billion. We have all heard from them. I have heard from them. Unfortunately, their arguments contain a lot more fiction than fact.

Rather than addressing the need to reduce spending, the lobbyists are whispering that the reconciliation is an "undesirable precedent," and a "power grab" by the Budget Committee.

Actually, the undesirable precedent—as far as many of these lobbyists are concerned—is the Budget Act, passed almost unanimously 5 years ago to bring exactly this kind of budget control into effect.

The Budget Act expressly provided the reconciliation process to deal with what we know is a predictable occurrence—spending after the first budget resolution which unjustifiably exceeds the targets of that resolution.

Actually, the wonder is that reconciliation has not been necessary in previous years, not that it is being invoked now.

To argue that Congress should abandon the reconciliation process is to assert that budget chaos is preferable to orderly budget reductions to reduce deficit spending.

When Congress enacted the Budget Act, it assigned certain responsibilities to the Budget Committee for the reconciliation process, including recommending when it should be employed.

But the Budget Committee only recommends congressional action, it cannot force it. The same Congress which passed the Budget Act must approve each congressional budget. Congress alone, not the Budget Committee, must decide whether these savings should occur.

And after all, who is the Budget Committee? The 20 members of the Budget Committee are Members of this same Senate, to which all Senators belong. In fact, they constitute a full fifth of the Senate's membership.

Budget Committee members serve on nearly all the Senate's committees. We are happy to number among our Members two members of the Committee on Finance and six members of the Committee on Appropriations, including its chairman, four Appropriations Subcommittee chairmen, and one ranking Appropriations Subcommittee member.

So we are not from Mars, although I know that charge has been made. Senators sitting as members of the Budget Committee are just as sensitive to the needs the Federal Government is called upon to meet as when they sit as members of the other committees on which they serve.

We represent many of the same States as other Senate Members represent. We talk to the same administration and the same Governors, mayors, union leaders, businessmen, and other citizens as other Senators do.

And we should like to be as generous in meeting the demands for higher spending and lower taxes as any other Senator.

But the Budget Committee would have failed in its responsibility to the Senate had we not recommended reconciliation to keep the 1980 deficit from rising over the deficit for 1979.

So when these lobbyists accuse them of reaching for the power—power grab is what they call it—what they are really objecting to is that the Budget Committee has to put the issue where the public can see it and where the power of the public opinion can be brought to bear upon the issue.

That is what they complain about. They would prefer it if the Budget Committee had glossed it over, covered it up, hidden it, and somehow tried at the same time to convince the public that this budget represents restraint.

As one member of the Budget Committee, I could not take that coverup road, and I take it that neither could a majority on the Budget Committee, and I do not intend to do so today.

Another argument being made is that many of these savings—which total less than 1 percent of the budget—1 percent of the budget—might threaten important national priorities and vital programs. Well, that is just not the fact.

First of all, the committees responsible for making these savings have total latitude about what to recommend to the Senate to achieve these savings. They can take these savings from the lowest priority programs.

Savings of at least these amounts were included in the President's budget. All were clearly identified in the report and debate on the first budget resolution. The committees asked to make the savings were named and examples of how the savings could be made were given. No one offered an amendment to eliminate any of these savings in the debate on the first concurrent resolution. And the budget resolution was enacted by a vote of more than 2 to 1.

And why not? This is not a "liberal" or "conservative" issue. Enacting these savings will impair neither our defense nor our priority domestic programs.

In fact, this budget resolution contains nearly $11.0 billion more in outlays than the first resolution, mostly for such programs.

But failure to enact these savings will require cutting both domestic and defense programs, if we want to hold the 1980 deficit below 1979.

Another argument we will be hearing during this debate is that we should not be cutting spending in time of recession. The fact is that this budget includes extra funds to help those affected by the recession. For example, it assumes enactment of $500 million in countercyclical fiscal assistance for 1980 not contained in the first resolution.

It contains more job-related funds for 1980 than we included in the budget for 1979. I ask unanimous consent that a table setting forth these job-related funds be printed at this point in the RECORD.

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

Comparison of jobs-related Federal spending in fiscal year 1979–80 SCR

[In billions of dollars—outlays only]

	FY 1979 SCR	Senate-reported FY 1980 SCR
CETA:	10.0	9.0
Countercyclical revenue sharing	.5	.8
General revenue sharing	6.9	6.9
Community development block grants	2.9	3.5
EPA construction grants	3.4	3.3
Corps of Engineers and Bureau of Reclamation	2.4	2.6
Highway construction	7.1	7.9
Mass transit construction	1.4	1.6
Military construction	1.7	2.0
Community service employment for older Americans	.2	.2
UDAG	(*)	.2
EDA	.4	.5
LEAA grants	.6	.6
Rural water and sewer	.2	.3
Indian construction programs	.2	.1
Appalachian regional development programs	.3	.3
Airport construction grants	.5	.6
Subtotal, spending programs	38.7	40.4
Targeted jobs tax credit (tax expenditure)	.2	.5
Total	38.9	40.9
Unemployment compensation	10.4	15.3
Total	49.3	56.2

Mr. MUSKIE. Mr. President, that table will reveal that the second con-

current resolution provides $56.2 billion in 1980 compared to $49.3 billion for fiscal year 1979.

This budget will produce a balance in 1981 and record-high tax cuts in 1982.

This budget also balances the need to alleviate the hardships of recession with the need to provide leadership in inflation control to the Nation and the rest of the world. For while unemployment rises, the worst inflation of modern times also erodes the welfare of the poor and the jobless as well as the 94 percent of all Americans who remain employed.

The restraint incorporated in this budget is endorsed by the President, the Federal Reserve Board, and the Congressional Budget Office.

They agree it is the appropriate response to runaway inflation at this time.

Economists in and out of Government continue to predict that the current recession will be both so shallow and so brief that Federal fiscal action to deal with it could come too late to help much with unemployment, but could seriously fuel inflation.

We should stay on the course we charted last spring to balance the budget. We should stick by this budget.

In the next few days we will have to dispose of a number of amendments to this budget resolution. Some will be designed to increase the deficit by increasing spending or deleting some of the savings provisions the resolution contains.

At least one will propose a major increase in the defense budget.

I will have more to say about each of these amendments when they are offered. But I want to make some general observations about amendments designed to cushion the defense budget against inflation.

This budget provides more than the Defense Subcommittee of the Senate Appropriations Committee requested last spring. It also provides sufficient additional funding for all the strategic weapons systems which the administration has recommended.

And this resolution increases defense outlays by $3 billion, compared to the first budget resolution.

And yet amendments will be offered to increase this defense spending.

I want to make this point as clearly as I can: To the extent that inflation is used as an argument for increasing the defense function, it affects the entire budget. If that case is reasonable for defense, it will be argued, patiently and eloquently by those concerned about domestic programs, that it ought to be applied there as well.

So once we begin to move in that direction I do not know what the deficit will turn out to be.

My own feeling is that we have not suddenly, since May 15, reached an Armageddon with respect to defense.

The argument for restraint in Government spending we made then was based on the very real problem of inflation to which every arm of government here and abroad has given priority.

The Federal Government has got to swallow some inflation, in my judgment, in order to set an example, in order to communicate to the country our concern that restraint be practiced not only in the Federal Government but across the board.

And I do not know how we are going to achieve that if now we panic and begin to add to Government programs on the argument that we must cushion them against inflation.

It is that argument, used by every segment of our economy, that underlies the inflationary expectations which, as much as any other force, have been driving the inflation rate upward over the last year or two.

But amendments will be offered to increase the defense budget still further to compensate for inflation.

I believe it ought to be possible to live for 1 fiscal year with the numbers of the second resolution in the interests of making some gains on the inflation fight. I believe that strongly, Mr. President.

The decisions the Senate makes in the defense function and the reconciliation instructions will send an unmistakable message to the American people.

Both the proposed defense budget increase and these reconciliation savings instructions involve relatively modest amounts of outlays. Each involves only about 1 percent of the budget.

We are talking about reducing the budget by less than 1 percent in the reconciliation instructions. We are talking about increasing defense by about the same amount. Yet there is a large proportion of the Senate who may resist even a 1-percent discipline.

I find it hard to believe that a 1-percent overall increase in spending is going to dramatically change our national security posture, or the largesse with which the Federal budget deals with domestic problems.

But if no one is willing to accept even that amount of discipline, then controlling the deficit is surely impossible.

That is the significance of the test we face this week, and the world and our fellow citizens will be watching.

Until this year, we have had the benefit of shortfalls between the first budget resolution and the second budget resolution to absorb increases in spending, when committees failed to make savings.

Those shortfalls permitted us to go to the Senate with a lower deficit in the fall than we estimated in the spring.

So the budget process was easy. We voted for budgets because we lowered deficits. Now, for the first time, there are no shortfalls, no shortfalls at all.

There has been no dramatic change in the economic or defense picture since May to affect that budget except in the direction of more inflation.

All we are asking the Senate to do is to reaffirm what the Senate agreed to on May 15, under the threat of inflation. And that is the test.

As one Senator, I welcome the test. Because I think for the first time since the budget process has been in effect, the Senate is being forced to consider whether it is willing to accept even a little restraint; and obviously a lot of Senators are not. And if they are not, the Senate ought to say so; the country ought to understand it.

Even if Senator BELLMON and I are the only two Senators to vote to support the resolution, I intend to do so, because I think that is what the economy requires.

And I think that is what the country expects. And I think the country has every right to expect it.

So the issue, Mr. President, is a simple one. Will the Senate reaffirm its determination to balance the budget, reduce lower priority spending programs, and make good on its commitment to the people?

Or will we abandon that commitment and betray the hope of fiscal responsibility which we have held out to our constituents?

The time has come for that basic decision to be made. It will be made here and now.

Failure to achieve these savings in these reconciliation instructions will frustrate the fiscal plan we adopted in May and demoralize our people in the face of what threatens to become runaway inflation.

That fiscal plan responds constructively to the American public's desire for tight control of Federal spending and a balanced budget as soon as possible.

At the same time, it provides measured relief to those actually affected by increased joblessness.

This second resolution, as did the first, provides for a balanced budget in fiscal year 1981.

This second resolution, as did the first, contemplates a record large general tax reduction, amounting to at least $55 billion in fiscal year 1982.

By that time, it is hoped that economic growth and spending restraint will permit tax cuts without jeopardizing budget balance and sound fiscal policy.

But is fiscal restraint still the order of the day? Should tax cuts be postponed? Could not more countercyclical money be included in the resolution? What about changing economic circumstances?

The economic outlook has become somewhat gloomier since the first resolution. Rapidly rising OPEC prices have drained purchasing power from the American public.

The outlook now—as it was last spring—is for a rise in unemployment.

But the outlook is also for continued high inflation. Inflation at the 13 percent annual rate of July, or of more than 9 percent most analysts expect for next year, is the most urgent problem we confront.

Although much of the devastating acceleration in inflation this year is attributable to food and energy prices which cannot be directly reversed by fiscal policy, fiscal restraint can set the tone for winding down inflation.

By demonstrating that the Federal Government is willing to absorb some inflation in many programs and activities, the Government can encourage private citizens and firms to restrain their wage demands and price decisions. To an important extent, the strength of our economy will depend on the cooperation of the Government and the private sector in jointly exercising restraint.

If the public believes their Government is out of control, why should they restrain themselves?

Surely, a sympathetic case can be made for adding more jobs money to this budget, even though it contains as much for jobs as we provided last year. No Senator has been more active in designing and arguing for antirecession aid programs than I have been.

But a shift from restraint to stimulus seriously risks raising demand for skilled labor and industrial capacity which is in short supply. It would surely worsen the prospects for inflation, eroding income, savings, and pensions, straining the social fabric, distorting investment incentives, and jeopardizing the international position of the dollar.

We may be in a period of recession, but those who have studied business cycles intensively are more cautious. As one of them told our committee, "I have now lived long enough to see half the recessions of my lifetime eliminated by subsequent revisions of the data."

Despite the difficulties in the automobile industry, the number of Americans employed continued to rise through July, and although employment declined slightly in August, it remained above the second quarter average.

The 6 percent unemployment rate for August remains well below the 6.3-percent rate forecast by CBO as an average for the current quarter.

Thus we are in a situation where unemployment is, so far, rising less rapidly than many have forecast—and less rapidly than might be expected on the basis of sales and production.

Meanwhile, inflation remains higher than many had predicted just a few months ago.

This is not an environment in which a convincing case can be made for shifting fiscal policy.

Mr. President, it is true that unemployment remains tragically high among some groups in the labor force.

We have increased funding in the budget for structural unemployment programs designed to reach these especially disadvantaged citizens.

We urgently need the cooperation of the private sector in this endeavor. It now appears, for example, that the targeted employment tax credit may be underutilized this year relative to our budget projections. I very much hope that that turns out not to be the case.

But, at the same time, unemployment among many groups of experienced workers remains low. In August, the unemployment rate for white-collar workers was 3.6 percent and for skilled blue-collar workers was 4.9 percent.

Similarly, unemployment is higher in some parts of the country than in others. In States as seemingly similar as Ohio and Michigan, unemployment rates this year have differed by 2 percentage points.

It is important to help those areas actually in need. The Senate has passed, and we have assumed in the budget resolution, a program of targeted fiscal assistance that can be funded if unemployment worsens.

But nationwide, untargeted measures not tied to local needs or unfolding events will unacceptably increase inflationary demand pressures in still prosperous industries and localities.

There is another reason why we should not rush to fiscal stimulus. We cannot leave the entire responsibility for fighting inflation to the Federal Reserve System.

Any move to stimulate the economy in present circumstances will raise inflationary psychology here and abroad, sending the value of our dollar down.

It will also force the Federal Reserve to raise interest rates even further. The higher they are forced to push interest rates, the more disastrous it will be for housing and other investment. Any prospects for easing pressures in financial markets depend on the measured fiscal restraint in this budget.

Mr. President, no one can say with certainty what is just exactly the right amount of fiscal restraint for the coming 12 months.

But the proposed budget does provide reasonable fiscal restraint: It will contribute to an environment in which inflation can be reduced while providing for the needs of hard-pressed citizens and localities; it will permit responsible progress toward a balanced budget without the jarring consequences of a possibly futile attempt to achieve that goal immediately; it will set the stage for a time 2 years hence when sizable tax reduction can benefit the economy in both the short and long run.

Now, turning to revenue matters, the budget resolution recommends a revenue floor of $514.7 billion for fiscal year 1980, $603.6 billion for fiscal year 1981, and $658.4 billion for fiscal year 1982.

The revenue floor for fiscal year 1980 assumes that legislation will be enacted to raise net revenues by $2.0 billion above projections under current law. This revenue increase could be accomplished through enactment of a windfall profit tax. Alternatively, other proposals such as the cash management legislative initiatives proposed by the President in January could raise this amount if enacted this fall. And smaller revenue raising legislation such as restrictions on tax exempt housing bonds could contribute to the achievement of the revenue floor.

The assumption that the net effect of legislation in fiscal year 1980 will be to increase revenues by $2.0 billion does not necessarily preclude later enactment of some minor revenue-reducing legislation. Such legislation could be adopted if offset elsewhere in the revenue total.

The revenue floor for fiscal year 1982 will accommodate a major tax cut. The revenue floor assumes that legislation will reduce revenues by at least the $55 billion general tax cut in fiscal year 1982 that was proposed in the first resolution.

The committee gave careful consideration to the arguments for an immediate tax cut, advancing part or all of the major fiscal year 1982, 1983, and 1984 tax cuts proposed in the budget resolutions finally reported.

But any short-term benefits from advancing the effective date of part or all of the 1982, 1983, and 1984 tax cuts proposed in this budget must be weighed against the possible negative effects of accelerating these cuts.

Unfortunately, in the present environment, a significant tax cut will aggravate inflation unless a recession at least as severe as the one many economists forecast actually occurs.

Such a tax cut would also reverse our goal of steady deficit reduction and could postpone the goal of a balanced budget. For example, a $20 billion tax cut now would also increase the fiscal year 1980 deficit to a level of as much as $40 billion or more. It would produce a deficit of $5 billion in 1981, instead of a balanced budget.

Finally, unless a recession at least as severe as the one forecast actually occurs, a tax cut could undermine the dollar and our country's world leadership position.

The United States cannot formulate macroeconomic policy in isolation from the policies of our major trading partners. In moving to tighten their monetary policies, other nations have recently indicated clear intentions to restrain inflationary pressures including those emanating from OPEC price increases.

Very serious uncertainties arose in foreign exchange markets about the capability of the U.S. economy to contain those inflationary pressures following the latest OPEC price rise.

These uncertainties contributed to a decline in the exchange value of the dollar, wiping out most of the gains made since last November.

Indications of a premature shift in fiscal policy could contribute to further uncertainties and downward pressures on the dollar. This would be likely to result in further monetary restraint which would blunt both the expansionary effect of tax reduction and, in particular, its benefit as an investment incentive.

We do not foreclose timely action on the economy if the present outlook changes.

As the committee report makes clear, the committee will closely monitor economic conditions as events unfold and is prepared to reconsider revenue policy, if and when the need arises.

Now let me discuss some of the spending priorities in this budget.

NATIONAL SECURITY

Mr. President, the committee's recommendation for national defense reflects the spending targets established by the Congress in the first budget resolution plus economic and technical adjustments of previous estimates. The committee recommends $136.8 billion in budget authority and $127.4 billion in outlays for fiscal year 1980, $147.3 billion in budget authority and $138.3 billion in outlays for fiscal year 1981, and $159.0 billion in budget authority and $148.9 billion in outlays for fiscal year 1982. It is anticipated that defense spending will total $806 billion in budget authority and $748.0 billion in outlays over the fiscal year 1980–84 period.

The committee's position continues to be that, in order to fight the ravages of inflation, all areas of Federal spending must be rigorously pruned. Although the first concurrent resolution approved by the Congress provided 1-percent real

growth in defense spending, inflation has reduced that growth to 0.3 percent. If the Congress is to meet its budget goals we cannot increase this level. If inflation is to be conquered, defense spending, at least in 1980, must be held down.

As part of its anti-inflation effort, the committee's recommendation continues the policies embodied in the first budget resolution which accepts the President's recommendations for a pay cap on the anticipated fiscal year 1980 pay raise for civilian and military employees of the Department of Defense and other Federal agencies. However, the 7-percent pay cap level recommended by the President on August 31 is 1.5 percent higher than the recommendation in his January budget and in the reported resolution. The committee retains its earlier recommendations and assumes that Federal agencies will absorb the difference through savings in other activities.

The committee also recommends a number of management initiatives including greater efficiency in defense operation and maintenance activities, and adjustment of military and civilian retired pay on an annual rather than a semiannual basis in order to make these procedures compatible with social security procedures.

FUNCTION 150: INTERNATIONAL AFFAIRS

Mr. President, for international affairs, the committee recommends $13.1 billion in budget authority and $8.3 billion in outlays for fiscal year 1980, $14.0 billion in budget authority and $8.7 billion in outlays for fiscal year 1981, and $14.9 billion in budget authority and $8.7 billion in outlays for fiscal year 1982. The committee's recommendation is essentially that contained in the first budget resolution, as adjusted by CBO technical reestimates, plus an allowance to cover the President's request for the resettling of Indochinese refugees.

The committee's recommendation retains the first budget resolution assumptions for providing the funding levels of the President's request for the Middle East peace treaty, for requiring a reduction in the President's request for international development programs, and by requiring that other international programs be held constant in real terms over the fiscal year 1979 levels.

HUMAN RESOURCES

For human resources programs, the committee recommends $326.3 billion in budget authority and $293.6 billion in outlays for fiscal year 1980. For fiscal year 1981, the recommendation is for $365.0 billion in budget authority and $323.0 billion in outlays. For fiscal year 1982, it is $408.5 billion in budget authority and $353.6 billion in outlays.

For education and social services programs, the committee's recommended ceilings accommodate the Labor/HEW appropriation conference report. In addition, the committee recommendation assumes that the permanent title XX ceiling will be increased to $2.7 billion rather than the $2.9 billion level assumed in the first resolution.

For training and employment programs, the committee recommendation continues the assumption of the first budget resolution that the work incentives (WIN) program will be reduced by half by the end of fiscal year 1981 and that CETA countercyclical public service employment program (title VI) will be phased out by the end of fiscal year 1981.

In health programs, the committee remains concerned about the rapid escalation in health care costs.

Voluntary efforts to curb hospitalization costs, initiated by the hospital industry, have been gratifying. According to a recent CBO study these efforts were successful in holding down the rise in hospital costs by 1.1 percentage points in 1978. In 1979, CBO estimates that these efforts will reduce the increase in costs by 1.9 percentage points.

But that is not good enough. Even with this voluntary effort, hospital costs rose by 12.8 percent in 1978. CBO estimates that they will increase by another 14.5 percent in 1979. Such increases in the cost of a vital service such as health care simply cannot be tolerated.

Therefore, the committee recommends that the Federal Government undertake a strong initiative in controlling hospital costs. The Federal savings to be reaped from such an initiative are reflected in the committee's budget recommendations, as are the savings which the committee expects to accrue from other efforts to curb the costs of the medicare and medicaid programs.

The committee also recommends that a reduction and refocusing of Federal assistance for health manpower be made to solve the problems of geographic and specialty maldistribution that now plague this country.

Funding is assumed to expand medicaid benefits to low-income children and pregnant women.

In the income security area, the committee recommendations assume an increase to take account of the President's decision to admit an additional 7,000 Indochinese refugees a month. Also assumed is additional funding for energy assistance for low-income families.

The committee also recommends legislative savings in a number of income-security programs—social security, civil service retirement, assisted housing and AFDC and nutrition programs. These same legislative savings were assumed for the first resolution but the great majority have not been achieved to date.

Reform of our Nation's welfare system is assumed to begin in fiscal year 1982.

In veterans programs, the committee recommendation provides funding for cost-of-living increases in both the veterans disability compensation program and the GI bill program. Programs for flight training and correspondence school training are eliminated because available evidence indicates that they do not effectively lead to full-time employment.

Legislation is assumed that will enable the VA to collect from private insurers the costs of medical care provided to veterans with private insurance coverage.

Savings are also assumed from legislation eliminating duplicate Federal burial benefits to certain veterans and reducing the GI bill eligibility period for certain veterans.

NATURAL RESOURCES

Mr. President, for natural resources programs, the committee recommends $64.6 billion in budget authority and $27.2 billion in outlays for fiscal year 1980. For fiscal year 1981, the recommendation is $28.8 billion in budget authority and $29.3 billion in outlays. For fiscal year 1982, it is $47.8 billion in budget authority and $32.3 billion in outlays.

The committee recommendation would continue science activities at a constant real level through fiscal year 1980, but at declining levels in subsequent years. The recommendation would allow for increased funding for civilian space activities beginning in fiscal year 1980 and continuing through 1982. This would maintain the pace of development of the space shuttle program required to meet civilian and military needs.

For energy, the committee recommends increased funding above the first budget resolution levels beginning in fiscal year 1980.

There are now before Congress numerous proposals aimed at the reduction of oil imports. Reductions would be achieved by various means including increased production of synthetic fuels and new conservation initiatives.

The committee recommendation would accommodate any one of the proposals. It in no way prejudges the outcome of the debate on these complicated issues. The committee also recommends further reductions in fiscal year 1981-82 below the first budget resolution for the strategic petroleum reserve. The recommendation assumes continuing program delays and reflects the administration's recent commitment to limit oil imports. The recommendation would accommodate real growth in energy conservation programs and in the regulatory activities of the Department of Energy.

For natural resources and environment programs, the committee recommends funding at levels slightly higher than provided for in the first budget resolution. Higher outlays for water resources, resulting from inflation and severe flooding, and for forest and land management are partially offset by reduced spending for EPA construction grants.

For agriculture, the committee recommendation for the second budget resolution reflects continued strong Federal support for the agricultural sector, but acknowledges the significant improvements in farm prices and income that have occurred since the first budget resolution. In recognition of the improved agricultural economic conditions, outlays for farm price supports were reduced. The resolution includes an allowance for a crop insurance initiative but delays acquisitions for a food security reserve until fiscal year 1981. Allowances for higher export credit sales and for constant real levels of agricultural research and services assumed in the first budget resolution were maintained.

COMMERCE AND COMMUNITY DEVELOPMENT

For programs involving commerce and community development, the committee recommends $53.1 billion in budget authority and $47.9 billion in outlays for fiscal year 1980. For fiscal year 1981, the recommendation is $54.8 billion in budget authority and $49.9 billion in outlays. For fiscal year 1982, it is $53.8

billion in budget authority and $50.9 billion in outlays.

For commerce and housing credit, the first and second budget resolution policy assumptions are identical. The committee recommendation generally assumes continued support for existing housing and thrift insurance programs at a current law level. While housing assistance for the elderly and handicapped could rise with inflation, net funding is below current law levels due to the use of recaptured budget authority for GNMA and anticipation of reduced losses in the FHA mortgage insurance programs. The recommendation does not assume funding for two items requested by the President: The homeownership assistance program, and a standby line of credit for the National Credit Union Administration central liquidity facility.

The Federal payment to the Postal Service is continued in accordance with existing law, which anticipates that the Postal Service will make steady progress toward financial self-sufficiency.

In the area of transportation the recommendation is similar to the first resolution and reflects continued high levels of assistance. It is unchanged for air and other transportation programs and would permit small increases in airport development programs funded by the airport and airway trust fund.

The recommendation is adequate to accommodate expected funding for railroad programs and provides an allowance of $0.1 billion above the President's request for increased Amtrak funding consistent with the Senate-passed authorization bill.

The recommendation could accommodate increased funding above the first resolution targets for existing mass transit authorizations, in keeping with the President's newly proposed energy initiatives. Also, the recommendation assumes that the Appropriations Committees will, as they have indicated they intend, cancel existing "old" interstate transfer contract authority and substitute "new" appropriated budget authority over a 3-year period, fiscal years 1980–82, resulting in technical accounting changes that would not affect the program level.

As in the first resolution, savings in transportation programs reflect an equitable distribution of expected budgetary sacrifices. The committee recommends that highway funding increases enacted last year be reduced by $250 million in fiscal year 1980 and again in fiscal year 1981. This still represents a significant increase over fiscal year 1979 funding but is adequate to accommodate only limited funding for appropriated highway programs.

As in the first budget resolution, the recommendation for community and regional development reflects the high priority that the Congress attaches to Federal assistance to encourage economic development in urban and rural areas that are not sharing fully in the Nation's economic progress. Funding for the President's requested increase for urban development action grants and for an expansion of EDA economic development programs at the level of Senate-passed legislation could be accommodated. For fiscal year 1981 and 1982 the recommendation could accommodate increased EDA funding at the level of the President's request.

In addition, the recommendation was increased to accommodate funding for the SBA disaster loan program at a level estimated by CBO to be required in a normal disaster year under the provisions of the Senate-passed version of SBA authorizing legislation now in conference. The recommendation therefore assumes that all but a small portion of agricultural disaster lending will be carried out by the Farmers Home Administration, which has traditionally provided financing for this purpose.

For administration of justice, the first and second budget resolutions accommodate the administration request for judicial action and law enforcement activity by the Department of Justice and other agencies to control organized crime, public corruption, drug trafficking and illegal immigration, and to prevent racial and ethnic discrimination. The budget assumes that aid to State and local governments through LEAA will be reduced to $0.4 billion in budget authority in fiscal year 1980 and future years.

For general Government, the second budget resolution policy assumptions are the same as those in the first resolution, and would allow continuation of the current level of program activity for the legislative and executive branches.

The committee recommendation assumes continued funding for revenue sharing at current law levels, and provides an allowance for programs of temporary or standby countercyclical fiscal assistance to State and local governments, as authorized in legislation passed by the Senate.

FUNCTIONS 900, 920, AND 950

FUNCTION 900: INTEREST

For function 900, interest, both budget authority and outlays for fiscal year 1980 have increased by $2.1 billion since the first budget resolution as a result of higher estimates of interest rates and technical reestimates of interest on the public debt.

FUNCTION 920: ALLOWANCES

For function 920, allowances, the committee recommendation for fiscal year 1980 is identical to the first budget resolution. The recommendation assumes funding for a cap of 5.5 percent on the October 1979 pay raise, and absorption of the remaining costs to reach the 7 percent level recommended by the President by the civilian agencies through savings in other activities.

The committee recommendation assumes management savings in fiscal year 1980 and succeeding years through reductions in Government travel and transportation costs, filmmaking, procurement of supplies and materials, and consulting contracts, the same as the first budget resolution.

FUNCTION 950: UNDISTRIBUTED OFFSETTING RECEIPTS

For function 950, undistributed offsetting receipts, collections from rents and royalties have been estimated downward to reflect recent sales and changes in the timing of proposed sales. These reductions are offset by higher estimates of interest collections by trust funds as a result of higher estimates of trust fund balances which are invested in Government securities.

Much more detail on all these issues is contained in our committee report. But all the issues in this budget resolution—savings, tax cuts and defense spending—really boil down to one question. Can we deal with inflation?

I think that takes priority over tax cuts, over increases this year in the defense budget, or increases this year in other spending.

I think that this fiscal year we ought to demonstrate to the people of this country that we believe inflation is the number one enemy and that we believe the Government must restrain its spending all across the board to set an example and to reduce its own impact on the economy.

I believe that very deeply. If we can get the economy under control; if we can stabilize the rising inflation rate and begin to cut it down, then all of us will benefit—defense requirements, the requirements of other government programs, and, of course, our citizens in their day-to-day lives.

Inflation control must be our number one priority. I put that at the top of the list.

I will oppose a premature tax cut, which would greatly increase the deficit.

I will oppose any increases this year in defense. We did, in this budget, provide for increases in the next five years that go to the issues raised by the SALT hearings. I will support those significant defense spending increases. They are adequate to fund every strategic system the President has proposed.

But for this fiscal year 1980, I think we should hold the line across the board on Government spending and on tax cuts.

We should concentrate on driving toward a balanced budget and doing what we can by that effort to deal with inflation.

I am confident that we will have the support of the U.S. Senate in that effort.

EXHIBIT 1

EXCERPTS ON SAVINGS ASSUMPTIONS FROM THE REPORT ON THE FIRST CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1980 (S. REPT. 96–68)

CHAPTER I. INTRODUCTION

(Pages 4–7)

"The Budget Resolution recommended by the Committee establishes a watershed in the recent history of the Senate's fiscal policymaking.

"The Committee concluded that fiscal policy at this time must be characterized by a significant degree of restraint incorporated in a plan to achieve a balanced budget in the shortest practicable and reasonable time. The budget plan recommended by the Committee responds forthrightly to that challenge.

"In recent decades, increasingly higher levels of Federal spending in real terms have been a fixture of American Government. But this First Resolution on the Budget calls for fiscal 1980 outlays below current law. It allows no real growth in overall Government outlays. In fact, this budget requires significant reductions in spending under current law, amounting to $5.2 billion in each of the fiscal years 1980 and 1981, and $6.0 billion in fiscal 1982. Compared to the cost of continu-

ing current Federal policy at the levels required to offset inflation, this budget reduces outlays by $11.7 billion in FY 1980, $21.6 billion in FY 1981, and $35.0 billion in FY 1982.

"Last January, the President proposed a fiscal 1980 budget which was characterized as exceptionally "lean and austere." But the Committee recommends a fiscal 1980 budget which contains a deficit $11.8 billion lower than the President's proposal (on a comparable basis). Stated on the President's basis, the Committee has recommended a budget which contains a deficit of $19.7 billion.

"The recommended budget reduces the outlay levels recommended by the Senate's authorizing committees by $14.3 billion. It is lower than the recommendation of the Appropriations Committee—$1.1 billion lower. This budget contemplates room for only a few of the new initiatives proposed by the President, unless other programs now in law are reduced or eliminated.

"The Committee recommends the imposition of rigorous restraint, spread widely across the gamut of Federal activity. Under the Committee's recommendations, even the highest priority programs have not been spared a share of the pain. This is highly disciplined recommendation. But it is an equitable one. Neither defense, nor public welfare programs, nor any of the Federal Government's other major enterprises are spared a share of the burden which must be borne if this Congress is to balance the budget in 1981.

"The Committee was not confronted solely with the task of separating unworthy Federal programs from the others. For the most part, it has also been necessary to choose among the good ones. It has been necessary to face up to some very painful realities.

"The Members and committees of Congress must be willing to accept that same discipline if Congress is to meet its obligation to produce a restrained and prudent budget commensurate with the character of our national economic needs.

"The following is only a partial listing of some of the key cuts and assumptions which the Committee's plan requires:

"Defense.—Limit military and civilian pay raises; adjust military and civilian retired pay annually instead of semiannually; phase out the military and commissary subsidy.

"Other Federal Employment.—Limit pay raises and establish once-yearly adjustment of retirement benefits.

"Energy.—Cut the FY 1980 level of Strategic Petroleum Reserve storage from 84 million barrels to 20 million; reduce funding for breeder rector programs; allow long-term research and development to decline in real terms.

"Natural Resources and Environment.—Cut funding for new park acquisition; eliminate the Youth Conservation Corps; reduce budget authority for EPA's construction grant program.

"Agriculture.—Reduce CCC price supports beginning in FY 1981 through greater use of acreage set-aside; reduce dairy price supports beginning in FY 1982; disallow the President's proposal to fund all-risk crop insurance.

"Transportation.—Reduce Federal-aid highway fundings; restrain Amtrak to the levels requested by the President which would eliminate rail passenger service in many States.

"Education, Training, Employment, and Social Services.—Phase out the countercyclical public service jobs program; cut summer youth jobs; forgo increases in social services funding.

"Health.—Allow for only a portion of the President's proposed child health assessment program; save substantial amounts in medicare and medicaid; reduce assistance to medical schools and students.

"Income Security.—Achieve savings in the social security and AFDC programs; delay implementation of welfare reform.

"Veterans Benefits.—Enact cost-saving reforms in veterans income security programs; eliminate flight training and correspondence courses from the G.I. bill; enact legislation to collect benefits for VA medical care from private companies which insure veterans.

"Administration of Justice.—Reduce LEAA funding by almost half; require Federal law enforcement agencies to absorb inflation costs.

"General Government.—Require Congressional operations to absorb inflation costs.

"General Purpose Fiscal Assistance.—Deny funding for targeted temporary and standby countercyclical assistance.

"In order to meet the targets proposed in the Committee's recommended spending plan, other committees of Congress must recommend legislation to change existing law.

"—The Finance Committee must report legislation to make changes in existing health and welfare programs to save nearly $3 billion.

"—The Environment and Public Works Committee must produce a rescission of spending authority for the highway program by a half billion dollars for each of the next 2 years.

"—The Appropriations Committee must rescind funds for the Strategic Petroleum Reserve.

"—The Commerce Committee must approve the Presidents proposal to reduce Amtrak's support to levels consistent with a 43 percent reduction in passenger route mileage.

"—The Small Business Committee must terminate SBA disaster loans for crop losses which are eligible for FmHA assistance.

"—The Agriculture Committee must report legislation to reduce spending for CCC programs.

"—The Veterans Committee must report legislation requiring private insurers to reimburse the Veterans Administration for care provided to policyholders who go to VA hospitals.

"—The Governmental Affairs and Armed Services Committees must provide for once a year increases in retirement benefits, instead of the current twice a year increases.

"To the extent that any committee does not change existing law as contemplated in this budget, it must make other changes or other committees will be forced to make up the difference."

FUNCTION 050: NATIONAL DEFENSE SAVINGS

(050) Mission 4: Other national defense programs

(Page 80)

"The Committee's recommendation assumes a slight reduction in the level of the President's request for other national defense programs. This reduction results from revising the cost-of-living adjustments for military retired pay from a semi-annual to an annual basis."

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT SAVINGS

(300) Mission 1: Water resources

(Page 115)

"The Committee recommendation does not provide for full funding of new water resource construction projects."

(300) Mission 2: Conservation and land management

(Page 116)

"The Committee assumes that programs for conservation of agricultural land would be consolidated as requested in the President's budget and would focus on long-term, enduring practices to control soil erosion."

FUNCTION 400: TRANSPORTATION SAVINGS

(400) Mission 1: Highways

(Page 144)

"The Committee recommendation assumes that direct spending authorizations for Federal-aid highways will be limited to approximately the FY 1979 level. Realization of this target would require changes in existing legislation to reduce budget authority already enacted by $0.5 billion in both FY 1980 and FY 1981."

FUNCTION 500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES SAVINGS

(500) Mission 4: Training and employment

(Page 173)

"The Committee's recommendations assume that the CETA Title VI countercyclical public service employment program will be phased out by the end of FY 1981, with the program reaching a level of 100,000 jobs by the end of FY 1980. The Committee's recommendation also assumes a reduction in FY 1980 budget authority for CETA public service jobs below the President's request, on account of the large amounts of unspent funds remaining from prior year appropriations. The Committee's recommendation assumes that these unspent funds—except the minimum amount necessary for program stability—will be used in lieu of new budget authority. The Committee recommends that the Work Incentive (WIN) program be phased out by the end of FY 1981, that funding be provided in FY 1980 for the CETA private sector initiative, and that the President's levels for the summer youth employment program be accepted."

FUNCTION 550: HEALTH SAVINGS

(550) Mission 1: Health care services

(Page 182)

"The Committee recommendation anticipates savings of $0.3 billion in budget authority and $2.0 billion in outlays in the medicaid and medicare programs compared to the current law level through the adoption of several legislative initiatives suggested by the Finance Committee in its March 15 report to the Budget Committee, and from the maximum level of savings obtainable through the Administration's hospital cost containment initiatives presently being considered by the Finance and the Labor and Human Resources Committees."

FUNCTION 600: INCOME SECURITY SAVINGS

(600) Mission 1: General retirement and disability insurance

(Page 195)

"The Committee recommendation assumes actions by the Congress to achieve outlay savings beginning in FY 1980 and FY 1981 in social security programs, but not necessarily those proposed by the President."

(600) Mission 2: Federal employee retirement and disability

(Page 196)

"The Committee recommendation assumes that outlay savings will be achieved starting in FY 1980 from instituting an annual, rather than the current semi-annual, cost-of-living adjustment for beneficiaries of these programs."

(600) Mission 4: Public assistance

(Page 201)

"The Committee recommendation assumes savings from benefit reductions and better management in the AFDC program."

(600) Mission 5: Nutrition programs

(Page 202)

"The Committee assumes enactment of the recommendations of both the President and the Agriculture Committee to achieve savings in the special milk, summer food, and WIC programs. Additional savings recom-

mended by the President are assumed from reducing the Federal subsidy provided to students from non-poor families who participate in the school lunch and breakfast programs."

(600) *Mission 6: Housing assistance*

(Page 205)

"The Committee recommendation assumes a reduction from the current law level of funding for subsidized housing to allow annual commitments on 250,000 additional units per year beginning in FY 1980, with 50% allocated to existing housing. The Committee also assumes that the maximum rent in assisted housing will be increased from 25 to 30% of a tenant's income."

FUNCTION 700: VETERANS BENEFITS AND SERVICES SAVINGS

(700) *Mission 1: Income security for veterans*

(Page 214)

"The Committee's recommendation anticipates a cost of living increase in FY 1980 of 8.3% in veterans compensation benefits. This increase would be partially offset by cost-saving reforms in veterans' income security programs."

(700) *Mission 2: Veterans education, training, and rehabilitation*

(Page 216)

"The Committee recommendation assumes a 7% increase in the level of veterans readjustment benefits. This increase would be partially offset by legislation reducing the period of eligibility for GI bill benefits for certain veterans and eliminating payments for flight training and correspondence courses, as proposed by the President. The President proposed eliminating these courses because of abuses in these programs as well as concern that the course do not lead to employment for veterans. Additional savings could be achieved by tightening program requirements, as proposed by the Veterans Affairs Committee."

(700) *Mission 3: Hospital and medical care for veterans*

(Page 218)

"The Committee recommendation assumes savings of $0.2 billion in budget authority and outlays from the President's proposal under which private insurers would be required to cover the cost of hospitalization in a veterans hospital for certain veterans with private insurance coverage. The Committee is concerned that Federal funds which could be used for other purposes are spent to provide health care which should be covered by private insurance paid for by veterans."

FUNCTION 750: ADMINISTRATION OF JUSTICE SAVINGS

(750) *Mission 2: Criminal justice assistance*

(Pages 226–27)

"The Committee recognizes that its recommendation assumes a significant reduction in funding for LEAA. One method the Committee discussed for achieving such a reduction would be to place less emphasis on diffuse grants to State and local governments and relatively more emphasis on Federal research and data dissemination activities.

"The 5-year recommendation would hold the program constant at FY 1980 budget authority levels, resulting in a gradual reduction in annual outlays over the 5-year period."

EXHIBIT 2

SUMMARY

The Budget Committee's recommended restraints on Federal spending will do more than merely pinch. They will hurt. Some programs will be eliminated entirely and others will be drastically curtailed. But a multibillion-dollar deficit cannot be promptly wiped out without inflicting pain.

We cannot achieve a balanced budget without accepting these consequences. But the consequences of forgoing that achievement would be far more distasteful.

Until quite recently, Federal deficits have reflected continued slack in the economy and had little if any impact on inflation. But conditions are changing. The economy is moving toward full capacity. In this situation, deficits could indeed induce additional inflation.

Mr. President, we simply cannot afford that. In this 5th year of economic recovery, a sound fiscal plan must be a restrained plan.

There is no room in a sound economic future for Federal initiatives which contribute needlessly to the fueling of inflation.

Consistent with principles of humane and prudent Government administration, the deficit should be squeezed down and out as soon as possible. In the end, that is in the interest of all Americans.

This year's budget recommendation establishes a watershed in the recent history of fiscal policymaking. A few weeks ago, Congress instructed the Budget Committees of both Houses to prepare two alternative plans—one producing a balanced budget in fiscal 1981, and one producing a balanced budget in fiscal 1982. Your committee has responded aggressively to that mandate. It is now up to Congress as a whole to reciprocate.

Adoption of this plan to achieve a balanced budget could well be the most important step in responsible fiscal management since the adoption of the Budget Act itself.

In recent decades, increasingly higher levels of real Federal spending have been a fixture of American Government. But this first resolution on the budget calls for fiscal 1980 outlays below current law. It allows for no real growth in overall Government spending. It would reduce spending below current law levels by $5.2 billion in each of the fiscal years 1980 and 1981, and by $6 billion in 1982.

Compared to the cost of continuing current Federal policy at levels required to fully offset inflation, this budget reduces outlays by $11.7 billion in fiscal 1980, by $21.6 billion in fiscal 1981, and by $35 billion in fiscal 1982.

The deficit contained in this budget is $28.8 billion. If the budget prepared by the House Budget Committee were restated to reflect the economic and program assumptions of the Senate, their deficit would be $32.4 billion. On the same basis, the President's would be $40.6 billion.

Stated in the President's terms, the committee has recommended a budget which contains a deficit of $19.7 billion in fiscal year 1980. That has been accomplished at a time when many have insisted that a deficit goal of $30 billion was unrealistically low.

We have met that goal and gone further, and we have done so while using the most unflinching and objective economic forecast available. There are no smoke screens or mirrors in this committee's recommendations.

The recommended budget reduces spending proposed by Senate authorizing committees by $14.3 billion.

The budget is $1.1 billion lower than the proposal of the appropriations committee. The appropriation committee proposal would be several billion dollars higher if restated on a basis comparable with the budget committee figures.

In the committee's view, there is little room in the budget for new programs. This budget contemplates allowances for only a few of the new initiatives proposed by the President. Only by reducing or eliminating existing programs can room be made for innovations.

This very stringent budget path has not been easy to construct. It has been necessary to swallow hard before endorsing many of the cuts and restraints which the committee recommends. None of these proposals has been casually considered. The committee is fully aware of the penalties inherent in a disciplined course of fiscal policy; and these recommendations are highly disciplined indeed.

But if these restraints are harsh, it must also be said that they are equitable. The burden is widely distributed. None of the Federal Government's major enterprises is spared a share of the sacrifice.

The report details the extent to which the committee has distributed the weight of responsibility. Let me touch on some items which demonstrate the diversity of restraint.

In the Department of Defense, the committee recommends efficiencies in operations costs totalling a $300 million savings in fiscal 1980. These savings are not achieved in readiness-related operations. Another $100 million is saved in fiscal 1980 by phasing out the commissary subsidy.

For all Federal employees—civilians and military—the committee recommends a cap on pay raises. For retirees, the committee recommends once-yearly cost of living adjustments rather than twice yearly ones. These actions will save $4 billion in 1980.

The committee has found room for restraint in the energy field. Storage levels would decline for the strategic petroleum reserve based on likely fill rates. Savings there will be $1 billion. Funding for breeder reactor programs would be reduced by $200 million, and long term R. & D. would decline in real terms.

In the area of health care, the recommendations would allow for only $200 million of the President's proposed medicaid benefit expansions. No allowance is made for a program of national health insurance. Net savings of $1.8 billion are assumed in medicaid and medicare; and support for medical schools and students is cut back by $100 million.

In the field of transportation, the federal-aid highway program would be reduced by $500 million and restraint in funding for Amtrak would end passenger service in many of our states.

Cuts of $400 million would be made in public welfare programs and reform of the welfare system would have to be delayed until 1982.

Some price supports would be reduced for farmers in future years. And there is no room for the President's proposal to fund all-risk crop insurance.

And in the area of employment, the countercyclical public service jobs program would be phased out entirely by fiscal year 1981—for a reduction in fiscal year 1980 of $1.8 billion—and summer youth jobs would be cut back with fiscal year 1980 savings of $200 million.

There is scarcely a constituency in the United States which will not be touched in some significant way by the imposition of these and other sacrifices.

There is no satisfaction in that with the subcommittee or, I am sure, with the Senate. But neither is there any chance to make good on our duty to manage the public purse in a prudent and responsible manner unless we are willing to pay the price.

Some may ask, if the budget can be balanced in 1981, why not in 1980? That would require a fundamental change in the role of Government in America—or a tax increase of great proportions.

Mr. President, at this point I ask unanimous consent to insert a table in the RECORD in order to indicate what would be required. Federal outlays would have to be cut by another $38.3 billion—or $43.5 billion below current law in order to achieve a balanced budget in 1980.

When one considers the kinds of cuts I have already described we have in 1980, pointing to a balance in 1981, Senators may get

some faint notion of the enormity of that challenge.

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

IMPLICATIONS OF BALANCING THE BUDGET IN FISCAL YEAR 1980

[In billions of dollars]

	Committee recommendation	Balanced budget total	Balanced budget total compared to committee recommendation
Revenues	503.6	[1] 494.1	−9.5
Outlays	532.4	494.1	−38.3
Deficit	28.8	0	−28.8

[1] The reduction in revenues from the committee recommendation would occur because of reduced economic activity as a result of the cut in Federal outlays.

Mr. MUSKIE. Total outlays would be $491.1 billion, allowing no increase at all over fiscal 1979. That is true despite the fact that increased case loads, spendouts from prior commitments, and inflation adjustments required by law will inevitably drive the totals up.

The free lunch is as scarce in 1979 as it has ever been. And those who demand a stringent spending diet must not forget that the cost of Government can be reduced but not eliminated.

No tax cut would be provided under the recommended budget until fiscal 1982. But there would be a $55 billion cut in that year, to be followed by even more substantial reductions—$75 billion in fiscal 1983, and $100 billion in fiscal 1984.

The reality is that a balanced budget requires attention to both sides of the scales. We cannot achieve that balance solely through Draconian spendings cuts.

On both sides of the ledger—in spending cuts and in tax proposals—the Budget Committee has faced up firmly to the requirements of fiscal integrity. But those commitments will have no value unless they are reflected in the decisions of other congressional committees and in rollcall votes on the floor.

For example, in order to meet the budget resolution targets, other committees must recommend the following changes in existing law to achieve savings or make other cuts of equal magnitude.

The Finance Committee must save nearly $3 billion by recommending changes in existing health and welfare programs.

The Environment and Public Works Committee must produce a rescission of spending authority for the highway program—a rescission of half a billion dollars in each of the next 2 years.

The Appropriations Committee must rescind $1 billion of funds for the strategic petroleum reserve.

The Commerce Committee must approve the President's proposal to reduce Amtrak's support to levels consistent with a 43-percent reduction in passenger route mileage.

The Small Business Committee must terminate SBA disaster loans for crop losses which are eligible for FmHA assistance.

The Veterans' Committee must report legislation requiring private insurers to reimburse the Veterans' Administration for care provided to policyholders who go to VA hospitals.

The Governmental Affairs and Armed Services Committees must provide for once yearly increases in retirement benefits instead of the current twice yearly adjustments.

These will not be easy votes to cast. They were not easy to cast in the Budget Committee. They will not attract an eager flock of enthusiastic supports. Indeed, the Budget Committee's proposals for such sacrifices are anything but gleeful. Unfortunately, our fiscal dilemma is a sobering one.

FISCAL POLICY

In theory, fiscal restraint should be a popular course of action. The public has demonstrated its general support for shrinkage in the size and scope of Government. And the popularity of lower taxes is no recent development.

In reality, however, no meaningful spending cuts will ever be imposed without producing howls of outrage from those who suffer the consequences. Therein lies the challenge to us who make this Nation's fiscal policy—because the budget is a political document as well as a fiscal plan.

But fiscal restraint is made necessary by the overwhelming importance of the fight against inflation.

The success of our past efforts to stimulate the economy has added over 12 million jobs. The gap has been substantially narrowed between what the economy can produce and what it in fact produces.

Serious attention is still required to the plight of the structurally unemployed. But with inflation currently running close to a double-digit rate, the time has come to end general fiscal stimulus.

The Congress can only make a meaningful contribution to the battle against inflation if we approve a budget which avoids excessive strains on our productive capacity.

We must send a signal to the American people. We are not oblivious to the rages of inflation. We must set an example for sacrifices in both the public and private sectors which can bring inflation down.

Weighing the need to support public programs against the need to restrain public spending, a well-contributed budget can play an important role in shrinking inflation and in moving our economy in a more positive direction. The committee has recommended such a budget.

But important though a balanced budget is, it is not enough. Its impact will be blunted if wage settlements continue to break through the bounds of reasonableness.

Its moderating influence will be meaningless unless profit growth is no more than reasonable and prices are held down.

The committee has told the Senate with this budget that government must swallow some inflation if we are ever to return to a healthy balance of wages and prices. But the bitter taste of that sacrifice must also be absorbed in the private sector.

Federal budgets are not the sole source of inflation—far from it. And there are even limits on the impact which our private sector decisionmakers can have. Judgments made in Iran, in Saudi Arabia, and even in Japan or in West Germany can have as big an impact on the course of our inflation as any made here at home.

But Congress cannot dodge its responsibilities by pointing to those who must also contribute. We must carefully evaluate measures that have an inflationary impact by directly adding to the cost and price of goods and services. In a few cases, that may be necessary to accept such measures when overriding needs cry out to be served. But we must be aware of the consequences for inflation. We must be sure that every inflationary cost is balanced by a commensurate benefit.

The establishment of a new inflation monitoring capability at CBO has helped. We have already seen it working. We now know the inflationary implications of every major bill we consider. And those implications must weigh heavily as we make our choices and cast our votes.

Mr. MUSKIE. Mr. President, at this time I yield to my good friend, the distinguished Senator from Oklahoma who has been a partner in this budget effort for some 5 years now, a partnership which I value as much as any experience in my public life.

Mr. BELLMON. I thank my friend, our distinguished chairman.

Mr. President, I yield myself 10 minutes on the resolution.

I begin by complimenting the chairman of the Budget Committee, Senator MUSKIE, for the leadership he has given the committee both in this current matter as well as over the 5 years of our existence and especially for the extraordinary effort he put forth last week to, first of all, clear up misunderstanding about what the reconciliation process was all about and, second, to work out what appears to be an agreeable compromise to accomplish reconciliation and to make the process effective not only this year but in years to come.

Mr. President, the second concurrent resolution for fiscal year 1980 contains a 3-year spending and revenue plan for achieving budget balance in fiscal year 1981. This is the point Senator MUSKIE was just making. It also makes provision for substantial tax reductions in fiscal year 1982 and beyond. This resolution presents Congress with a clear choice between continuing its commitment to fiscal restraint or reverting to the fiscal expediency that has all too often characterized past policies.

I cannot emphasize too strongly the importance of this decision. The economy is experiencing a marked slowing in the rate of economic growth and may be in the early stages of a recession. While there are other elements, the most important cause for this slowdown is the present rapid rate of inflation, which is necessarily accompanied by high and rising interest rates. Unless Federal spending is controlled effectively, and unless the persistent pattern of high (though declining) deficits is reversed, the American economy is likely to continue to suffer the pernicious effects of inflation for the forseeable future. This decision must be made clearly and it must be made now. The citizens of this Nation are already beginning to take dangerously destabilizing protective measures against the ravages of inflation—reduced saving, defensive buying, and flight into gold.

Federal spending and large budget deficits, while the principal cause, are by no means the only source of inflation. The economy has experienced internal and external inflationary shocks such as rising energy prices, rising prices for food and other commodities, and capacity shortages in key industries.

Since January, for example, the Consumer Price Index has increased at a 13.6 percent annual rate. Of this 13.6 percent, 2 percentage points are due to the runup in energy prices, 1½ percentage points are due to food price increases, and another 1 percentage point to increases in mortgage interest rates.

We can expect some reduction in these inflationary pressures. The largest short-range increases in energy and food prices are probably behind us, and if we make progress toward controlling inflation by

exercising fiscal restraints, mortgage interest rates will also moderate.

We do, however, face the difficult task of reducing the remaining 9 percentage points which represents the rate of increase in the general price level aside from these special factors. Positive action by the Congress to restrain Federal spending and eliminate the deficit are important first steps toward attacking this underlying inflation.

I am convinced, Mr. President, that past stimulative action by the Congress has conditioned the American public to anticipate further increases in the inflation rate whenever such stimulative actions are undertaken. The anticipation of inflation leads to a "catch-up" psychology and generally speculative behavior that only worsens inflation.

In his testimony last week before the House Budget Committee, Chairman Volcker described the effect of inflationary expectations" on both fiscal and monetary policy in the following way. I quote:

> . . . Over the years, labor and product markets have developed an increasing sensitivity to inflation. Expectations about inflation are an important factor in wage bargaining, in price setting for many goods and services, and certainly in interest rates. The plain danger is the (stimulative) actions are rightly interpreted as doing little or nothing toward dealing with our underlying persistent problems of productivity and investment, and (are) all too likely to produce more inflation . . .

This is a sober reality, and one which the Congress faces directly in its consideration on the second concurrent resolution for fiscal year 1980.

The proposed second concurrent resolution for fiscal year 1980 responds to the need for spending restraint. This resolution contains an outlay ceiling of $542.7 billion for fiscal year 1980 which amounts to roughly 22 percent of GNP. This is a 9.4 percent spending increase over fiscal year 1979 but due to inflation, represents virtually no increases in real terms and may be a reduction.

Outlays in future years are projected to decline to 18 percent of GNP by 1984. This is far below the Federal share of GNP in most years of the postwar period.

This resolution continues that pattern of successively declining deficits and a smaller Federal share of GNP in spite of the necessity to provide additional spending room for programs which grow automatically when inflation or unemployment increase, and in spite of funding increases for defense, energy, and countercyclical fiscal assistance.

This resolution contains $55 billion in budget authority over the 4 years for additional energy spending. While I personally believe that price guarantees and private sector initiative are the most effective solution to our energy problem, the budget does provide sufficient flexibility for the Senate to choose from a wide range of energy alternatives.

In addition, the President has just announced that he is supporting an increase in the defense function to accommodate higher operating costs and still provide for 3 percent real growth. This would raise budget authority $4.4 billion and outlays by $3.2 billion for fiscal year 1980. If the President's proposed 3 percent real increase were assumed in fiscal year 1981 and fiscal year 1982 as well, defense spending would be $30 billion higher over the next 3 years. Other proposals would raise this increase to $41 billion. Each Senator will have to reach a decision on the merit of this sudden and very large request.

Mr. President, speaking for myself, I am inclined to not be in favor of increases of this magnitude until we thoroughly review both our defense and foreign policy positions, and make certain that increases of that magnitude will produce a result that is in the national interest.

However, we cannot provide real funding increases for these new priorities and retain our commitment to spending restraint if spending in other parts of the budget is allowed unrestrained growth. The fact that this resolution invokes the "reconciliation" process for the first time in the history of the budget process underscores the difficulty of achieving even small reductions in spending.

The reconciliation instruction is necessary because, thus far, the Congress has failed to achieve 70 percent of the legislative savings which were explicitly assumed and adopted by the Senate last May.

Mr. President, I think that is important to emphasize that we, the Senate, have failed to achieve 70 percent of the legislative savings which we assumed when we passed our first budget resolution. In fact, most of these savings were recommended by the authorizing committees themselves or in the President's January budget.

I ask unanimous consent to have printed in the RECORD a list of quotes from the authorizing and appropriations committees' March 15 reports and from the President's budget. These quotes discuss the savings. I ask that they be printed at the end of my statement.

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

(see exhibit 1.)

Mr. BELLMON. I strongly urge the Senate to support the reconciliation instruction. In total, the reconciliation instruction represents less than a 1 percent cut in spending.

I remind my colleagues, that over the history of the budget process, the Senate has had numerous separate votes on across the board spending cuts of 1 percent or more. The reconciliation instruction should certainly be supported by all the Senators who favor over-all budget reductions, whether by across the board cuts or through other means. If Members want additional cuts, they are free to offer such amendments.

If reconciliation is rejected by the Senate, fiscal year 1980 spending will be $4 billion higher than proposed in the pending budget and the deficit will increase by $4 billion to $32 billion in total.

Senator MUSKIE is prepared to offer a compromise which would change those figures somewhat. But if we do not enact either the Muskie compromise or the reconciliation recommendation, our deficit will clearly be larger than the deficit for fiscal 1979, and we will be headed in the wrong direction. Moreover, the impact is even worse in fiscal year 1981 and fiscal year 1982 with spending increases by $5.9 billion in fiscal year 1981 and $8.2 billion in fiscal year 1982. These increases in spending jeopardize a balanced budget in fiscal year 1981.

This resolution is also responsive to the need for restraint on the revenue side of the budget. While this budget provides for a major $55 billion tax cut in fiscal year 1982 growing to $100 billion in fiscal year 1984, it recommends that any immediate tax reduction be postponed until the budget is balanced and the present inflation problem is improved.

I strongly support this conclusion in the budget that we not make room for an immediate tax reduction partially because during the August recess, as I am sure many other Members did, I traveled broadly across my State and was amazed to find that in almost every case when my constituents were asked to comment as to whether or not they would rather see a tax cut or a balanced budget, they were almost unanimously in favor of balancing the budget first and then looking at the possibility of reducing taxes. They can easily see that having a tax reduction paid for by a larger deficit simply exacerbates inflation, and that any benefits they get from a tax reduction would quickly be lost by a subsequent increase in prices.

This is a difficult decision, especially in light of the substantial inflation-induced tax increases. However, in my contact with constituents, I am continually impressed with the willingness on the part of the average American to withstand the burden of these tax increases in order to balance the budget and help bring down the inflation rate.

I do not think it is a mere coincidence that measures of consumer confidence reached their post war peak in 1965, when inflation was near its lowest, and have deteriorated since that time, as inflation has accelerated. If the Nation is pessimistic now—and these confidence indicators show that it is—I am convinced that it is fear of still higher inflation, and not fear of unemployment, that is at the source.

Mr. President, the rise in the national unemployment rate announced last week has caused some to question whether the long-rumored recession is now a reality and whether the primary goal of Federal fiscal policy should now become stimulation of economic growth—rather than inflation fighting. Such a shift of objectives in my view is unwarranted.

The budget totals and tight fiscal policy reflected in the second resolution for fiscal year 1980 are recommended in full recognition that the Nation may face rising unemployment in coming months. While I personally believe that the present economic slowdown will be milder than CBO projects, the economic assumptions underlying this resolution include a recession that is deeper and accompanied by a larger increase in unem-

ployment than assumed in the first resolution.

The restrained fiscal course recommended in the resolution is based on the conviction that any lasting solution to our goal of full employment of both capital and labor lies in wringing inflation out of our economy. Almost every respected economist agrees with this assessment and has spoken out against adding economic stimulus at this time, whether by allowing spending increases or large tax reductions.

This budget resolution already contains a substantial amount of economic stimulus. For example, the aggregate spending ceiling fully reflects the costs of entitlement programs which grow automatically when inflation and or unemployment rise. There is a growing consensus among economists that automatic increases in programs such as unemployment insurance have contributed substantially more to counteracting the effects of economic cycles than have discretionary decisions in the form of counter-cyclical spending programs or tax cuts.

In addition to increases in entitlement programs, this resolution also assumes $800 million as "targeted" or "standby" fiscal assistance to State and local governments. I personally opposed the injection of this fiscal stimulus but it was approved by a majority of the Senate. In any event, it seems to me the pending second budget resolution provides for all the stimulus that is required in the present situation.

Moreover, I remind my colleagues that it is not at all clear that we are in fact in a serious economic downturn. The economic signals are obviously mixed.

For example, if we compare the actual unemployment rate thus far for the third quarter of between 5.8 and 5.9 percent, we see that we are substantially below the 6.3 percent forecast by CBO for the quarter. Indeed, I would hope that the more favorable performance of the unemployment rate would help convince the Senate that the fiscal policy recommended by the pending budget resolution is the correct one.

One other matter on which I would like to comment briefly is the difficult problem of growing costs of entitlement programs. The Appropriations Committees in both Houses have recently expressed alarm that the congressional budget process has not yet made much headway in finding ways of controlling spending growth in these programs. I believe it is essential that the entire Congress, not just the Budget Committees, respond directly to this challenge.

Not only does automatic growth in entitlement programs make balancing the budget difficult, it also complicates the problem of fighting inflation. When benefits are increased to respond directly to the going rate of inflation, that inflation rate is reinforced rather than moderated. To control inflation, someone—perhaps everyone—must sacrifice. I have recently proposed to Chairman MUSKIE that a high-priority review of alternatives for action on this problem be conducted. I hope there can be a comprehensive, constructive approach to recommend to the Senate by the time it considers the first budget resolution for fiscal year 1981 next spring.

Mr. President, let me conclude by saying that rarely has the Congress been presented with a more clear-cut opportunity to exercise its leadership than in the second concurrent resolution for fiscal year 1980. The need for fiscal restraint is compelling and yet the pressure for increased spending or large and immediate tax reductions is great. I ask my colleagues to take this opportunity to chart a prudent fiscal course and demonstrate plainly to the Nation our serious commitment to balancing the budget and bringing inflation under control.

Mr. President, let me further conclude with a few words to my Republican colleagues. We are all fully aware that 1980 is an election year. Pressure for a tax cut is already growing intense. There will be a great temptation and many speculative proposals for reducing taxes. A good case can be made to justify these tax cuts because inflation and inflation induced tax increases have caused a reduction in after tax real incomes in recent years.

As attractive as a tax cut is, I am convinced, as I said earlier, that most American citizens are willing to forgo an immediate tax cut which would be paid by an increased Federal deficit and which would contribute to future inflation. They would much prefer to see our Federal budget balanced and inflation brought under control so that future tax reductions would be meaningful.

We are only kidding, in fact betraying, our constituents if we raise the deficit to provide a transitory tax cut which will soon be eaten up by rising prices caused by the inflationary pressures which deficits produce and exacerbate.

Mr. President, I again express my appreciation for all of the work done, not only by our chairman but by all the members of the committee, both majority and minority, in bringing this concurrent resolution before the Senate. I hope that the Senate will approve it without delay.

I yield the floor.

EXHIBIT 1

EXCERPTS FROM MARCH 15TH REPORTS BY SENATE COMMITTEES

APPROPRIATIONS COMMITTEE

"The target recommended by the (Defense) Subcommittee is $800 million below the (President's) budget request in budget authority and $700 million below the (President's) budget request in outlays".

"The (Housing and Urban Development-Independent Agencies) subcommittee has postulated a decrease of $300 million in the (President's) budget request of the Central Liquidity Facility of the National Credit Union Administration (NCUA) under function 370, commerce and housing credit".

"The Subcommittee on Treasury, Postal Service, and General Government recommends that the target ceiling for fiscal year 1980 be set at 2 percent below the President's request for the controllable items in the bill".

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

"The Committee recommendation does not include $79.4 million in outlays that the Administration had included for start-up costs of a nationwide all risk insurance program".

"The President's proposals with regard to the Special Milk Program and the Summer Food Program are supported by the Committee". The President proposed reductions of $110 million in the Special Milk Program and $47 million in the Summer Food Service Program.

"The Committee anticipates savings of approximately $132 million through the enactment of legislation that would establish an error rate sanction system" (for the food stamp program).

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

"The Committee deleted funds for this new program ($107.5 million for GNMA Energy Conservation Loans) since it was not funded in the President's budget for fiscal year 1980".

"The reductions (in Community Development and UDAG) would bring these programs in line with the authorizations level approved for fiscal year 1980" ($206 million).

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Reductions below current policy level: Maritime Administration (ship construction—Budget Authority: $195 million; Outlays: $0. Amtrak funding: Operation—Budget Authority: $74 million; Outlays: $74 million.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

"Therefore, the committee recommends a decrease of $110.4 million in the President's proposed budget authority to reflect the actual capability of the Bureau of Reclamation for fiscal year 1980".

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

"While the Corps of Engineers was increased by a total of $50 million in two areas, the committee voted to decrease the Corps construction budget by ten percent, or $152 million".

COMMITTEE ON FINANCE

"The Finance Committee estimates for fiscal year 1980 would represent an overall reduction in net outlays of $1.8 billion as compared with existing law".

"The Committee recommends that the Congressional budget for fiscal year 1980 assume that net reductions totalling $1.5 billion will be achieved in this (health) category".

"The Committee recommendation for this function (income security) indicates allowance for legislative changes which would on a net basis reduce outlays by $0.7 billion".

COMMITTEE ON FOREIGN RELATIONS

"The Executive Branch is requesting the authorization of appropriations of $2,104,060,000 for programs under the International Development and Food Assistance Act. The Committee anticipates a reduction to at least $1,772,069,000, and possibly lower".

COMMITTEE ON GOVERNMENTAL AFFAIRS

Letter of July 27, 1979 in response to Budget Committee letter of July 20, 1979.

"This committee takes seriously its obligations to reduce the cost of government . . . this committee has undertaken an effort to achieve comparable, or even greater, savings in a more responsible and equitable manner. Every effort will be made to achieve the recommended levels of savings at the earliest possible date, and we are hopeful that savings will be realized during fiscal years 1980–1982".

COMMITTEE ON LABOR AND HUMAN RESOURCES

"This represents a reduction from current policy projections of $158 million of budget authority, attributable primarily to revisions in aid to federally impacted schools and $676 million of outlays, attributable mainly to a

committee decision to adhere to the President's outlay estimates in advance-funded programs for which appropriations already have been enacted".

"Combined with our recommendation to fund direct student loans with the same level of appropriations as in fiscal year 1979, the committee estimate of outlays for all student assistance programs is $340 million below the current policy projections".

"The committee recommends a reduction of $1,000 million from a current policy level for the activities of the Department of Labor in subfunction 504, Employment and Training".

COMMITTEE ON VETERANS' AFFAIRS

"CBO's estimates (for the pension program) are thus $252 million less than the Administration's in budget authority and $194 million less in outlays. The Committee accepts the CBO estimates . . ." "The Committee accepts the CBO estimates (for GI Bill benefit payments and enrollment) and thus recommends decreases of $51.5 million in budget authority and $48.5 million in outlays for current programs in Mission 2".

PREVIOUSLY EXISTING PROGRAMS OR AGENCIES RECOMMENDED FOR TERMINATION IN THE 1980 BUDGET

(Approximate Savings)[1]

[In millions of dollars]

Agriculture—$145.1	
Youth Conservation Corps	60.0
Cooperative forest fire control	30.7
Rural development planning grants	5.0
Rural community fire protection grants	3.5
Water bank	10.0
General curriculum development grants (Bankhead-Jones)	11.5
Beekeeper indemnities	3.6
Urban forestry assistance	3.6
General forestry assistance (Dutch elm disease control, fire-scope and Pinchot Institute conservation studies)	4.5
Imported fire ant control program	1.9
Noxious weeds control program (SEA)	0.8
Noxious weeds control program (FS)	1.6
Range caterpillar control program	1.0
West Indian sugarcane root borer control program	0.5
Poultry disease control program	1.3
Title V rural community development research and extension grants	4.0
Payments to States and possessions (AMS—matching grants)	1.6
Commerce—$1,015.5	
Labor intensive public works	1,000.0
S/K fisheries development fund	4.0
U.S. Travel Service	11.5
Defense—$462.3	
Delete procurement funding for AV-8B, vertical take-off and landing plane	173.0
National Board for the Promotion of Rifle Practice	0.3
Surface effect ship	80.0
A-6 and A-7 aircraft procurement	209.0
Energy—$146.8	
High Btu loan guarantees	20.0
Coal (mines) loan guarantees	5.0
Low/medium Btu gasification plant	50.0
Domestic high temperature gas reactor	42.0
EPCA "basic" energy conservation grants[2]	-------
ECPA "supplemental" conservation grants[2]	-------
Energy extension service[2]	-------
Grants for local government buildings[3]	29.8
Assistance to areas impacted by energy development[4]	-------
HEW—$1,107.3	
Health:	
HRA:	
Energy conservation	0.4
Health Professions Education:	
Health Professions	
Capitation	68.0
Start-up grants	1.0
Loans	0.3
Loan repayments	2.0
Exceptional need scholarships	5.0
Nursing:	
Advanced training	0.4
Loans and other support	1.8
Allied health	9.0
Special Education Programs:	
Area health education centers	12.0
Foreign medical transfers	1.0
NIH: Child health facility	[5] 37.0
Education:	
Impact aid ("B" children)	288.0
University community services	16.0
College library programs	10.0
Education information centers	3.0
State postsecondary commission	3.5
Law school clinical experience	2.0
Public service fellowships	4.0
Mining fellowship	4.5
Ellender fellowships	1.0
Ethnic heritage studies	2.0
Continuing education demonstration centers	1.0
Librarian training and demonstrations	3.0
Career education incentives	22.4
Social Security:	
Phase out post-secondary school student benefits in OASDI	---
Eliminate minimum benefit for new recipients	609.0
Replace lump sum death benefit in OASDI with new SSI death benefit	---
Other legislation	---
HUD—$1,008.2	
Section 802 interest subsidy grants	600.0
NEW community assistance grants	[6] 8.2
State incentive grants	[7] 200.0
College housing	-------
Rent supplement program	[8] 200.0
Interior—$220.0	
National Petroleum Reserve—Alaska	[9] 220.0
Labor—$130.9	
Youth incentive entitlement pilot projects	[10] 130.9
State—$25.0	
Assistance for settlement of refugees in Israel	25.0
Transportation—$120.9	
Highway beautification	13.0
State boating safety assistance	5.0
Railroad-highway crossings demonstration projects	40.0
Off-system roads programs	30.0
Access highways to certain lakes	7.9
Demonstration projects—Highway trust fund	10.0
Alaska highway	15.0
Treasury*—	
New York assay office refining operation	-------
Annual Assay Commission	*
EPA—$50.0	
Section 175 air quality planning grants	50.0
GSA—$0.3	
Office of policy, planning and evaluation	0.3
Nuclear Regulatory Commission—$3.5	
Assistance for health manpower training institutions	[11] 50.0
National Science Foundation—$3.6	
Advanced converter reactor	3.5
National Science Foundation—3.6	
Chemical threats to man and the environment	3.6
TVA—$0.3	
Mineral resources projects	0.3
Total	4,489.7

* Less than $500 thousand.

[1] Usually equal to 1979 BA.

[2] Programs deleted but no net savings since they will be consolidated into the proposed State energy management and planning grant program.

[3] This program was intended to be funded completely by the end of FY 1979.

[4] Joint DOE/Farmer's Home Administration program deleted but no net savings since alternative impact aid program is being funded in Commerce Department.

[5] Cumulative savings from 1979 rescission.

[6] Estimated amount of balances available for rescission.

[7] Proposed but unenacted urban initiative.

[8] Recaptured balances proposed for 1980 rescission.

[9] Estimated 1980 budget authority to continue "exploration" program (current services estimate). The 1979 appropriation for this program is $211.9 million.

[10] Based on annualized savings from 1980 current services estimates. Phase-out costs included in the 1980 Budget are ignored to illustrate the annual savings to be realized.

[11] Annualized savings. The 1979 estimates include phaseout costs that have not been used in the above calculation.

NOTE: The planned phase-out of the grant military assistance program is excluded from the information contained in this table. This program is phasing down, and new grants of defense material after 1981 will be provided only under exceptional circumstances. An appropriation of $110.2 million is proposed for 1980.

Mr. MUSKIE. Mr. President, I am happy to yield at this time to a very valued member of the Budget Committee, the Senator from Nebraska (Mr. EXON), who is very deeply committed to the budget process and the need for fiscal restraint. He has brought to the Senate the experience which he gained as Governor of Nebraska, which has proved most valuable in the committee's consideration of the issues which have come before the Senate this year.

The PRESIDING OFFICER (Mr. BOREN). The Senator from Nebraska.

Mr. EXON. I thank the Chair, and I thank the Senator from Maine. I am very honored to serve with him and Senator BELLMON on the Budget Committee. The three of us have something in common, since we were all Governors at one time, and have met and faced the problem of how to balance the budgets in our States. I take nothing away from our colleagues who have not had the opportunity to serve their States as Governors; but, when you have been through tough budgetary decisions, it makes it a little easier to say "No" to schemes that come before us as Members of the Senate, and particularly as members of the Budget Committee.

I certainly want to add my high praise for the excellent work of the chairman of the committee (Mr. MUSKIE) and the ranking minority member (Mr. BELLMON). They worked very long, very hard, and very diligently in trying to take a realistic approach to the very important

matter of the Federal budget, which, in one way or another, affects almost every citizen in the United States.

Mr. President, I wish to add my voice to those who are in favor of the second concurrent resolution on the budget, and its reconciliation instructions. As a member of the Budget Committee, I have participated in much of the testimony, discussion, and voting which has led to the committee recommendation which we consider today.

When I came to the Senate, I asked to be assigned to the Budget Committee. I did so from a conviction that inflation is one of the most, if not the most, serious problem facing our country today. Since excessive Federal deficit spending contributes to our problem of inflation, I felt that another voice on the Budget Committee which was prepared to say "No" to excessive spending would be of great assistance in our country's battle against inflation.

The time for truth has come, and I am prepared to say "No" to those who want us to reject this resolution, add even more to our Federal budget, and greatly add to the Federal deficit.

It is not an easy decision for me to support the second budget resolution and its reconciliation instructions. In fact, there are certain items in the cuts suggested by the Budget Committee which I believe are important and should be funded. However, I must point out that I am in firm agreement with most of the suggestions as to where the budget can be reduced, and, in any case, the committees receiving the reconciliation instructions are under no obligation to make the cuts that the Budget Committee suggests. The committees are free to make the spending reductions in any area under their appropriate purview, which may or may not agree with the particular items suggested by the Budget Committee.

Like many of you, I have received a great deal of pressure from various interest groups who suggest I should oppose the resolution and the reconciliation. But those of us who have been in touch with all of our constituents know that the country as a whole wants fiscal discipline, not cave-ins to each and every group which wants to protect its share of the Federal purse. If this resolution and its reconciliation instructions are rejected, it will represent the victory of special interest spending over the greater need for Federal fiscal moderation, and will be read as such by our citizens. Rejecting this resolution and its reconciliation will send a signal, loud and clear, that the Senate is strong on rhetoric regarding fiscal discipline, but short on action when it comes down to making the tough decisions on the budget.

I wish to reemphasize and congratulate the Senator from Oklahoma on the statements he made with regard to what the people are thinking. I found the same thing in Nebraska during the August recess. Everywhere I went, I found that the people are not fooled any more by Congress talking about tax cuts, especially immediately or a few months before an election. What they want is a balance, balancing the income of the Government with the outgo, and then to talk about tax cuts after that.

Mr. President, the resolution before us represents one of the most significant votes we will make in this or any other year, and certainly will be one of the most important votes ever on the budget since the Budget Act was passed in 1974. If we reject the budget resolution and the reconciliation, we must be prepared to accept another round of continued inflation. Assurances to the country that Congress will balance the budget in 1981 will surely ring hollow if the Senate cannot find less than 1 percent of the Federal budget in which to exercise economy. Our citizens will surely say that increasing the Federal deficit in 1980 over the deficit in 1979 is a strange path toward a balanced budget in 1981.

Regardless of feelings on any specific function or budget item, I urge my colleagues to accept the numbers and the reconciliation instructions of the second budget resolution. To be sure, the numbers in the resolution are not perfect; no budget ever is. Many of the figures and projections are surely subject to some change. It may well be that this Senator from Nebraska will support some specific increases that likely will be brought to the floor. For example, moderate additional authorizations in defense spending, but only—I emphasize only—on the basis of controlling expenditures to protect our pledge on restraint of deficit spending in fiscal 1980 and a true balanced budget in 1981.

However, that is not the issue now before us. The issue is whether the Senate will take action to back up its own rhetoric on reducing the deficit and balancing the budget. The time for a vote for fiscal restraint is upon us, and I urge my colleagues to vote accordingly.

I thank the Senator for yielding.

Mr. MUSKIE. I thank my good friend from Nebraska.

Mr. President, at this point, I yield to my friend from New Mexico (Mr. DOMENICI), a member of the Budget Committee who has devoted a great deal of time to the issues involved in the budget process over the full life of the process. We do not always agree, but we do certainly agree on the need for fiscal restraint. I appreciate his support in that respect on this resolution. I yield him 10 minutes.

Mr. DOMENICI. Five minutes will be fine, Mr. President.

Let me say that while we might not agree on the specifics, Mr. President, we agree here today. There is no question about that. We agree, I believe, that the Budget Committee has a rather exceptional responsibility at this time in America's history, when there is such grave doubt about our economy, about whether it will work; why we have 13 percent and rising inflation; why the prime interest rate is 13 percent, the highest in history, and going up higher. We agree that that means that the Committee on the Budget has a special and significant role.

I believe, Mr. President, that because of that, we did something rather dramatic, different, difficult, unusual, when we passed this second concurrent resolution out of committee and brought it to the floor as it stands before the Senate today.

Mr. President, I am pleased to speak in strong support of the second concurrent budget resolution and the concept of reconciliation process embodied within the Resolution.

While I intend to sponsor an amendment to the final spending and revenue figures of this resolution, I do so because I believe that political realities will force this Congress to have a tax cut next year. The resolution fails to accommodate a tax cut. And, further, it is my judgment that any such tax cut ought to be accompanied by a spending cut. This would lessen the inflationary impact of a tax cut and would most accurately reflect the will of the majority of Americans.

As far as the basic premises of the second concurrent resolution go—fiscal restraint, increased commitment to the two great national problems of energy and national security, and reconciliation—I stand in strong support. Inflation and energy prices played havoc with many of the initiatives that our Committee advocated in the first concurrent budget resolution this past spring. Because of the indexed nature of many federal programs, inflation has boosted the projected deficit of the second resolution. This occurs despite our committee's commitment to restraint. Like many others on the committee, I would have preferred less spending and a smaller deficit. Indeed, I voted for those two concepts during deliberation on this resolution in July. However, the committee has adopted a resolution that I believe is the most reasonable one that we could have achieved under the political and economic circumstances we faced.

Let me speak briefly about, first, the political circumstances surrounding the committee's deliberations in July. The most obvious political pressure was that exerted by the OPEC nations. These nations joined together to raise oil prices dramatically in the time frame between approval by the Senate of the first concurrent budget resolution and committee deliberations on the second resolution. The "politics of oil" thus hung over the committee as it attempted to devise a reasonable strategy for 1980 spending. As the committee report points out:

> The economic outlook has worsened because of the unanticipated acuteness of the energy problem and, to a much lesser degree, because of the continuation of rapid inflation in food prices . . . The burden of higher energy prices in 1979 fully accounts for the downward revision in the growth of real output in the forecast.

In short, Mr. President, we are paying now, literally paying now, for the shortsighted policies of the past. Another political pressure was purely domestic. Some members of the Congress fear the recession. They believe that we should prime the public pump, pouring moneys into domestic programs in order to achieve goals they believe are necessary. As a longtime member of this committee, I have seen us succumb to that kind of reasoning in the past. I have seen us pour money into antirecessionary pro-

grams that sounded logical, only to see the money enter the economy after the downturn had passed. This late entry of funds not only failed to really help unemployment, but ended up making inflation worse. It was, briefly, counterproductive at best and catastrophic at worst.

The committee's decision to continue to put the emphasis on combating inflation—the most serious economic evil we face—is not only good policy, but courageous policy. The committee continues to keep faith with the American people, who are so sorely taxed not only through the Tax Code, but through the hidden and more insidious tax of inflation.

It is in this area, the area of keeping faith, that the core of this budget resolution will face challenge. If this Senate repudiates the spirit of the first concurrent budget resolution by rejecting the reconciliation recommendation of this second resolution, the Senate will have failed to keep faith with the American people. Inflation is raging at an unprecedented peacetime level. American taxpayers will face the largest, effective, peacetime tax increase in history in 1980. Reconciliation sounds like a complicated concept, but it is really very simple: Does the Senate have the courage to cut back on its spending or not?

I am told by my more cynical friends that reconciliation may fail because the American public does not know what it is. They tell me that special interest groups who will benefit by large increases in Federal spending have organized in an unprecedented effort to defeat the Budget Committee. They say that this combination of an unalerted general public and a mobilized special interest spells certain defeat. That may be true. It may be that the voice of the taxpayer will be ignored in the Senate. It may be that those who prosper from Federal programs will prevail. But, I believe it is the duty of the Budget Committee to join the fight on the floor and to do all it can to let the general public know just what stakes we are fighting about.

Failure to approve the reconciliation instruction will mean a higher deficit by about 15 percent in 1980. Failure to approve that instruction will mean more inflationary pressure. Failure to approve this instruction will mean higher unemployment, in the long run. And, above all, failure to approve the spending restraint that this instruction requests will mean that those in our society who believe that the Congress cannot and will not discipline itself will have been given powerful evidence that they are right.

I remember an earlier debate this year, when we were told that we needed no statutory spending limits. We were told that the Congress would react and would limit spending without either a new law or a constitutional amendment. Well, we now have a chance to see if that is true. If the Senate approves the reconciliation instruction, those who have argued that the Congress will be responsible will be proved right. If the Senate disapproves the reconciliation instruction, then these critics of the Congress—who argue for an imposed spending limitation—will be proved right.

In my more than 6 years in this body, I have never seen a clearer battle line drawn. Will the general public be heard and heeded in this debate? Or will the special interest groups be heard? Will the Senate keep faith with the will of the people for less Federal spending and less inflation? Or will the Senate fail to keep that faith and repudiate the very fiscal restraint that it approved in public view last spring when it adopted the first concurrent budget resolution?

I should add that while the reconciliation process is the focus of the second concurrent resolution, the resolution has also responded to the need for new energy initiatives. We have had dramatic evidence since 1974 of the dependence of the well-being of our economy on a reliable supply of reasonably priced energy. America must continue its fight for energy self-sufficiency. By leaving sufficient budget authority in the energy function in the second resolution, the Budget Committee and the rest of the Senate have enough room for a full debate on the scope and size of future energy programs. This is a responsible position and one that the committee reached after full deliberation.

In the area of national defense, the second resolution recognizes that this Nation is in serious danger of allowing her security to be compromised. On my motion, the Budget Committee adopted spending levels for fiscal year 1980 in national defense to accommodate the kind of strong effort in strategic weaponry that the 1980's and beyond will demand. We have also adopted my recommendation for full funding of these strategic programs in the 1981–84 period. I believe that the committee's action in this critical area should be reassuring to the American people: We are committed to a strong and free America and we are willing to sacrifice to keep that commitment.

Finally, the committee's resolution keeps intact the goals of a balanced budget in fiscal year 1981 and provides for large tax cuts in future years. This is a good policy, necessary policy, and a policy that the American people want enacted.

In conclusion, Mr. President, I congratulate Senator MUSKIE, our chairman, and Senator BELLMON, our ranking minority member, for their real courage in what may have been one of the most difficult times for our committee. We are in an unstable economic climate. Our basic energy resources are subject to either supply disruption or oppressive price increases beyond our control. Inflation and taxes have reached intolerable levels. In this economic climate, and in a social climate in which the average citizen has so little faith in his Government, the action of these two Senators in leading the committee was exemplary and reassuring.

Mr. President, it is obvious that we have to do something different with the budget of the United States of America and the role of the U.S. Government in spending money and using our citizens' resources. If we do not believe that it is time for us to do something different, then it seems to me we would have to be willing to concede that nothing can be done and that we are to have some more business as usual around the Congress and just decide that, rather than address the issue, we are just going to go along our merry way, letting the deficit increase from the first concurrent to the second, and discuss it on the basis that, the first concurrent is just some targets; we hope you all follow them.

Changing times require that the second concurrent change dramatically. Having said that, let me say there are many people who did not think that in our first concurrent resolution, the first set of targets was adequately low. Let me say we know they were historic because, for the first time, indeed, the trend line of growth was down for the entire budget.

How is that? People will say, it is up; how is it down? Well, it was less than inflation as an add-on. That is historic. That means if things are working right, the Government is going to do a little bit less than it did the year before, have a few less people working for it, have a bit less to spend in programs in terms of real dollars.

That is what was significant about the first one, that we did not let the whole Federal budget grow even as much as inflation.

Having done that, we came along and went into the second concurrent with a lot of problems: A new energy program, a new energy policy the President had just articulated—or, even after we had debated it, he articulated his new energy policy, the fourth in a few years; a new windfall profits tax with all its impact; a major synthetic fuels program, with all of its impact.

Yes, all of those, but we had a couple of other things happen. That is that, even without those new things, those new relationships, the authorizing and appropriating committees of the Senate, even before they are totally finished with their work, give a clear indication that we are going to abandon that trend line and that we are going to spend somewhere between $4 billion and $4.2 billion more than that first concurrent resolution contemplated, even if we allow for the added inflation.

Having said that and having described the dilemma that way, the committee, in my opinion, properly went back into this Budget Reform Act and found a precise mechanism contemplated for these times, the mandatory reconciliation approach, which the committee then proceeded to vote in by rather a large margin and bring it to the floor.

In a nutshell, it said, in general words, we are going to keep faith with the American people, that the core of the budget resolution will face challenge, but we felt that the first resolution set a good pattern, gave Americans hope of a balanced budget in 1981 and a commitment to less rather than more government, especially where it is not working.

So we said, let us not turn our backs on that; let us remain consistent with that challenge. The reconciliation then directs that this institution, in short or-

der, cut back where it has exceeded that proposal that I have just described, found in the first concurrent resolution. We may, before we are through, have to depart here and there a little bit, but let me urge, as I am sure our good chairman has, that the basic format be retained and that we not let ourselves get out from under that discipline afforded by that reconciliation resolution. If we have to change or modify because of this great institutional debate, and some think differently than others and we finally have to vote, then let us minimize the departures from it, both in substance in terms of dollars and in terms of the effectiveness of causing a cutback or, at least, dictating as an institution, to ourselves, that we are going to cut back. Unless we do this, then I believe that we have truly let America down and I honestly believe that if the Senate wants to totally wreck this resolution, they are, indeed, risking wrecking the budget process.

Maybe it is not the third strike, but it is close, because if we cannot exert some discipline in this kind of economic times, when the American people are with us—there is no question about that. We know that they want a balanced budget in short order and we can argue as to whether they are misinformed or properly informed. They want that. That, at least, gives us the encouragement to discipline the American Government's propensity for growth and expenditure of tax dollars well beyond what we want to collect and have the ability to collect from our people.

We must do that now. The opportunity will not be as ripe or as supportive, in fact, if we do not use the budget procedure this way, this time, it appears to me.

I say to my good chairman, we have together at various times thought we were falling into the role of becoming accountants. As he recalls, we said in hearings that they will send us what they want and we will add it up for them.

We have got to get out of that because the propensity for sending up the wrong kind of accounting requirement and requests is not relinquishing, it is getting bigger. The American people are getting more concerned and more worried.

So it is ripe for us to do what is right. I believe the Senate will be making a tremendous mistake, and individual Senators will be making tremendous political error, if they want to wreck this reconciliation process.

I hope the chairman and others will give them the opportunity to stand up and be counted at this particular time in the life and history of the budget process for the U.S. Congress.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. Mr. President, I thank my good friend from New Mexico.

There is no question but we have arrived at that time and we will all have to make decisions. I think that is just as well.

Mr. President, I expect there are other opening statements. But I see no Senators on the floor who were planning to do so.

Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment offered by the Senator from Maine.

Mr. MUSKIE. Mr. President, I understand the distinguished Senator from South Dakota has an amendment. He has been patiently waiting until all opening statements were concluded.

The PRESIDING OFFICER. Until the time has been yielded back or used on the pending amendment, the substitute, other amendments would not be in order.

Mr. McGOVERN. Mr. President, if the chairman will yield, would it be in order to call up the amendment now, but not press for a vote until the time has been used on the substitute?

The PRESIDING OFFICER. With unanimous consent, that certainly can be done.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. Is the Chair ruling that the amendment I called up is not subject to amendment?

The PRESIDING OFFICER. Until the time has been used or yielded back, that will be correct, although with unanimous consent other amendments could be taken up and discussed.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the time on the pending amendment be reserved until later so Senator McGOVERN may call up his amendment at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McGOVERN. I thank the Senator, the distinguished chairman of the Budget Committee (Mr. MUSKIE).

UP AMENDMENT NO. 555

(Purpose: To strike the reconciliation requirement that the Committee on Agriculture, Nutrition, and Forestry recommend a reduction of $100,000,000 in the nutrition programs (Function 800))

Mr. McGOVERN. Mr. President, I have an amendment and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN, for himself and Mr. DOLE), proposes an unprinted amendment numbered 555.

Mr. McGOVERN. 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 2, strike the matter proposed to be inserted by the Senator from Maine and others in Sec. 1(a) with respect to the reconciliation instruction to the Agriculture Committee (lines 1–13) and

On page 10, line 9, strike "$216,600,000,000" and insert in lieu thereof "$216,700,000,000."

On page 10, line 10, strike "$188,700,000,000" and insert in lieu thereof "$188,800,000,000".

Mr. McGOVERN. Mr. President, I am introducing this amendment on behalf of myself and the Senator from Kansas (Mr. DOLE).

First, let me state at the outset that I greatly appreciate and admire the diligent and constructive work that has been done by the chairman of the Budget Committee (Mr. MUSKIE), the ranking minority (Mr. BELLMON), and other members of that committee.

I am a strong supporter of the budget process which they represent. I fully recognize the need to have one committee that looks at the larger picture, the sum total of the work of the various authorizing committees.

There is no question in my mind that the Budget Committee has made a great contribution to helping the Senate do its work in a responsible way.

Having said that, I would like to underscore that I recognize the budget process as one that has forced all of us to look at our actions in perspective and to keep in mind the effect of our individual action on the total budget.

It has also provided the opportunity for ongoing oversight of the operation of the various programs in our jurisdiction, and it has made the Congress more successful in responding to the President's budget proposals.

That is why the amendment that Senator DOLE and I offer here today has been drafted very carefully, and I think one can say very narrowly.

Amendment No. 407 is not a budget-busting amendment. It would increase the Budget Committee's deficit recommendation of $28 billion to $28.1 billion.

Mr. President, I know that every Senator is anxious to go on record in making whatever cuts we can in the cost of Federal programs. But we have to be careful in making those reductions that we do not set the stage for even larger outlays on the part of the American public later on.

I firmly believe, and I hope we can demonstrate in the course of these deliberations, that saving $100 million now in the child nutrition programs of this country would in the long run set the stage for even greater costs down the road.

It has been my growing conviction for the last 10 years that the money we spend on the nutritional health of our people, and especially of our children, tends to reduce the cost of illness and poor health in later life.

Just to illustrate what I am talking about, it would be comparatively easy for a given family to reduce their immediate expenditures by refusing to insulate their homes, even in a cold climate. But that saving in costs from not insulating sets the stage for greater fuel bills later on.

So it is with nutritional cuts that would tend to weaken the nutritional health of our children in their formative years when young minds and young bodies desperately need a balanced diet.

I do not think there is any program on the statute books that has any greater payback in dividends to the American people than the school lunch program.

We have made a number of reforms in that program recently to make it a tighter, better run program. But I do not think it is in our interests for us to try to squeeze out another $100 million in cuts below those already recommended by the Committee on Agriculture, Nutrition, and Forestry.

The President's budget for 1980 called for reductions of over $500 million in the child nutrition budget. That was the largest cut ever sought by any President in the area of child nutrition and, as a result, the Nutrition Subcommittee held oversight hearings on the budget before we submitted our March 15 report.

What we were trying to find out in the hearings was the merit of the proposed reductions.

Subsequently, the committee, in its report to the Budget Committee, said it would support the President with regard to the summer food program.

The committee agreed to support the President with regard to the special milk program and to make some savings there.

We had already agreed to a reduction in the so-called WIC program, the program for supplemental feeding for women, infants and children.

Of the $528 million in reductions sought by the President in the area of child nutrition, our committee agreed to $207 million of the reductions, or approximately 40 percent, thus showing, I think, a reasonable good faith effort to the budget process and the economic concerns of the Nation.

The Senate Committee on Agriculture made a considerable concession in agreeing to reductions of $200 million in programs that all us believe in: The special milk program, which is not easy to vote against; the summer feeding program for summer youth programs; and the special program of supplemental foods for women, infants, and children.

In addition, the Senate Committee on Agriculture did not stop there. After listening to the General Accounting Office testify that "the Department has little convincing evidence to support their proposed modifications in the school lunch program," the committee then reported, and the Senate agreed to, Senate Resolution 90. Under that resolution, the Secretary of Agriculture is requested to conduct a comprehensive analysis of the school lunch program and the breakfast program, to try to answer some of the questions raised by the General Accounting Office and others about these proposed cuts.

In short, Mr. President, I believe that the Committee on Agriculture has made a good faith effort to comply with the Budget Committee; but I do not believe that we are supposed to take action to curtail a program before we feel assured that such actions will not have a detrimental effect on millions of school children. In other words, are the possible losses greater than the temporary minor gain that we can show in budget cuts?

In my opinion, of all our programs designed to help people, the Nation's nutritional programs have been the most successful. If you want to find a real success story in American Government, look at what has happened on the nutritional front in this country during the last 10 years, especially in the areas of child nutrition.

Many of the programs that were developed during the 1960's and the 1970's in other areas of our society have come under great criticism lately as being inefficient and a waste of taxpayers' money, but that generalization absolutely does not apply to the Nation's nutritional programs. This country can be proud of the commitment we have made to feed the hungry, and we can be proud of the accomplishments we have achieved during the past decade in accomplishing that goal. The Nation's nutritional programs do work, and they work very well indeed.

When a team of medical doctors of great prominence recently testified before the Nutrition Subcommittee, summarizing the findings of their 10-year followup on examining the health and nutritional status of people in various counties they told the subcommittee:

> Our first and overwhelming impression is that there are far fewer grossly malnourished people in this country today than there were 10 years ago . . . the facts of life for Americans living in poverty remain as dark or darker than they were 10 years ago. But in the area of food, there is a difference. The food stamp program, the nutritional component of Head Start, school lunch and breakfast programs and, to a lesser extent, the women-infant-children feeding programs have made the difference.

Notwithstanding these findings, we are being asked to make substantive changes in a program when, frankly, we do not appreciate the consequences of that action.

Currently, all students participating in a school lunch program, regardless of family income, receive a Federal subsidy of approximately 32 cents—17 cents in cash and 15 cents in Federal donated commodities. That goes to all children, without regard to their income levels. It is not a welfare program for the poor but a nutritional program for all children—rich, poor, and in the middle. It is this Federal assistance which is primarily responsible for the success of the school lunch program in the United States.

It has maintained a ratio of participating poor children vis-a-vis nonpoor students at approximately 50–50. Fifty percent of the students participating in the school lunch program are receiving a free or a reduced price lunch because they are poor, and 50 percent, the nonpoor, if I may use that phrase, are receiving a full priced lunch.

As a result, not only is the middle class receiving some assistance in the form of this 32-cent subsidy I have talked about, it has prevented the school lunch program from being viewed as a welfare-type program, with the concomitant administrative and social consequences of that.

The President's proposal to reduce the subsidy to nonpoor students, these middle-class youngsters—which is the basis of the Budget Committee's reconciliation instruction to the Agriculture Committee—is a dangerous precedent that may do much more than simply raise the price of a school lunch by 5 cents to middle-income children:

It may eliminate millions of children from the program.

While the Department of Agriculture admits that reducing the subsidy by 5 cents will force hundreds of thousands of children out of the program, the American School Food Service Association, which has great expertise in this field, predicts the figure to be in the millions.

It may eliminate the entire program in marginal school districts where it no longer would be economically viable.

Anyone who is familiar with the plight of our schools in the countless communities across this country knows that they are operating on very tight budgets. When you change the ground rules just as a new year is getting underway, there is no way of knowing what the impact of that change is going to be.

The school lunch program, after all, is not a compulsory program; it is not mandated. Schools participate in that program only if they believe that the program is economically feasible—that is, if there are enough participants to pay the overhead costs.

Furthermore, the action recommended by the Budget Committee may serve as a precedent for a policy redirection that eventually will eliminate all Federal support to nonpoor children, turning the school lunch program into a welfare program for the poor alone.

When testifying, the Department of Agriculture could not guarantee—and I am sure that the Budget Committee cannot guarantee—that if we reduce the Federal subsidiy by 5 cents, it will not become a precedent for future reductions.

In addition, the lower the participation in the program, the less capability we have to dispose of surplus agricultural commodities. This is another factor that should be kept in mind by Senators from the farm States. For many years, these nutritional programs have been an important outlet for the produce of our farms. One can only speculate on the hundreds of millions of dollars of increased income that these programs have made to the farmers of America.

The distinguished chairman of the Agriculture Committee who is here in the Chamber is thoroughly familiar with the contribution, I know, that has been made over the course of time by these various food programs, including the child nutrition program and the school lunch program.

These are the various types of concerns that I have. That is why the Senate passed Senate Resolution 90, which was sponsored by Senator DOLE and myself.

That is why I urge the Senate to let our committee act judiciously and responsibly and to adopt this amendment, to Senate Resolution 36 striking section 4. The section number may have to be adjusted, Mr. President, to fit the new language in the substitute version of Senate Resolution 36. I ask unanimous consent that my amendment be adjusted to correspond with the new numbering system in the measure now pending.

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

Mr. McGOVERN. Mr. President, I hope that Senators will think carefully about this amendment. I fully believe that what Senator DOLE and I are attempting to do here today will, in the long run, save the country money.

I end on the note I began that there is no wiser investment that this country can make, none that will return any greater dividends in the form of improved health and improved productivity, even in improved academic performance, than sustaining the school lunch program at the level recommended by the Committee on Agriculture, Nutrition, and Forestry.

Mr. TALMADGE. Mr. President, will the distinguished Senator yield?

Mr. McGOVERN. I yield to the distinguished chairman of the Committee on Agriculture.

[Disturbance in the visitors' galleries.]

The PRESIDING OFFICER. The Senate will suspend until the Sergeant at Arms restores order in the gallery.

Mr. TALMADGE. Mr. President, I thank the distinguished Senator from South Dakota.

Mr. President, I support amendment No. 407, which is being offered by Senators McGOVERN and DOLE. This amendment would strike section 4 from the second concurrent resolution on the budget for fiscal year 1980, which directs the Committee on Agriculture, Nutrition, and Forestry to report promptly its recommendations for 1980 savings of $100 million in budget authority and outlays.

My decision to support this amendment was not casually arrived at. It required a great deal of thought. I have been and continue to be a strong supporter of a balanced Federal budget. I can appreciate and concur with the Budget Committee's concern over the deficit. Federal programs for which cuts are justified, should be cut. However, that is not the situation that this amendment addresses.

The Committee on Agriculture, Nutrition, and Forestry has been a conscientious follower of the Budget Act. The committee, through the Subcommittee on Nutrition, held hearings on the administration's proposed cuts in the child nutrition programs that were contained in its budget recommendations. The witnesses at those hearings included representatives of the Department of Agriculture, the General Accounting Office, and interested individuals and organizations. The hearing record raised more questions than it answered. It became obvious that there were gaps in the available data on these programs. Since we could not anticipate with any degree of certainty what the consequences of the adoption of these proposals would be, it was decided to inform the Budget Committee in the March 15 report that the committee did not intend to reduce the reimbursement for paying students in the school lunch program or to reduce the eligibility guidelines for free or reduced price school meals. As a result of comprehensive, good-faith oversight the committee also informed the Budget Committee of its support for the $50 million reduction in the funding for the WIC program, which passed the Senate as part of S. 292, and for the administration's proposals with regard to the special milk program and the summer food program.

In recognition of the need for better data on the school feeding programs the Agriculture Committee reported and the Senate passed Senate Resolution 90. That resolution requests the Secretary of Agriculture to make a comprehensive study of the school feeding programs. The study is underway and will provide the information that we need to responsibly legislate.

While section 4 of Senate Concurrent Resolution 36 does not specify how the $100 million savings are to be accomplished, as a practical matter the Committee on Agriculture, Nutrition, and Forestry would be limited to considering cuts in the child nutrition programs. In a short period of time, since the resolution would require the committee to report its recommendations promptly, it would seem that the only available alternative would be to recommend the administration's proposed five-cent reduction in the reimbursement for paying students.

I would like to correct a misconception that has been voiced in the media. This is not the first time that the reconciliation process has been invoked by the Budget Committee, the second concurrent resolution on the fiscal year 1978 budget, as reported by the Budget Committee, contained instructions to the Agriculture Committee to reduce spending. That provision was removed on the Senate floor. Thus, there is precedent for amendment No. 407. And just as there were compelling reasons in 1977, there are equally compelling reasons now.

The adoption of section 4 of the resolution would force the Agriculture Committee to legislate in the absence of all the facts. The desire to get all the facts was the reason for the adoption of Senate Resolution 90. The situation has not changed. I do not believe the catchwords of "fiscal responsibility" should force us to legislate irresponsibility.

I have long been a supporter of the school lunch and breakfast programs. The State of Georgia has been a leader in both of these fine programs.

The school feeding programs work and have had a tremendous amount of local support. It is unwise to jeopardize the worthwhile contributions of these programs for anticipated short-term savings.

These programs stand on their merits. The Committee on Agriculture, Nutrition, and Forestry has conducted a thorough, good-faith examination of the administration's proposals. I have been presented with no compelling reason to short-cut the legislative process, through implementation of the reconciliation process, in regard to these programs.

I thank the distinguished Senator from South Dakota who has done an outstanding job as chairman of the Subcommittee on Nutrition of the Agriculture, Nutrition and Forestry Committee.

Mr. McGOVERN. Mr. President, I thank Senator TALMADGE for his thoughtful presentation here and his support for this amendment.

His support of this amendment convinces me of its soundness.

Mr. President, I yield the floor.

Mr. MUSKIE. I would like to ask the Senator from South Dakota if he would object if at this time we put his amendment aside briefly to engage in a colloquy with the distinguished Senator from Iowa (Mr. JEPSEN)?

Mr. McGOVERN. I have no objection.

Mr. MUSKIE. Mr. President, I ask unanimous consent that we set aside the McGovern amendment briefly—I do not think it will be more than a few minutes—so that I can engage in a colloquy with Senator JEPSEN which is of some importance to him, and I yield myself such time on the bill as may be necessary to conclude the colloquy.

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

Mr. JEPSEN. A few months ago the Senate voted on a sense of the Senate resolution which prohibited HEW from denying AFDC and medicaid entitlements from the poor and the elderly, as a result of HEW's failure to comply with the spirit of the "Michel amendment."

As you may remember the "Michel amendment" required HEW to cut waste, fraud, and abuse by $1 billion in AFDC and medicaid payments in fiscal year 1979. I sponsored that resolution to protect the States from an arrogant, bloated, insensitive bureaucracy which ignored the will of the Congress, and who, in final desperation, sought to protect its own interests by denying entitlements to legal recipients.

Will the reconciliation instruction to the Appropriations Committee affect the legal entitlements for AFDC and medicaid recipients, particularly in reference to the Senate resolution I sponsored? What will be the ramifications for the fiscal year 1980 AFDC and medicaid appropriation?

Mr. MUSKIE. The Budget Committee's recommendations assume legislative savings of $300 million in budget authority, and $1.7 billion in outlays by the Finance Committee. As examples—and only as examples—of areas where savings could be made, the committee's suggestions included the medicaid and AFDC programs.

The medicaid assumption would not affect the benefits of legally entitled persons. The recommended savings assume enactment of hospital cost containment legislation which simply induces hospitals to reduce future increases in costs by adopting more efficient and economic methods of operation.

No individual's eligibility for hospital care would be affected. In fact, the second resolution provides for increases in medicaid funding by providing $0.2 billion for benefit improvements for certain low-income children and pregnant women.

With regard to AFDC, Mr. President, I can assure Senator JEPSEN that the Budget Committee did not envision that the savings would be achieved by denying AFDC benefits to people legally entitled to them. Rather, the committee assumes that modest changes would be made in the AFDC program to eliminate low priority payments to people who are not

truly needy. For example, savings could be achieved by making the work expense deduction provisions the same for all AFDC recipients. This provision was already passed by the Senate in the 95th Congress.

Mr. JEPSEN. I thank the Senator.

I also received a number of inquiries from Iowans representing the interests of children, those inquiries being from people who are concerned about the school lunch and special milk program.

In regard to the school program, the Agriculture Committee did not recommend any change in the school lunch program until a study of the program is made by the Agriculture Department.

In fairness to the Agriculture Committee and to the Department of Agriculture's forthcoming study, would it not be wise for the Senate to take a wait-and-see attitude on school lunch?

Mr. MUSKIE. I will undoubtedly address this question further in connection with the debate on the McGovern amendment.

May I say at this point that the Budget Committee recommendations assume legislative savings of $0.1 billion in budget authority and outlays from programs within the jurisdiction of the Agriculture Committee, all programs.

As examples of possible areas in which these savings could be achieved, the committee suggested cutting the subsidy for school lunches by 5 cents for nonneedy students. This change was proposed by the President. This modest change would have no effect on very poor children receiving free and reduced price lunches. The effect of the proposal would be to reduce by 5 cents the Federal lunch subsidy for children in families whose income is above 195 percent of the proverty level. In the case of a family of four, the proposal would affect only children in families with income above $13,940. Nationwide, the cost of a lunch for these nonpoor children would be increased from roughly 60 cents to 65 cents.

Let me emphasize, however, that the $0.1 billion in savings does not have to be achieved in the school lunch program. The Budget Committee's assumptions as to what legislative changes could be made are not binding. The Agriculture Committee can recommend changes to achieve the savings in other programs under its jurisdiction.

I know that finding the $0.1 billion in savings will not be easy for the Agriculture Committee. However, these are the same savings that were assumed by the Senate in the first resolution and they must be achieved if the Senate is to meet its commitment of reducing the deficit for fiscal year 1980.

Mr. JEPSEN. In regard to the special milk program, the Agriculture Committee as of July 27, 1979, recommended that no special milk savings be assumed for the second concurrent resolution, on the grounds that the Senate had already rejected cuts in the program.

That being the case—why is the Budget Committee recommending that the Agriculture Committee assume more savings in the special milk program?

(Mr. BAUCUS assumed the chair.)

Mr. MUSKIE. Let me say here what I said in response to the Senator's earlier question. These recommendations to which the Senator refers are simply a reminder to the Senate of savings that were assumed in the first budget resolution. If committees desire to make the savings in other areas—that, of course, is their prerogative, and the Budget Committee cannot remove that prerogative.

With respect to this particular program, the reconciliation instruction goes to the Appropriations Committee rather than to the Agriculture Committee, and it requires savings of $2.9 billion in budget authority and $2.5 billion in outlays.

Among the examples suggested by the Budget Committee as areas in which $0.1 billion of the savings could be achieved was the elimination of the special milk program in schools that have school lunch and breakfast programs. A little history may be useful. When the special milk program began, the school lunch program was in its infancy and many schools were not equipped to offer federally subsidized meals. The special milk program was a way to insure that children in such schools could at least receive milk. Now, roughly 90 percent of all schools have federally subsidized meal programs (which include milk), but there has been no reduction in the special milk program to take this into consideration.

However, let me emphasize that the $0.1 billion in savings does not have to be achieved in the special milk program. The Budget Committee's assumptions as to what legislative changes could be made are not binding.

Let me emphasize even more strongly that the Senate agreed to these same assumed savings in the first resolution. If it is decided not to make changes in the special milk program then comparable savings must be achieved in other programs. The Budget Committee cannot and should not dictate how the savings will be achieved—it can only make suggestions.

However, I must point out again that the assumed savings must be achieved in one way or another if we are to accomplish the objectives of reducing the deficit and moving toward a balanced budget.

Mr. JEPSEN. I thank the Senator. You have answered my questions, and I would like to commend again your distinguished work on what may set the stage for many years to come in the next couple of days in this budget resolution being here in the Senate.

Mr. MUSKIE. I thank my good friend from Iowa.

Mr. President, do we now return to the McGovern amendment?

The PRESIDING OFFICER. That is correct. Who yields time?

Mr. MUSKIE. How much time is left on this amendment?

The PRESIDING OFFICER. The Senator from Maine has 30 minutes remaining. The Senator from South Dakota has 3 minutes remaining.

Mr. MUSKIE. Mr. President, I do not expect to use the full 30 minutes, although I often surprise myself by the amount of time I consume in a vigorous debate.

I have been interested to listen to my good friend from South Dakota (Mr. McGOVERN) and the distinguished chairman of the Agriculture Committee (Mr. TALMADGE) with respect to the budget resolution and the instruction that is directed to the Agriculture Committee.

First, it is implied that one must vote for the McGovern amendment if one is for the school lunch program. Mr. President, I have been for the school lunch program thorugh all of my public life, or that part of it which has seen the school lunch program come into being and grow, and perform the very useful and high priority public function that Senator McGOVERN describes. I am for the school lunch program, whatever has been implied to the contrary in this debate.

Second, if one is to accept the thesis which is implicit in the argument that has been made, then one must not ever reduce any program, whatever the implications to the national debt or the national budget or the national economy, unless one wishes to be labeled an opponent of whatever program is reduced, whether it is defense, school lunches, education, health, or whatever.

In other words, the Budget Committee, by its very existence, logically opposes every program in which it suggests restraint or reduction, however meritorious.

I doubt that any Senator would wish to serve on the Budget Committee if that is the assumption that is to be made with respect to his service. We are not talking about eliminating the school lunch program. We are not even talking about significantly reducing it and, indeed, we are not even talking about establishing a precedent for future destruction of the school lunch program. To accept that logic is to say that if the Senate were to vote for the reconciliation instruction, what the Senate is voting for is an eventual elimination of all Federal spending, and nobody advances that ridiculous thesis in connection with the budget resolution. We are talking about the modest goal of holding Government spending as a percentage of gross national product to 22 percent.

To argue that by holding it to 22 percent we are presuming to eliminate in the future all Federal spending is, I think, reductio ad absurdum taken to an extreme. The McGovern amendment, on its face, says this:

> Purpose: To strike the reconciliation requirement that the Committee on Agriculture, Nutrition, and Forestry recommend a reduction of $100,000,000 in the nutrition programs.

Mr. President, let me read the proposed instruction. There is no mention in the instruction of nutrition programs, but rather it reads as follows:

> Pursuant to section 310 of the Congressional Budget Act of 1974, the Committees on Agriculture shall reduce spending for fiscal year 1980 in reported or enacted laws, bills, and resolutions by $100,000,000 in

budget authority and $100,000,000 in outlays and are instructed to report promptly their recommendations for changes in new budget authority for fiscal year 1980.

There is no mention in that proposed legislative language of nutrition programs. Rather, the instruction imposes upon the Committee on Agriculture the responsibility, which I submit rests upon every committee of the Senate, to do its part in holding down Federal spending. And what is its part? All programs in the Agriculture Committee's legislative jurisdiction total $13.2 billion in outlays. Now we are told it is unreasonable of us to ask the Agriculture Committee that, out of that $13.2 billion, it should find $100 million in savings. That $100 million is eight-tenths of 1 percent of $13.2 billion; that request is being interpreted here on the floor of the Senate as an attempt ultimately to destroy the school lunch program.

It is a long time, Mr. President, since I took courses in argumentation, debate, and logic, but that kind of a thesis would have been ridiculed in the first-year class. What we are asking for is a minuscule amount of restraint from the Agriculture Committee, as well as from the other committees of the Senate.

If we cannot do that, if it is unreasonable for us to ask that of the Agriculture Committee, then how could anyone stand here and successfully argue that what we are asking other committees is reasonable? If it is unreasonable to ask the Agriculture Committee to find $100 million in savings, how is it reasonable of us to ask the Appropriations Committee to find $2.5 billion, or how is it reasonable for us to ask of the Veterans' Committee to find $100 million, or to ask of other committees—and they are mentioned in the instruction—to find the savings which they are asked to find?

There is not a reasonable proposition in the reconciliation instruction if this one to the Committee on Agriculture is unreasonable. And if the Senate should endorse the McGovern amendment, I can think of no good argument as to why the Senate should not disregard the reconciliation instruction.

The argument is—and I heard this from the distinguished chairman of the Agriculture Committee—that we will be shortcutting the legislative process—I do not know that "shortcutting" is the word he used—if we were to agree to this amendment.

Well, heavens to Betsy, Mr. President, is not the Budget Act part of the legislative process?

Is he not really arguing that it is better to shortcut the budget process and destroy it than to make a modest request of the Agriculture Committee that it find eighth-tenths of 1 percent savings in its overall total of $113.2 billion?

So, Mr. President, I have undertaken at the outset to put in perspective the real significance of the reconciliation instruction, which has been misinterpreted as a mandate to cut $100 million from the school lunch program, and only the school lunch program, with no other option available.

That is not the reconciliation instruction. But let us look at the school lunch program and see whether it was unreasonable of the Senate, in May, to assume the very savings to which Senator McGovern addressed his attention.

In the first budget resolution, the Senate assumed legislative savings of $100 million in budget authority and outlays for fiscal year 1980. The Budget Committee had assumed these savings would be achieved through savings in the school lunch program, and that assumption was consistent not only with the vote of the Senate, but with the President's recommendations for savings in the school lunch program.

But now, as we remind the Senate of what it did in the spring, the Budget Committee is being asked to carry the onus of trying to destroy the school lunch program. The Agriculture Committee, I repeat, is not bound to achieve the savings by changing the school lunch program. It could achieve the savings from other programs under its jurisdiction, but it does not seem to be interested in even making the effort.

With regard to savings in the school lunch program, the Federal school lunch subsidy for non-needy children would be cut by 5 cents. I submit that change is a modest one. It would not affect needy children who receive free and reduced-price lunches. It would affect only those children whose families have income above 195 percent of the poverty line. That translates to an income of $13,940 for a family of four. It would not affect any children in families of four with incomes under that figure.

The proposal would increase the average nationwide price of paid lunches from roughly 60 cents to 65 cents. There would still be a Federal subsidy for paid lunches, but the subsidy would be reduced from roughly 32 cents to 27 cents.

In listening to the argument against that proposition and whether or not it is reasonable, one must put it in the context of this question: Are there no limits to the largesse of the Federal Government, no limits at all, no reasonable limits whatsoever? The argument against this change is not that that change would gut the program, but that it would lead to future changes that would gut the program.

It is as though the Senate does not have the capability or the compassion to distinguish between a 5-cent reduction in the cost of school lunches for non-needy children—that is, children whose parents have incomes of more than $14,000. In other words, the assumption is that this Senate or future Senates do not have the compassion or the sensitivity to distinguish between this cut and the future destruction of the school lunch program.

I submit, Mr. President, that the Senate does not have to vote on this issue on the basis of any such assumptions about its future. I do not think there is anything in the Senate's record to suggest that there is any basis for such an assumption about what the Senate may do in the future.

The Agriculture Committee has informed the Budget Committee that it opposes making the changes in the school lunch program which the President has recommended and the Senate assumed in the spring until a study of that program has been undertaken. I recognize that it is up to the Agriculture Committee to decide what changes and authorizations it wishes to propose. I have emphasized that. But, Mr. President, I cannot emphasize strongly enough that the Agriculture Committee's decision not to recommend school lunch program changes does not relieve that committee of the obligation to achieve the savings that were agreed to by the Senate in the first resolution. So if the Agriculture Committee insists on this amendment, it is making two decisions: One, it opposes the making of savings in this program; and, two, it refuses to make the effort to find the savings in any of the rest of its $13.2 billion for program authorizations. That is the conclusion I reach. And I have listened to all these words paying obeisance to the budget process.

Mr. President, we have come to a time when words are no longer sufficient. Action is necessary. If it is legitimate for the sponsor of this amendment to conclude that, because I am for trying to get these savings out, I am against the school lunch program, it is just as legitimate to conclude that, because he is against making these savings, he is against a balanced budget. I do not make any such claim.

Mr. President, when we are discussing matters as serious as a balanced budget, inflation, and the health of the economy, the resolution of the questions which divide us is not served unless we focus on the specifics of what is being proposed and the options that are available. All I am urging, all that the Senator from Oklahoma is urging, and all the Budget Committee is urging, is that we make the kind of effort that is implicit in this reconciliation instruction—that the country's vital economic interests require—and we try to meet the objective of saving enough in outlays to hold the deficit down below the 1979 figure. If any Senator thinks there is some easy place where that $3.5 to $4 billion can be saved, easier than the places where the Senate is being asked to make the effort, let him suggest it. Let him offer an amendment to that effect.

The McGovern amendment does three things: It strikes out the instruction to the Committee on Agriculture in order to relieve the Committee on Agriculture from making any effort whatsoever to achieve savings.

Second, it proposes an increase in outlays in this resolution by $100 million in order to provide that relief.

Third, it proposes an increase in the deficit of $100 million in order to provide that relief.

So, if this amendment is adopted, the Senate Committee on Agriculture is, in effect, saying to the country—we cannot find any way to relieve the taxpayers of $100 million of Government spending; we have not the ingenuity or the will. We do not want to cut the school lunch program, but we are not interested in looking beyond that to other programs under

our jurisdiction in order to hold the deficit down, to hold spending down.

I am not making this argument just for the benefit of the Committee on Agriculture, because the kind of discipline I am talking about bears on each of us, on every committee subject to reconciliation instructions, and on every Senator who has an interest in any of the priorities served by any Senate committee. Mr. President, there is no single place to find discipline. There is no discipline unless it exists everywhere. There is no discipline unless every committee and every Senator adopts some responsibility for it. There is no discipline just because the Budget Committee exists.

If the Senate does not want discipline, get rid of the Budget Committee, get rid of the budget process. Then we can spend what we like, the way we used to.

Mr. President, this will be the first vote. It is a key vote. If this amendment is successful, I would not dare predict what the deficit will be by the time we continue deliberation on this budget resolution. I am willing to stand by the results. I am not interested, as Senator DOMENICI put it earlier, to be just a counter, counting up the bills as other committees send them to us. Either the budget process represents discipline or it does not. There is no way of saying yes to everyone, even for such worthwhile programs as this one.

I do not think that, if the Agriculture Committee decided to achieve these savings in the school lunch program, we will have done a disservice to the country's interest. But that is not mandated. It is a suggestion, a suggestion with healthy precedents in this budget process.

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

● Mr. DOLE. Mr. President, I would first like to thank my distinguished colleague (Mr. MCGOVERN) for his continued efforts in the child nutrition area and attention he has brought before this body on the impact of nutrition in the school lunch program.

Mr. President, the administration's budget for 1980 called for a reduction of over half a billion dollars in the child nutrition budget. This is the largest cut ever seen in the area of child nutrition. As a result of this request by the President, the Committee on Agriculture, Nutrition, and Forestry through the Subcommittee on Nutrition undertook a thorough, good faith examination of this budget proposal. This effort included a request to the General Accounting Office to review, and where possible, evaluate the proposed changes.

As my distinguished colleague from South Dakota has noted, in the report to the Budget Committee, the Agriculture Committee agreed to support the President's request with regard to the summer food program, the special milk program, and the WIC program. This was an effort by the entire committee membership to help in resolving the Nation's increasing budget deficits.

SENATE RESOLUTION 90

The General Accounting Office testified before the Subcommittee on Nutrition on February 27 of this year and reported that "the Department had little convincing evidence to support their proposed modifications in the school lunch program."

The General Accounting Office also pointed to the lack of program information and evaluation material as a serious impediment to the consideration and evaluation of programmatic changes. The General Accounting Office was not alone in this observation. At the most recent USDA outlook conference, James E. Austin, associate professor in general management, Harvard Business School (who is a department consultant in program evaluation) summed up the Department's work in evaluating the feeding programs as follows:

> Although the breadth and magnitude of the Agency's nutrition programs have expanded tremendously, evaluation of these efforts has not. Evaluation has seriously lagged behind program growth. The absence of systematic and thorough program evaluation leaves policymaking on tenuous grounds. We do not know how well we are doing nor whether we could be doing it better.

The administration proposal raised several significant policy issues for the Nutrition Subcommittee. The committee could only find scant data to evaluate such a proposal and the data available to us was based on local samples and not on a national scale. In addition, the only reliable data available to the committee to review was outdated. During the course of the Nutrition Subcommittee hearings and that of the full Committee on Agriculture it became clear that we did not have sufficient program information or evaluation materials to come to an accurate conclusion of what the results or ramifications would be if the proposed administration change was put into effect.

In the March 15 report to the Committee on the Budget the Agriculture Committee stated support for the President's proposals with regard to special milk program and the summer food program. However, the committee reported that it did not intend to reduce the reimbursement or eligibility guidelines in the school lunch program. This recommendation and report was not one made randomly by the committee—it was established through the hearing process at which the administration, the General Accounting Office, and the public had opportunity to present their views and opinions.

As a result of the lack of information essential to carrying out the program effectively, I joined with Senator MCGOVERN in introducing Senate Resolution 90, requesting the Secretary of Agriculture to make a study of the programs administered under the National School Lunch Act and the Child Nutrition Act of 1966. This study would include aspects of the school lunch and breakfast programs in regard to: First, costs of the program; second, income of families participating in the programs; third, use of the programs for nutrition purposes; fourth, contribution of the program to the agriculture economy; fifth, income verification procedures; and, sixth, need for future legislative changes. This resolution passed the Senate on June 20 and hopefully will fill the void we now have in our present school lunch and child nutrition data.

IMPORTANCE OF THE SCHOOL LUNCH

For over 27 million students, the school lunch program serves as a safeguard for their health and well-being. For many of these students, the meal they receive at school may be the only nutritionally balanced and well-prepared meal they receive during the course of the day. The intent of all child nutrition programs conceived and enacted by the Congress, has been to provide those safeguards for health and to encourage the consumption of nutritious agricultural products. We have seen through the years the initial legislation of child nutrition, the National School Lunch Act of 1946, expand and become enhanced.

We have seen the additions of the summer food service program for children, child care food program, special milk program, school breakfast program, and the special supplemental food program for women, infants, and children (WIC). As stated previously, we have already agreed to cuts in some of these programs, however, the school lunch program is one which we must preserve and continue to the fullest extent.

Like my colleague from South Dakota, I am committed to making a cost savings in the child nutrition programs. However, I am not prepared to act in cutting this program when the consequences cannot be determined.

The school lunch program not only touches more individuals than any other program, but it also provides the education needed in the early years of development in making good judgment in selection of nutritious foods and also education in prevention of disease through the eating of these foods.

Few would quarrel with the idea that American food habits have significantly changed over the past few decades. However, through the school food program many youngsters get a well-balanced diet every day. In addition, the school-based nutrition education activities and personnel training workshops that are provided through this program strengthen the goal of improving the American diet.

DETRIMENTAL EFFECTS IF CUT

Mr. President, the Senator from Kansas believes that the Agriculture Committee has gone beyond expectations in complying with the Budget Act. However, in cutting the school lunch program I believe such action would be detrimental and could in the long run defeat many of the advancements we have made in past nutrition legislation.

A vote to strike this deletion cannot be identified with fiscal irresponsibility. Fiscal responsibility in regard to child nutrition programs has already occurred this year. The Senate has already passed legislation that would save almost $100 million from child nutrition programs. A $50 million savings in the special supplemental food program (WIC) is contained in S. 292 and a reduction in the summer food service program for children amounts to approximately $37 mil-

lion which is contained in the agriculture appropriations bill for 1980.

As you can see, Mr. President, the structure for meaningful oversight and evaluation of the school feeding programs has been established. Later this year, a comprehensive review of the child nutrition programs by the Subcommittee on Nutrition will begin.

To pass the recommendation to delete these funds under the second concurrent budget resolution would only give us a short-term cost savings. However, those small savings could undermine the goals and benefits of the school lunch program that we have worked for many years to establish. I believe we should not delete these funds until we are assured that such reduction will have no negative impact on the individuals the program seeks to serve—the child.

I can certainly appreciate the concerns of the Committee on the Budget and its distinguished chairman, Mr. MUSKIE, however, I ask my colleagues to join with me in adopting this amendment so that the committee can continue its comprehensive review of child feeding programs and benefit programs and budgets for future years.●

Mr. CRANSTON. Mr. President, will the Senator yield me 1 minute on the bill? I do not need even that time.

I would like to suggest the absence of a quorum so I may talk with the Senator from Maine, on behalf of myself and the chairman of the Committee on Finance, without taking him off the floor at a time that I am sure he wants to be involved in the debate. If there is no objection, I shall briefly ask for a quorum call.

The PRESIDING OFFICER. The Chair inquires of the Senator, on whose time does the Senator suggest the absence of a quorum?

Mr. CRANSTON. I ask unanimous consent that it not be charged to anyone. It will be very brief.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. 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. MUSKIE. Mr. President, I ask unanimous consent that the vote on the amendment take place at 3 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. At what hour?

Mr. MUSKIE. Three o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, is there anything in the request that would indicate whether it is an up or down versus a tabling motion, Mr. President?

Mr. MUSKIE. Well, I intend to move to table.

Mr. DOMENICI. So that is what we are agreeing to, whatever the form is, that we vote then?

Mr. MUSKIE. Yes.

I would be glad to ask——

The PRESIDING OFFICER. Is there objection to the request?

Mr. McGOVERN. Can we get the yeas and nays?

Mr. MUSKIE. Mr. President, I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on the motion to table?

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Without objection, the request is agreed to.

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

The PRESIDING OFFICER. On whose time?

Mr. CRANSTON. Not to be charged to either side.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. 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. MUSKIE. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator is recognized to make a motion to table the McGovern amendment.

Mr. MUSKIE. Mr. President, I move to table the McGovern amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from South Dakota. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Louisiana (Mr. LONG), the Senator from New York (Mr. MOYNIHAN), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. McCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

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

The PRESIDING OFFICER (Mr. RIEGLE). Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 18, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—69

Armstrong	Byrd, Robert C.	Domenici
Baucus	Cannon	Eagleton
Bayh	Chafee	Exon
Bellmon	Chiles	Garn
Biden	Church	Glenn
Boren	Cochran	Goldwater
Boschwitz	Cohen	Gravel
Bradley	Cranston	Hart
Byrd, Harry F., Jr.	Danforth	Hatch
	DeConcini	Hatfield
Hayakawa	Muskie	Stevens
Heflin	Nunn	Stevenson
Heinz	Packwood	Stewart
Helms	Pell	Stone
Humphrey	Percy	Thurmond
Inouye	Pressler	Tower
Javits	Proxmire	Tsongas
Jepsen	Randolph	Wallop
Johnston	Ribicoff	Warner
Kassebaum	Sasser	Williams
Lugar	Schmitt	Young
Magnuson	Schweiker	Zorinsky
Metzenbaum	Simpson	
Morgan	Stennis	

NAYS—18

Burdick	Jackson	Melcher
Dole	Kennedy	Nelson
Durenberger	Leahy	Riegle
Ford	Levin	Roth
Hollings	Matsunaga	Sarbanes
Huddleston	McGovern	Talmadge

NOT VOTING—13

Baker	Laxalt	Pryor
Bentsen	Long	Stafford
Bumpers	Mathias	Weicker
Culver	McClure	
Durkin	Moynihan	

So the motion to lay on the table Mr. McGOVERN's amendment (UP No. 555) was agreed to.

UP AMENDMENT NO. 556

(Purpose: To increase budgetary levels in fiscal year 1980 for veterans' benefits and services by $300 million in budget authority and $400 million in outlays, to strike the reconciliation instruction to the Veterans' Affairs Committee, and for other purposes)

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

The PRESIDING OFFICER. The Chair advises that the amendment is not in order at this point.

Mr. CRANSTON. I ask unanimous consent that it be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 556 to the unprinted amendment No. 554.

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 4, strike out lines 15–27, relating to reconciliation instructions to the Veterans' Affairs Committees, in its entirety.

On pages 5 and 6, strike out subsections (b) through (e) of section 2, and insert in lieu thereof the following:

(b) the appropriate level of total new budget authority is as follows:

Fiscal year 1980: $632,500,000,000;
Fiscal year 1981: $650,100,000,000;
Fiscal year 1982: $723,700,000,000;

(c) the appropriate level of total budget outlays is as follows:

Fiscal year 1980: $543,500,000,000;
Fiscal year 1981: $590,300,000,000;
Fiscal year 1982: $635,900,000,000;

(d) the amount of the deficit or surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1980: —$28,000,000,000;
Fiscal year 1981: +$13,300,000,000;
Fiscal year 1982: +$22,500,000,000;

(e) the appropriate level of the public debt is as follows:

Fiscal year 1980: $887,900,000,000;

Fiscal year 1981: $907,500,000,000;
Fiscal year 1982: $924,100,000,000;

the amount by which the temporary statutory limit on such debt should be accordingly increased is as follows:

Fiscal year 1980: $57,900,000,000;
Fiscal year 1981: $77,100,000,000;
Fiscal year 1982: $92,900,000,000.

On page 10, strike out clause (m) of section 3, relating to veterans' benefits and services (700), in its entirety and insert in lieu thereof the following new clause (m):

(m) Veterans Benefits and Services (700):
Fiscal year 1980:
(A) New budget authority, $21,500,000,000;
(B) Outlays, $20,900,000,000.
Fiscal year 1981:
(A) New budget authority, $22,800,000,000;
(B) Outlays, $22,100,000,000.
Fiscal year 1982:
(A) New budget authority, $23,700,000,000;
(B) Outlays, $23,600,000,000.

Mr. CRANSTON. Mr. President, on behalf of myself and six other members of the Committee on Veterans' Affairs—Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. THURMOND, and Mr. HUMPHREY—I have called up this amendment that we have submitted to the Muskie substitute in order to increase the levels in section 2 for veterans' benefits and services, function 700, by $300 million in budget authority and $300 million in outlays; and to delete the instruction to the Veterans' Affairs Committee to recommend changes in current law and reported bills to reduce spending by $100 million in budget authority and $100 million in outlays in fiscal year 1980.

Under the second concurrent resolution as proposed to be modified by the Muskie amendment, the totals for function 700 would be $21.2 billion in budget authority and $20.6 billion in outlays. Under my amendment, these totals would be $21.5 billion in budget authority and $20.9 billion in outlays.

Mr. President, in view of the new version of the Budget Committee's reported resolution, laid before the Senate today, this amendment now calls for $100 million less in outlays over the Budget Committee recommendation than the amendment I submitted for printing on Friday (No. 432).

The pending amendment reflects the bare minimum necessary to sustain veterans' programs at adequate levels. Without this amendment, the resolution as reported would require cuts in service-connected disability compensation or other entitlement benefits and in Veterans' Administration health care programs to substantially below essential levels that the Senate has already approved this year.

Mr. President, I would like to emphasize that our amendment is not directed at the budget resolution and reconciliation processes authorized in the Congressional Budget Act. I support the purposes of that act and the processes which it establishes; and I do not regard our amendment as inconsistent with those purposes and processes. The essential purpose of the Budget Act is to provide the means by which Congress can gain control over the Federal budget, and it provides various processes—reconciliation being one—by which the Congress is forced to exercise self-discipline in fiscal matters.

I believe in committee self-discipline in fiscal matters, and I will later describe some discipline we have exercised on the Veterans' Affairs Committee in regard to the cost of veterans' programs.

I am one who wants to see us balance the budget as soon as possible. I am unhappy to be in a position of having to offer an amendment that increases expenditures under the budget resolution as reported by the Budget Committee. But I do this because I do not favor balancing the budget at the expense of those who have had commitments made to them by their country. I do not favor balancing the budget at the expense of those who truly are entitled to depend upon help from our Government.

I would also oppose moving to a balanced budget so rapidly that we would throw the country into a deeper recession, with higher unemployment, than already looms.

I want to emphasize that the Budget Act and its processes are designed to give the Congress control over the budget—the Congress—to give the Congress control over the budget.

They are not designed for a single committee to gain control over the budget and over the decisionmaking of other committees and of the Senate. I do not suggest that that is the intent of the Budget Committee or the able Senators who are now handling the Budget Committee's report on the floor.

However, the process that we face is one that does create difficulties for the committees that have responsibilities in different areas of legislation.

I am grateful to the chairman of the committee, the ranking member, and to others, for the changes they made in the resolution as originally reported, changes embodied in the substitute they have now offered, which have been designed to give the various committees and individual Senators a greater opportunity to participate appropriately in the process.

I also want to express my thanks to the chairman of that committee (Mr. MUSKIE) for delaying any effort to get a vote on the substitute until Senators have had the opportunity to offer amendments, so that no one will be precluded by a parliamentary situation from seeking to do what he feels should be done.

I want also to note that the budget processes are not designed to end in House when its Budget Committee makes recommendations on a budget resolution. Rather, Mr. President, I believe that letter, intent, and spirit of the Budget Act call for the Senate to review carefully the recommendations of the Budget Committee and the assumptions on which those recommendations are based and for the Senate to exercise its judgment and work its will on those recommendations. The full Senate, through the expertise of all of its Members, obviously is in the best position to make a judgment on appropriate spending levels for all of the broad range of Federal programs in their entirety. Nothing in the Congressional Budget Act suggests that the full Senate should delegate that task so as to accept each and every judgment of a majority of one committee with respect to each and every Federal program. Rather, I believe that it is our responsibility to consider very carefully the Budget Committee's proposed resolution—that is our obligation—and, if it is seriously deficient in any respect, to make appropriate changes.

Mr. President, in exercising that responsibility, I ask that all my colleagues examine what is being proposed for our Nation's veterans' programs because, in my view, the Budget Committee's recommendations for those programs are unrealistic and are based on a series of assumptions regarding cost-savings measures that do not stand up under even the most cursory analysis.

First, the Budget Committee in its markup and committee report assumed that only an 8.3-percent cost-of-living increase, effective October 1, 1979, would be enacted for the service-connected disability compensation program and, thus, voted to deny a realistic increase to offset the effects of inflation. The 8.3-percent increase assumption reflects the January 1979 Congressional Budget Office projection of inflation for the 12-month period ending October 1979; CBO's current projection, prepared in June, of the CPI rise for this period is 10.9 percent. Even that projection may be too low—for, as my colleagues are painfully aware, the present annual rate of inflation exceeds 13 percent. Moreover, the Senate has already, in H.R. 2282, as passed on August 3, approved an 11.1-percent increase based on the actual CPI increase for the 12-month period ending in June 1979. The exact amount of the compensation increase is presently under negotiation with the House Committee on Veterans' Affairs, but the House-passed figure of 8.3 percent is totally unacceptable. It is 16 percent less than the 9.9-percent increase that has already been paid to non-service-connected VA pensioners and social security and railroad retirement beneficiaries effective July 1. I do not expect the House to make a serious effort to stand by that 8.3-percent figure. I believe the Senate must stand clearly against insistence on a long outdated CBO estimate as a measure for providing a just increase to veterans who were injured in the service of their country and the survivors of those who gave their lives.

Thus, the assumption in the Budget Committee's report of cost savings of $181 million in budget authority by reducing this cost-of-living increase from 11.1 to 8.3 percent should be rejected.

Indeed, it is my understanding that the Budget Committee will now tell that it has now rejected its own assumption and, through the magic of playing "musical assumptions," now supports an 11.1-percent increase by denying GI bill trainees a cost-of-living increase and assuming that benefits for flight and correspondence training will be totally eliminated.

Second, the Budget Committee report assumes savings of $50 million from legislation to eliminate certain veterans'

burial benefits. No Member of the Senate Budget Committee nor anyone else in either House has introduced such legislation. I repeat—no measure has been introduced to bring about that consequence. The Veterans' Affairs Committees in both bodies have no plans to consider such a proposal. In our view, it is totally unrealistic to expect the Congress to eliminate these benefits or to make any plans based upon their elimination.

Third, the Budget Committee report assumed savings of $104 million from legislation to reduce from 10 to 8 years the period during which certain Vietnam-era veterans may use their entitlement to GI bill benefits. As in the case of the burial benefits assumption. No legislation has been introduced by any Senate Budget Committee member or anyone else in either House to carry out this proposal. This so-called proposal would be extremely unfair to the 69,000 Vietnam-era veterans—many of them combat veterans—from whose slashed eligibility this cost savings would be derived. They have long relied on, and would be thus denied, the availability of GI bill assistance in attaining their educational and vocational goals. I cannot conceive of Congress taking such an action.

Fourth, the Budget Committee report assumed savings of $79 million from administration-requested legislation to terminate completely GI bill benefits for flight and correspondence training. The Veterans' Affairs Committee has very carefully considered and rejected this extreme approach, as both unwarranted and unfair. However, the Veterans' Affairs Committee has recommended, as part of S. 870, which was reported on September 7, legislation to tighten administration of these and other programs in order to eliminate waste and abuse. S. 870 as reported would bring about overall net cost savings of $10 million in fiscal year 1980.

Fifth, Mr. President, the Budget Committee report assumed a $200-million reduction in VA health care programs and thus proposes a $6.1 billion level of funding for those programs—even though the pending conference report on H.R. 4394, the HUD Independent Agencies Appropriations Act for fiscal year 1980, includes $6.3 billion for VA health care accounts. The proposed $200-million reduction would mean elimination of $89 million that the H.R. 4394 conference report would add to the President's budget request to restore badly needed staffing that the administration has cut in fiscal year 1979, and proposes to cut in fiscal year 1980, as well as to implement Public Law 96-22.

The Budget Committee's $200-million cut would also mean acceptance of the totally unrealistic assumption that legislation—S. 759, authorizing the VA to be reimbursed by health-insurance carriers for certain health care services rendered to insured veterans—would reduce the VA's fiscal year 1980 regular appropriations needs by $107 million. Although the Veterans' Affairs Committee is giving this proposal serious consideration and will hold hearings on it this week, it is simply impossible to operate VA health care programs based on the expectation of estimated amounts of insurance collections resulting from the enactment of this new legislation. It is clear to us, after extensive analysis and very broad consultations on the effect of this legislation, that—putting to one side some serious problems yet to be resolved with this legislation—at best it will result in negligible or no receipts until very late in the first fiscal year in which it is effective. Thus, if the Senate were to agree with us to reject the assumption regarding nonrestoration of VA health care personnel cuts, that alone would not achieve the intended result unless the Senate also agrees to reject the assumption that regular VA health care appropriations should be reduced by $107 million on the extremely unrealistic expectations that some form of health-insurance reimbursement legislation will be enacted and will net such an amount in fiscal year 1980. Even if this $100 million is believed to be forthcoming in reimbursements under this legislation, the health care personnel that the VA so badly needs and that the House and Senate have approved cannot be hired this fall and employed throughout the year using uncertain amounts of collections that the VA will not receive until next summer.

Those additional health care personnel are badly needed. In this connection, Mr. President, I note that the latest administration estimate of the cost savings under this legislation would be only $45 million in fiscal year 1980, less than half the amount that the Budget Committee is now assuming based on BO estimates that need to be reevaluated.

The PRESIDING OFFICER. The time for the proponents of the amendment has expired.

Mr. CRANSTON. Mr. President, will the distinguished chairman of the committee yield me some time on the bill pursuant to our conversation?

Mr. MUSKIE. How much time does the Senator wish?

Mr. CRANSTON. I wish to have a half hour, if that is possible, or 20 minutes at this point. Let us say 20 minutes at this point.

Mr. MUSKIE. The Senator may have 20 minutes of my time.

Mr. CRANSTON. I appreciate that very much.

Mr. MUSKIE. Not on the bill, but on the amendment. That leaves me 10 minutes on the amendment.

Mr. CRANSTON. Fine. I thank the Senator very much.

The PRESIDING OFFICER. The Senator has yielded 10 minutes of his time on the amendment and 10 minutes on the bill, and the Senator from California has 20 minutes.

Mr. CRANSTON. I thank the Chair very much.

Frankly, Mr. President, this administration requested health insurance reimbursement legislation is very, very intricate, very complicated. I can assure the Senate that the only way our committee would report out such a bill would be by amending it to use a prospective budgeting basis under which collections in 1 year would be used to reduce the next year's appropriation. This is the only sensible way to run a health-care system.

Mr. President, all these "cost savings" assumptions together total more than $600 million above and beyond those that the Veterans' Affairs Committee has already recommended this year. Any one of the assumptions, if agreed to by Congress, would mean a serious reduction in a benefit or service that Congress has established as the just due of those who served this country in its time of need and who now need and deserve assistance. Taken together, congressional action to implement these assumptions would be the most severe, unfair blow to programs for our Nation's veterans since the Economy Act of 1933. Such action would—and I use these terms advisedly—constitute a default on the commitments that the Nation has properly made to its veterans and a warning to those who are now serving and who may be called upon to serve in future conflicts—which I pray will never occur—that, after a veteran has served and sacrificed, the Congress may at any time see fit to renege on its commitments to him or her.

Mr. President, we must not allow this to happen under the pretext of fiscal responsibility or prudence. We must not delude ourselves into thinking that "budgetary discipline" can be used as an excuse for breaking faith with our Nation's veterans and their survivors.

I know that is not the intent of the Budget Committee, but I am convinced that that is the consequence of the committee's action.

Mr. President, I want to assure all Senators and the American public that the levels that I am recommending are essential to protect veterans' programs from the effects of inflation and to provide for an acceptable quality of care in VA medical facilities.

Mr. President, the Veterans' Affairs Committee has carefully examined all veterans' programs this year with a view toward establishing priorities, eliminating waste and abuse, and reducing and containing costs wherever it is possible and reasonable to do so; and we will continue our efforts in this regard.

But, I emphasize that the Veterans' Affairs Committee has already achieved an excellent record of responsibility and prudence this year. The committee has reported legislation containing eight cost-savings provisions—totaling $81.2 million for fiscal year 1980 and $407.8 million over the next 5 fiscal years—and three cost-containment provisions, too. Two provisions have already been enacted in Public Law 96-22, four provisions have already been passed by the Senate in H.R. 3892, and five provisions are contained in S. 870 as reported. Further, we plan to recommend this month a further cost-savings provision derived from S. 1518, on which hearings were held on August 2, to facilitate Government collection of outstanding GI bill claims, designed to net about $10 million in fiscal year 1980 and $70 million over the next 5 fiscal years. These

actions represent proposed savings of $478 million in function 700 over the next 5 fiscal years—a record that we believe is fully responsive to the congressional budget process and our severe national economic and fiscal constraints.

Based on these actions and with the purpose clearly in mind of asking for no more than is absolutely essential, we are recommending levels for function 700 that are significantly less than the aggregate of the savings assumptions on which the Budget Committee has based its totals.

Mr. President, our amendment would also delete the so-called reconciliation instruction to the Veterans' Affairs Committees. Under that instruction, the committees would be ordered to reduce fiscal year 1980 spending by $100 million in budget authority and $200 million in outlays by recommending cuts in existing veterans' entitlement programs—such as the service-connected disability compensation program, the pension program, the GI bill, and burial benefits—or by recommending changes in reported bills or legislation that has been passed.

Mr. President, the amounts at issue—$100 million in budget authority and outlays—are based on the untenable Budget Committee cost savings assumptions that I have already discussed.

Mr. President, I have outlined our committee's strong record of action in recommending legislation to eliminate waste and abuse, tighten administration, and reduce and contain costs in veterans' programs. There are no further recommendations that could responsibly be made by our committee unless we are prepared to cut entitlement programs—or prevent service-connected disabled veterans from receiving a fair cost-of-living increase.

Mr. President, the reconciliation instruction to the Veterans' Affairs Committees would force our committee into the position of recommending cuts that are unjustifiable and inequitable—cuts that would betray our commitments to our Nation's veterans. That, I am sure, is not the intent but that would be the consequence of the Budget Committee's recommendations. In all good conscience, there are no proposals that we are aware of that would enable us to make any such recommendations without breaking faith with the veterans of this country and their survivors.

Mr. President, the American Legion, the Veterans of Foreign Wars, and the Disabled American Veterans have each indicated in messages to all Senators their strong support for this amendment. I ask unanimous consent that copies of their letters be inserted in the RECORD at this point.

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

THE AMERICAN LEGION,
Washington, D.C., September 11, 1979.

DEAR SENATOR: The American Legion strongly supports the "Cranston amendment" to S. Con. Res. 36, the Second Concurrent Budget Resolution that seeks to increase budget authority and outlays in veterans benefits (Function 700). Specifically, budget authority would be increased from $21.2 billion to $21.5 billion and outlays from the present $20.5 billion to $20.9 billion.

The Legion believes that the "Cranston amendment" is justified in order to provide a realistic increase in service-connected disability compensation rates for veterans injured in service to their country and their eligible survivors. It definitely is not a "budget buster" item. This amendment is needed to assure that the Budget Resolution makes provisions for the VA health care appropriation, that House/Senate conferees have agreed to in the HUD-Independent Agencies appropriations bill for FY 1980 (H.R. 4394), which will be on the floor later this month.

Senator, as you know, both the Senate Veterans Affairs and Appropriations Committees have recommended restoration of additional medical staff in the VA health care programs. The "Cranston amendment" goes a long way toward protecting the money that has been restored for this staffing requirement, and also guarantees that war disabled veterans and their survivors will receive a needed cost-of-living adjustment in their benefits.

We urge you to support the "Cranston amendment" when it is considered on the floor later this week.

Sincerely,

MYLIO S. KRAJA,
Director, National Legislative Commission.

VFW,
Washington, D.C., September 11, 1979.

To: All Members of the United States Senate.
From: Howard E. Vander Clute, Jr., National Commander-in-Chief, Veterans of Foreign Wars of the United States.
Subject: Second Concurrent Budget Resolution, S. Con. Res. 36.

Urgently request your support of the Cranston Amendment to the Second Concurrent Budget Resolution in the reconciliation process to increase funding for the Veterans Administration by $300 million in budget authority and $400 million in outlays, thus establishing spending ceilings of 21.5 billion in budget authority and 20.9 billion in outlays and, also, to strike section 9 of the Resolution which would require reduced spending in the form of cost savings legislation by $100 million in budget authority and $200 million in outlays.

The funding which would be authorized by the Cranston Amendment is absolutely essential not only to prevent further cuts in veterans' programs and permit a realistic cost of living increase in the compensation and Dependency and Indemnity Compensation programs but, also, to provide the medical care and benefits as mandated by the Congress of the United States for our veterans who have rendered a very special service to our great Republic. We must never forget that because of our veterans, and only because of our veterans, we have a free nation where we, you and I, may live with dignity and honor in freedom and progress in accordance with our individual abilities and motivation.

Again, I urge each and every one of you to vote for the Cranston Amendment and with best wishes and kind regards, I am

Sincerely,

HOWARD E. VANDER CLUTE, Jr.,
National Commander-in-Chief.

DISABLED AMERICAN VETERANS,
Washington, D.C., September 11, 1979.

This letter is in reference to the Senate's consideration of the final federal spending ceilings for Fiscal Year 1980 as contained in Senate Concurrent Resolution No. 36—The Second Concurrent Resolution on the Budget.

The Disabled American Veterans is vitally concerned over action recently taken by the Senate Budget Committee which, through the "Reconciliation Process" as contained in Section 310 of the Budget Act, would have a severe adverse impact on Function 700—Veterans Programs and Services—cutting VA appropriations by $200 million dollars in FY 1980 and reducing outlays for new initiatives proposed by the Veterans Affairs Committee by an additional $200 million dollars.

Adoption of the Budget Committee reconciliation instruction would restrict the increase in VA compensation payments to 8.3 percent instead of the 11.1 percent adjustment in these benefits passed by the Senate just a few weeks ago.

Before the August recess the Appropriations Committee of the House and Senate came to a Conference agreement on the funding level for the VA in Fiscal Year 1980. Adoption of the reconciliation instruction would require the two Appropriations Committees to reconsider the VA budget and to reduce FY 1980 VA funding levels by $200 million dollars, primarily in the hospital and medical care programs.

Such action would seriously impair the implementation of Public Law 96-22, a long-awaited program of psychological readjustment counseling for Vietnam Era veterans and withdraw the 3800 VA medical care employees, already approved in Conference by the Appropriations Committees, as well as require the closing of 500 30-bed VA hospital wards.

As far as the VA hospital and medical care program is concerned, the adoption of the reconciliation instruction by the Senate would be a direct reversal of its previous actions thus far on the future and scope of VA health care and of its prior commitment to deal with the psychological impairments suffered by many Vietnam Era veterans.

Finally, in terms of Veterans Administration programs, the savings proposed by the Senate Budget Committee are based upon several false assumptions. Among others, the Budget Committee assumes the enactment of cost-saving proposals which would curtail federal burial benefits provided to certain nonservice-connected veterans, reduce the GI Bill eligibility period from 8 to 10 years, eliminate flight and correspondence training under the GI Bill, and permit third party reimbursement by private insurers to the VA for health care received by certain nonservice-connected veterans.

Although the Senate Veterans Affairs Committee has taken up legislation which deals with some of these proposals, no such legislation has been passed by either the House or Senate. While hearings have been scheduled for late in September on S. 759, to allow third party health care reimbursement to the VA, it is not likely that such legislation will be enacted this year nor is it likely, if such legislation were enacted, that the savings would approach the $200 million dollars assumed by the Budget Committee.

For these reasons, the Disabled American Veterans is opposed to the reconciliation instructions contained in Sections 3 and 9 of Senate Concurrent Resolution No. 36 and is vitally concerned over Section 2 of the measure establishing FY 1980 VA budget totals that are well below those contained in the First Concurrent Resolution on the Budget.

Accordingly, when Senate Concurrent Resolution No. 36 comes to the Senate floor, we respectfully request that you oppose the reductions proposed in Function 700 by striking the reconciliation instructions related to Veteran's Programs and Services as contained in Sections 3 and 9 of the bill.

Thank you for your kind attention to our concerns regarding the VA funding levels for Fiscal Year 1980.

Sincerely,

PAUL L. THOMPSON,
National Commander.

Mr. CRANSTON. Mr. President, it seems to me that, with the best of intentions, but either from a lack of familiarity with and knowledge of veterans' pro-

grams or a lack of recognition of the actions our committee has already taken to make all reasonable savings in those programs, the Budget Committee has erred badly in its assumptions and recommendations for function 700. It is thus extremely important for the Senate to correct those errors; and, to do this, I urge my colleagues to adopt our amendment.

Finally, in closing, Mr. President, let me say this to my good friends, two Senators for whom I have profound respect, the floor managers for this resolution and my former colleagues on the Budget Committee where I served for 4 years with them. You and your committee say you are proposing to cut GI bill and burial benefits, totaling more than $200 million in cost-savings in fiscal year 1980 alone. When action is completed in the Congress on the second concurrent budget resolution, you will have the opportunity to do exactly that when the Senate takes up S. 870. I urge you to offer your amendments on these issues then and let the Senate clearly and authoritatively dispose of your assumptions, rather than continuing to rely upon what the Veterans' Affairs Committee has twice told you are unrealistic proposals. Let us join the issue at that time and deal with your recommendations in concrete legislative terms.

I yield to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I am a strong battler for a balanced budget. I cast every vote in the U.S. Senate on the basis of how that vote will affect our deficit. In fact, as I have said several times here on the floor, I ran for office on the pledge that I would be the toughest skinflint in the U.S. Senate. I suspect that is why I was elected, and now I intend to carry that out. In the Veterans' Affairs Committee I have, on more than one occasion, voted against creating new veterans programs. These votes have not been popular.

I have voted against new veterans benefits, because even though some of the proposed programs were worthy ones, these are times of economic difficulties and are not times to continue the expansion of Federal programs. Government spending must be curtailed in order that our dangerous inflation rate, which is fueled solely by excessive Government spending, can be brought under control.

Yet, I maintain strongly today that the Senate must not vote to curtail veterans programs, to reduce essential veterans benefits, by accepting the Budget Committee's demands for reduced spending by the Veterans' Affairs Committee. The reconciliation resolution, if adopted, will mean the sure, steady erosion of existing benefits. Let me outline some of these benefits.

The Senate has already voted unanimously to give disabled veterans and their widows and dependents an actual cost-of-living increase of 11.1 percent. This 11.1 percent represents the increase in the cost of living from June 1978 to June 1979. The Budget Committee would deny this needed inflation adjustment to those veterans who must depend on their disability compensation checks. I do not think this is fair. Surely, the Senate will agree that we must not shirk our duty and obligation to those veterans who gave so much to their country in a time of need. We must keep our word to our Nation's veterans.

In addition, I would like to have room in our budget for a modest cost-of-living increase in the GI bill payments. In the period since the last inflation adjustment, the Consumer Price Index has gone up more than 20 percent. We must leave some room in our budget for at least a part of this. The GI bill program is an important benefit which allows our Nation's soldiers to make the transition to civilian life.

I am very disturbed by the growing tendency to place veterans programs at the bottom of the list of this Nation's priorities. That is what we are all discussing here today—what our Nation's priorities are. While the Defense budget and the veterans programs budget decline as a percentage of total Federal outlays, other programs are escalating out of sight.

I have a chart here, compiled with figures supplied by the Library of Congress, which I ask unanimous consent to have printed in the RECORD.

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

Fiscal year:	*VA percent of total Federal outlays*
1960	5.9
1961	5.9
1962	5.3
1963	5.0
1964	4.8
1965	4.8
1966	4.4
1967	4.4
1968	3.8
1969	4.1
1970	4.4
1971	4.6
1972	4.6
1973	4.9
1974	5.0
1975	5.1
1976	5.0
1977	4.4
1978	4.2
1979	4.1
1980 (proposed in SCR)	3.8

Mr. HUMPHREY. Mr. President, veterans programs outlays have been in steady decline over the last 20 years. In fiscal year 1960, VA outlays as a percentage of total Federal outlays were 5.9 percent. In the years since President Carter took office, VA outlays as a percentage of total Federal outlays have declined dramatically, and the VA hospital system is in danger as a result. In fiscal year 1977, the figure is 4.4 percent. In fiscal year 1978, it declines to 4.2 percent. In fiscal year 1979, 4.1 percent. And in the budget proposed by the Senate Budget Committee in this second concurrent budget resolution which we are now considering the VA outlays as a percentage of total Federal outlays declines to an alarmingly low figure of 3.8 percent.

Let us work to maintain existing veterans' benefits. Let us work to keep the VA medical programs, on which our veterans rely, in sound condition.

Let me suggest some cuts in worthless or misguided programs, any of which would be sufficient to fund the maintenance of existing veterans benefits.

For example, eliminating title VI of the CETA program, the public service jobs program, would save more than $2 billion in fiscal year 1980 alone. This program makes little sense, a program riddled with fraud and abuse, as a February 20, 1979, General Accounting Office report suggests.

Other savings could be made by reform of the aid for families with dependent children (AFDC) program. A series of reforms have been suggested by Senator ARMSTRONG which would save approximately $1.4 billion.

Another example of misdirected spending, at a time when the Budget Committee is asking veterans to tighten their belts, is the food stamp program.

While veterans programs spending has declined over the last two decades, as I have pointed out, the food stamp program continues to expand at an alarming rate. Just this summer, the Senate voted to increase food stamp spending by $620 million. Proponents of increased spending claimed that inflation required more spending. They said that without more money for the program, food stamp recipients would be hard pressed. I submit that it is grossly unfair of the Budget Committee to allow room for more and more food stamp spending, yet trim essential veterans benefits, such as compensation payments to disabled veterans.

Mr. President, our veterans are patriotic Americans, as their service proves. I am sure that they would be willing to make another great sacrifice if everyone in this Nation, from Congressmen and Senators, to food stamp recipients, to average workers were to sacrifice equally. But the Budget Committee is not requiring equal sacrifice. Veterans are being required to bear the brunt of the balanced budget. This is not fair.

Our Nation's veterans have earned their benefits. They deserve these hard-earned benefits. We in the Senate must honor our pledges.

I would like to close by quoting the new national commander of the Disabled American Veterans, the Honorable Paul L. Thompson. He states in a recent letter to the New York Times:

> Veterans have earned these benefits through extraordinary sacrifices that our nation called upon them to make. The VA's programs are not giveaway programs. America owes a debt to those who were called upon to defend her . . . particularly those who were disabled in wartime service. That includes quality medical care and adequate disability compensation.

Mr. President, we are discussing today budget proposals that total $543 billion. I disagree with those who say that we cannot afford our pledges to veterans and suggest we should cut compensation to those disabled while serving their country and to their widows and their dependents. I reject that. We have enough money to honor pledges and commitments. It is a matter of ordering our priorities correctly and we will be judged on that basis, I believe.

I thank the Chair and I thank the Senator from California for yielding.

The PRESIDING OFFICER. The Senator from Hawaii. Who yields time to the Senator from Hawaii?

Mr. CRANSTON. I yield part of the time yielded to me to the Senator from Hawaii.

The PRESIDING OFFICER. There are 11 minutes remaining.

Mr. CRANSTON. I yield 8 minutes to the Senator from Hawaii.

Mr. MATSUNAGA. I thank the Senator for yielding.

Mr. President, as a member of the Committee on Veterans' Affairs, I rise in strong support of the amendment offered by the distinguished chairman of the Veterans' Committee, Senator CRANSTON and seven others, including myself.

Mr. President, as Chairman CRANSTON has so eloquently stated, we who are members of the Veterans' Committee are not making this effort to amend the second concurrent resolution without proper justification. We do not, and I am sure that all Senators do not, take lightly the fact that we are requesting the Senate to approve an increase in budget levels for veterans' programs. We have a great deal of respect for the chairman of the Budget Committee and the congressional budget process, and want to see it work as much as the Senators who are members of the Budget Committee. We are convinced, however, that our amendment is essential in order to restore the bare minimum in terms of budget authority and outlays which we believe are necessary to sustain veterans' programs at levels that are reasonable and acceptable. The fact of the matter is, Mr. President, the second concurrent budget resolution, as reported by the Budget Committee, would require cuts in service-connected disability compensation benefits and Veterans' Administration health care programs to levels which are substantially below those that we believe to be essential to our efforts to provide veterans with decent pensions and the best possible health care and rehabilitation services.

In our view, Mr. President, the Budget Committee, in proposing totals of $21.2 billion in budget authority and $20.5 billion in outlays for function 700, made several assumptions in terms of cost savings which cannot and will not be realized during the 96th Congress.

First, with respect to the service-connected disability compensation program, the Budget Committee assumed that only an 8.3-percent cost-of-living increase would be enacted by the Congress, to be effective October 1, 1979. The 8.3-percent increase assumption is based upon the Congressional Budget Office's estimate, made last January, of the Consumer Price Index rise for the 12-month period ending October, 1979. However, the Veterans' Committee, in considering S. 689, the veterans' disability compensation and survivors' benefits amendments, used the most recent estimate of the CPI rise, taken in June, which was calculated to be 10.9 percent. With the actual CPI increase in mind, the Senate, on August 3, passed the veterans' disability compensation bill containing an 11.1-percent cost-of-living increase.

Currently, we are in conference with the House on this legislation and are negotiating the exact amount of the compensation increase. However, I want to emphasize that as far as this Senator is concerned, the House-passed cost-of-living increase figure, which is 8.3 percent, is totally unacceptable in that it is 20 percent less than has already been paid to non-service-connected VA pensioners and to social security beneficiaries, who received a 9.9-percent cost-of-living increase on July 1 of this year. Clearly, Mr. President, insistence upon the 8.3-percent cost-of-living increase figure would not be consistent with the unanimous decision of the Senate in July to provide an 11.1-percent increase to veterans who were injured in the service of their country and to the survivors of those who gave their lives.

Second, the second concurrent resolution assumes a 7-percent cost-of-living increase in GI bill educational assistance benefits, to be effective October 1, 1979. At the same time, however, the Budget Committee has included in the resolution unrealistic cost-savings assumptions which will more than offset the 7-percent increase. The Budget Committee has assumed that proposals will be enacted during this Congress to eliminate certain VA burial benefits—a projected cost savings of $50 million—and reduced from 10 to 8 years the delimiting period for Vietnam-era veterans to use their GI bill benefits—a projected cost savings of $104 million. As Chairman CRANSTON indicated in a letter to the Budget Committee on July 27, it is totally unrealistic in the view of the Veterans' Committee, to expect the Congress to reduce burial benefits and the period of eligibility for the GI bill when no such legislation has been introduced in either House and when the Veterans' Committee has no plans to even consider such proposals.

Furthermore, with respect to the Budget Committee's assumption that legislation will be enacted to eliminate GI bill flight training benefits for a cost savings of $57.8 million, the Veterans' Committee, after careful consideration of that proposal, has decided not to recommend such legislation, but rather has reported a bill to tighten administration of the program and reduce payments for flight training by requiring greater cost sharing by the trainee. According to the CBO, the fiscal year 1980 cost savings of the Veterans' Committee bill, in budget authority and outlays, would be $10 million. In the final analysis, Mr. President, the second concurrent resolution, as reported, would not permit legislative action to provide a reasonable increase in GI bill rates for fiscal year 1980.

Third, with respect to VA health care programs, the second concurrent resolution includes totals of $6.1 billion in budget authority and $6.0 billion in outlays, as opposed to $6.3 billion for VA health care accounts which has been provided in H.R. 4394, the HUD and independent agencies appropriations bill for fiscal year 1980. The proposed $200 million reduction would mean the elimination of $89 million that the HUD and independent agencies conference report would add to the budget to restore badly needed VA staffing which has been cut by the administration, and to implement Public Law 96-22, the Veterans' Health Care Amendments of 1979, which contains the important psychological readjustment counseling program for Vietnam-era veterans. It would also mean the acceptance of a Budget Committee assumption that a cost savings of $107 million for fiscal year 1980 would result from the enactment of S. 759, the health insurance reimbursement bill.

In the view of the Veterans' Committee, as expressed by Chairman CRANSTON in his July letter to the Budget Committee, this is an unrealistic cost-savings assumption which should not be deducted from the second concurrent resolution. The chairman emphasized that the collections of reimbursements under S. 759, if enacted, would not be available to the VA until the end of fiscal year 1980. For that reason, any reduction of appropriations premised on the enactment of this legislation would, to the extent of such a reduction, force the VA to operate at a reduced program level for much of that year, and, perhaps, for the entire 1980 fiscal year, in the event that estimated collections later in the year do not materialize in the amounts forecast.

In my judgment, Mr. President, rationing veterans' health care is totally unacceptable, and that is just what may happen if our veterans' health care programs are forced to operate at reduced levels in anticipation of the collection of health insurance reimbursements during fiscal year 1980. Clearly, this would only exacerbate the serious problems which the VA as currently experiencing in providing quality health care for veterans, which has been mandated by the Congress.

Mr. President, I would like to point out to my colleagues that the Veterans' Committee, during the course of this Congress, has made a concerted, and I believe successful effort, to strike a balance between what we believe is necesssary in terms of funding to provide for the needs of our Nation's 30 million veterans, and what we believe is important in terms of budgetary restraint in veterans' programs.

In the Veterans' Committee report to the Budget Committee in March of this year, we indicated that our committee fully recognizes the necessity for close scrutiny of all parts of the Federal budget, and, accordingly, we promised to closely analyze each component part of the veterans' programs under our jurisdiction. Since the submission of that report to the Budget Committee, the Veterans' Committee has exercised fiscal prudence and responsibility in its legislative actions.

Importantly, the committee has this year reported legislation pertaining to veterans' health care and GI bill benefits containing eight cost-savings provisions totalling $81.2 million for fiscal year 1980 and $407.8 million over the next 5 years. Furthermore, the committee plans to recommend later this month

a further cost-savings provision derived from S. 1518, a bill to facilitate Government collection of outstanding GI bill claims, designed to net $10 million in fiscal year 1980, and $70 million over the next 5 fiscal years. In total, these actions by the Veterans' Committee represent proposed cost savings of at least $477.8 million in function 700 over the next 5 fiscal years.

Mr. President, the Veterans' Committee strongly believes that this record of action is fully responsive to the congressional budget process and the fiscal and economic constraints under which our Government is operating. We are convinced that additional reductions in veterans' program funding levels, as proposed under the second concurrent resolution, cannot be accepted without jeopardizing our legitimate efforts to provide veterans with reasonable protection from the effects of inflation and enable the VA health care system to provide high quality health care to sick and disabled veterans.

Mr. President, the Cranston amendment seeks to restore in the second concurrent resolution amounts which are essential to sustain veterans' programs at acceptable levels—no more, no less. I, therefore, strongly urge my colleagues to give thoughtful and favorable consideration to the amendment.

Mr. CRANSTON. I am delighted to yield to the distinguished Senator from South Carolina, who is an important and hard-working member of the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, today the Senate is considering the proposed second concurrent budget resolution for fiscal year 1980, Senate Concurrent Resolution 36. Within this measure are so-called "reconciliation instructions" to six authorizing committees and the Senate Committee on Appropriations that would, if passed by the Senate and adopted by the Congress, require the committees to recommend legislation to reduce spending by $4 billion for fiscal year 1980.

The Senate Committee on Veterans' Affairs, of which I am senior Republican member, has been instructed to reduce spending for fiscal year 1980 by $100 million in budget authority and $200 million in outlays to meet the proposed Senate concurrent resolution. I believe this instruction is unwise and does not reflect the true commitment this Nation has made to the veteran.

As it now stands, the Senate concurrent resolution that is being advanced by the Budget Committee proposes $21.2 billion in budget authority and $20.5 billion in outlays for the VA during fiscal year 1980. However, the Senate Veterans' Affairs Committee has continued to advise the Senate Budget Committee that a minimum of $21.7 billion in budget authority is needed to fully carry out the legislative programs administered by the VA. This budget authority reduction of $500 million plus the $100 million contained in the "reconciliation instructions" will work a tremendous hardship on those veterans who can least afford it.

For example, the program of foremost concern in the scheme of veterans' benefits is that of compensation—payment to those who are disabled due to service-connected injuries. If this "reconciliation instruction" is not stricken and the Senate concurrent resolution increased, the meaningful cost-of-living increase for the compensation program adopted by the Senate in July may not be funded.

The Senate also has considered the issue of adequate staffing for VA hospitals during this Congress. Due to the "lean and austere" VA budget submitted by the administration which contributed to the closing of several wards at VA hospitals and the reduction of hundreds of hospital employees, I made a decision to support legislation which called for the reduction of veterans' benefits in several existing programs so that funds would be available to employ needed personnel within the VA hospital system. This measure passed the Senate but is now before a joint House-Senate conference and its future is uncertain. However, regardless of the outcome of this conference, should the efforts to strike the "reconciliation instruction" and then to increase the Senate concurrent resolution be defeated by the Senate, funding for the VA hospital system will be dangerously low and the quality of care for our Nation's hospitalized veterans will be in jeopardy.

Mr. President, in addition to these vital VA health maintenance programs, which I consider extremely important, I am equally concerned with several of the assumptions concerning veterans' legislation that the Senate Budget Committee relied upon in arriving at their proposed Senate concurrent resolution.

First, there was an assumption that legislation would be enacted that would save $50 million by eliminating VA burial benefits for non-service-connected deaths. The rationale for this legislation is that under current law an eligible veteran may receive $300 in VA burial benefits while also receiving, if eligible, $255 from the Social Security Administration; therefore, these benefits were said to be duplicative. As of this date, no legislation has been introduced in either the House or Senate which would eliminate this $300 burial benefit and most surely relegate these veterans to a pauper's funeral.

Second, there was an assumption that legislation would be enacted which would eliminate GI bill benefits for flight and correspondence training. Although the Veterans' Affairs Committee has ordered reported legislation to modify and reduce the frequency of abuse in these and other GI bill programs, the once reported cost-savings of $79 million will not be realized. However, it is anticipated that this legislation, as reported by the Senate will save approximately $10 million during fiscal year 1980.

Third, the assumption that $104 million would be saved upon enactment of legislation which would reduce the delimiting period from 10 to 8 years for GI bill purposes has not reached fruition. As a matter of fact, legislation of this nature has not been introduced in either the House or the Senate during this Congress.

Finally, Mr. President, there has been widespread discussion regarding the merits of legislation which would grant authority to the VA to seek reimbursement from private insurers for treatment provided by the VA to their insured veterans, thereby creating a cost savings of $107 million.

On first glance, it would appear reasonable and equitable to require private health insurers and similar contractors to reimburse the VA for nonservice-connected health care which the VA provides to their insured. Such a proposal is especially attractive in light of the need to reduce the Federal deficit and cut taxes.

However, the legislation raises a number of serious questions, such as the issues of constitutionality and administrative feasibility, plus the equitable considerations involved in shifting the economic burden of the care involved from taxpayers to health-insurance premium payers. In any event, hearings are scheduled by the Senate Veterans' Affairs Committee on this legislation in the near future and any expected cost savings in fiscal year 1980, assuming enactment, look minuscule if not illusory.

Mr. President, I do not stand here today in opposition to the Senate Budget Committee and the principles upon which it was created. I believe that Congress must be more responsible in fiscal matters; however, we must not take unwarranted and ill-advised action on programs that are meritorious and cost effective just for the sake of a budget reduction. We also must consider the priority and historical commitment our Nation has made to the various programs and their recipients. I believe that veterans' programs rank high on this list of priorities, especially compensation which benefits those disabled while in the service of this Nation and the hospital program which is the core of the VA system.

Mr. President, I urge my colleagues to join me in seeking adequate funding for the VA by supporting the amendment of our colleague and chairman of the Senate Veterans' Affairs Committee, the able Senator from California (Mr. CRANSTON).

The PRESIDING OFFICER (Mr. FORD). The Senator from California.

Mr. CRANSTON. Mr. President, I thank the distinguished Senator very much for his support for this amendment and his cooperation in so many matters affecting veterans.

Mr. President, I ask unanimous consent that the name of the Senator from Vermont (Mr. STAFFORD) be added as a cosponsor of this amendment.

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

Mr. CRANSTON. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, how much time do I have?

The PRESIDING OFFICER (Mr. BURDICK). The Senator reserved 10 minutes of his time for himself.

Mr. MUSKIE. Mr. President, in some fashion, in 10 minutes I have to cover ground that has been plowed over for 50 minutes. I have no objection to that at all. I hope I can do it. But it was my de-

sire to give the proponents of this amendment every conceivable moment they needed to make a case. And I have listened. I have sat here and listened for all the 50 minutes. And what have I learned?

I have learned, first of all, that the American Legion and the VFW are for the Cranston amendment. But that came as no great shock or surprise. For the implication was that for some of these reconciliation instructions, the people affected would be for the cuts.

I cannot think of a constituency impacted by the reconciliation instructions—and these include not only the Veterans' Committee, but the Agriculture Committee, the Finance Committee, the Appropriations Committee—who have come to any Senator and urged that the Senator support the cuts. But does that mean, Mr. President, that we have to wait, in this body and this Congress, until the impacted constituencies ask for their own programs to be cut? Mr. President, how long do you think it would take to get a balanced budget if we were to wait until the cuts met that test?

But that is the way we budgeted for most of the 21 years I have been here in Congress. The constituencies of the special programs brought pressures which resulted in increased spending. Surely that is no mystery to any of the rest of us.

So, Mr. President, if we are to hold down spending, if we are to balance the budget, surely our own history tells us it will be done only if, a sufficient group in this body, is willing to enforce budget discipline. Only if we do that will we ever achieve a balanced budget.

All the Veterans' Committee has said to us this afternoon is that their constituency is against the cuts. I did not need to come to the floor to know that. I have veterans in my State, and of course they are against the cut. It is the business of these veterans organizations to be against cuts in their programs. It is their business to represent the veterans, and I honor them for doing so. But it is our business to decide the total of resources for numerous constituencies which run across the whole budget. And it is our responsibility to ask if there is a limit, or is there not? And if there is a limit, who ought to be subject to it? Everybody, or nobody, somewhere in between?

Mr. President, let us look at this veterans' function. The first concurrent resolution recommended $21.2 billion in budget authority and $20.6 billion in outlays. There was no amendment on the Senate floor to change those numbers, and those numbers assume some of the savings that we have been talking about here this afternoon.

Then the first concurrent resolution, reestimated in July, contained the same numbers—$21.2 billion in budget authority and $20.6 billion in outlays. The second concurrent resolution, with the original reconciliation instruction to the Veterans' Committee, was $21.2 billion in budget authority and $20.5 billion in outlays. In other words, we tried to save something in the veterans' function, as well as in other functions, in order to hold spending down and move toward a balanced budget. So we cut outlays by $100 million, as we reported the budget resolution to the floor.

Mr. President, I have listened to at least one speaker tell me that we have been discriminating against veterans in this compromise. But let me make this clear: The pending Muskie amendment modifies the pending reconciliation resolution in two places by reducing the savings required. One of those places was the Finance Committee, because of its concern with social security recipients. The other was the Veterans' Committee. We relieved the Veterans' Committee of some of the savings burden that we have been talking about all afternoon.

We relieved them, but that relief was not enough. This amendment that is pending before us, the Cranston amendment, asks not only that the remaining $100 million of cost savings be lifted from their shoulders, but that beyond that, they be allowed to spend $200 million more. It is not enough for them to be relieved of part of the savings responsibility. It is not enough for them to be relieved of all of the savings responsibility. They want to be able to spend $200 million more, so that their budget authority totals would not be the $21.2 billion in the first concurrent resolution, but $21.5 billion if the amendment passes. On the outlay side it would rise from $20.6 billion in the first concurrent resolution to $20.9 billion.

So what they are saying to us, Mr. President, is that not only should they not be required to share some of the responsibility for holding down the cost of the Government, not only should they not be required to make a contribution to a reduction of the deficit, but they ought to be allowed to spend more. And this is at the expense of the savings responsibilities assumed by others, like the school lunch program.

Mr. President, the Senate has just voted that the school lunch program had to bear $100 million of the savings responsibility. So if we vote for the Cranston amendment, we are going to be saying to the country, "We are for taking these savings out of the school lunch program in order that the veterans' programs can spend $300 million more." That would be the effect of those two votes taken in conjunction with each other. But I think in making that kind of a statement, I do not need to take the criticism that I am against veterans because we have presented to the Senate balanced savings proposals, which are spread not just among the Veterans' Committee but among seven committees of the Congress, including Appropriations, Defense, Finance, and Agriculture. If it is unreasonable to ask one of these committees to make any savings, then obviously, it is unreasonable to ask any of them to make any savings.

There is one thing I have noticed about a case that is made for this kind of amendment. That is that the debate is always launched in such a way as to put people in my position in the worst possible light. I have found myself accused, because of this $100 million additional savings that we are asking for, of jettisoning just about every veterans' program I have ever heard of. Let us just take one, the 11.1 percent cost-of-living increase for veterans' income programs.

Well, Mr. President, we reduced the savings responsibility of the Veterans' Affairs Committee by $100 million in order to provide the full 11.1 percent cost-of-living increase for disabled veterans. And we stated that explicitly to a meeting considering this reconciliation compromise, attended by at least one Senator on the floor this afternoon. But I have heard four Senators make the statement that, by retaining $100 million of the $200 million savings, we would be making impossible a full cost-of-living increase, 11.1 percent, for the veterans disability compensation program.

Mr. President, the $100 million in savings that we gave up was designed to provide for that 11.1-percent cost-of-living increase for the veterans' disability compensation program. But to now find myself accused, having made that positive gesture in the direction of the veterans' programs, of not providing for, the disabled veteran, truly discourages me.

The PRESIDING OFFICER. The Senator's time on the amendment has expired. There is still time on the resolution.

Mr. MUSKIE. Mr. President, I give myself 2 minutes on the bill, just to round out my argument.

Mr. President, from fiscal year 1970 to 1975, veterans' programs increased by 91 percent; from 1975 to 1980, by 24 percent; from 1970 to 1980 by 134 percent. But, apparently, Mr. President, there is no way one can disabuse those who are interested in such programs of the notion that restraint represents hostility. And this political fact of life has resulted in uncontrollable spending in many aspects of the Federal budget—senior citizens, farmers, veterans, schoolchildren. You name it, we all know the constituencies. If you deny even the last penny, somebody is going to accuse you of being against schoolchildren, against veterans, against farmers, against senior citizens. So we all panic as politicians when those issues arise, to give every penny and then double it. We have seen that happen, over and over again, in my 21 years in the Senate.

Mr. President, we are never going to have budgetary discipline, we are never going to get the budget balanced we are never going to get rid of inflation until the majority is willing to say there comes a time when restraint has to be the measure of public policy. Inflation is robbing veterans, inflation is robbing schoolchildren, inflation is robbing senior citizens, inflation is robbing farmers, inflation is robbing the defense, inflation is robbing the housewife, inflation is robbing Members of Congress, who worry about the adequacy of their pay and privileges. Inflation is robbing everybody, Mr. President. And whenever a group with political clout seeks to insulate itself from inflation at the cost of others without as much clout, all that happens is that the inflation of rising expectations begins to overwhelm all of us. So we have to put more money in for everybody in order to avoid the political consequences of appearing to be hostile to somebody.

I have no bias against veterans. My best case for that is that the $100 million savings which we asked the Veterans' Committee to find is only 2.5 percent of the total savings the Budget Committee is requesting of Senate committees. It is less than one-half of 1 percent of total veterans' spending. But it is argued to me that these figures indicate hostility on the part of ED MUSKIE to veterans. And if I have to bear the consequences of that unfair argument, I shall bear it. But it does not rest on fact.

I do not think we have asked anything unreasonable of the Veterans' Committee. We have discriminated in their favor in this compromise. But that is not good enough. Well, it is their right to complain. But it is my right to point out that not only are they asking to be relieved of the savings responsibility we have asked them to assume, but they want to go $200 million beyond—$300 million beyond the first concurrent resolution, to which they offered no amendment in the spring—to increase spending.

Mr. President, I yield the floor.

Mr. MATSUNAGA. Will the Senator yield for a question?

Mr. MUSKIE. I yield 1 minute on the bill for the purpose of a question.

Mr. MATSUNAGA. The effort, of course, being made here is to balance the budget. The Joint Committee on Taxation, appearing before the Committee on Finance, presented figures which show that, in 1980, out of new taxes on oil, Federal royalties, and windfall profits tax, there be an additional $7.6 billion. Of course, it goes anywhere from $4.7 billion to $4.8 billion to $7.6 billion. In each case where assumptions are made, the additional tax anticipated because of decontrol on oil will mean an amount in excess of what the Budget Committee is trying to save. Was this figure taken into consideration by the Budget Committee in figuring out the revenues expected?

Mr. MUSKIE. Mr. President, I am going to have to have more than the minute. I yield myself 2 more minutes.

No. 1, we went into this question of potential revenues from a windfall profits tax at length in the Budget Committee, in the caucus which we held last week on the reconciliation resolution, and in the meeting of chairmen of committees. The possibility of squeezing out more from revenues was raised and we were advised by members of the Committee on Finance, who are more knowledgeable in this than I am, that we have probably assumed more than is realistic already. But we assumed $2 billion in windfall profits tax revenues, not tied to conservation or production incentives or other energy-oriented objectives. We were told that that $2 billion has to stretch to possibilities beyond what we have assumed.

So the $2 billion, I gather, is pretty much at the top of what we can expect, that if a windfall profits tax is enacted. The Senator knows that is controversial, but if it is enacted there will be demands made against the revenues, the conservation, the production incentives, and for relief of low-income citizens who will be unacceptably burdened by the higher cost of energy, and we were told, the Finance Committee told us, before we assume the $2 billion that we ought not assume a penny in extra revenues from the General Treasury.

Mr. MAGNUSON. Will the Senator yield?

Mr. MUSKIE. I am happy to yield to my good friend.

Mr. MAGNUSON. At least, we were told that is the most we could expect for the first year.

Mr. MUSKIE. That is right.

Mr. MAGNUSON. It may be more afterwards, but for the 1980 budget, this is all we could use.

Mr. MUSKIE. That is what we were told.

Mr. MATSUNAGA. I have the figures, as a matter of fact, presented in writing by the——

Mr. MUSKIE. I know what the gross figures are, and I have bigger gross figures than the Senator described.

Mr. MATSUNAGA. Even without the windfall profits tax, the figure here, income tax, for all additional oil produced as a consequence of deregulation, is $3.4 billion in 1980.

In 1981, that goes up to $8.6 billion, and so on.

Mr. MUSKIE. Is the Senator saying that independent of the passage of the windfall profits tax, the general revenues can increase by that much more; in other words, that our general revenue estimate should be increased by this amount?

Mr. MATSUNAGA. That is the figure given us by the Joint Committee on Taxation.

Mr. MUSKIE. Did they have before it our revenue assumptions, which are $514.7 billion?

That includes $2 billion from a windfall profits tax. Is the Senator telling me that the remaining $512.7 billion is unrealistically low?

Mr. MATSUNAGA. Yes, I am—well, I have put the question whether the Senator and his Budget Committee had taken into consideration this estimate made by the Joint Committee on Taxation for additional taxes expected out of decontrol, and, as I see it——

Mr. MUSKIE. Well, the Senator is estimating $512.7 billion, may I say, from all sources of revenue.

I do not know that I can, from the top of my head, isolate the particular contribution to our total revenues made by the source the Senator refers to.

Mr. MATSUNAGA. According to table 1 of the summary, the committee print, anticipated revenues show as $514.7 billion.

Mr. MUSKIE. That is what I just said.

Mr. MATSUNAGA. I thought the Senator said $512 billion.

Mr. MUSKIE. I said $512.7 billion, deducting the $2 billion we assumed for the windfall profits tax.

Mr. MATSUNAGA. I see.

I still feel we have not included this anticipated increase in GNP in taxes as a consequence of decontrol.

So I would think perhaps the small amount, such as the Veterans' Committee is asking for, would easily be overbalanced by an increase in revenues from decontrol, even without the windfall profits tax.

Mr. MUSKIE. I can only say to the Senator that we took into account in the new revenue estimates, and he will see they are higher than the first concurrent resolution, that the new revenue estimates include the impact of inflation, including the higher cost of oil.

Whether or not they specifically relate, or in what way, specifically relate to the estimates the Senator has given us, I cannot say from the top of my head.

But there is $3 billion to $4 billion additional revenues in this resolution attributable to inflation and the higher cost of energy.

Mr. MATSUNAGA. If I may——

Mr. MUSKIE. One can always quarrel with revenue estimates. I found as a Governor that State legislatures love to increase revenue estimates so they can spend deficits in that constructive way.

If we spend increased revenues, we are not spending deficits, even though the revenues are never realized.

Mr. MATSUNAGA. If the anticipated increase in revenues is based on sound projection, I think we ought to make that in order to meet important programs, such as that proposed by the Veterans' Committee.

What I am trying to say is that it is a sound projection, on the basis that there will be an increase in GNP because of decontrol.

Mr. MUSKIE. I am not specifically familiar with the particular figures the Senator is advocating, but I assure him, in my judgment, our overall revenue projections are sound. They ought not be inflated any more than they are.

For one thing, if unemployment rises more significantly than it has, we will begin to get a shrinkage of revenue because the unemployed produce no revenue.

So just arbitrarily raising them to fund programs is pretty risky business.

Mr. MATSUNAGA. I am not asking the Senator to raise projected revenues arbitrarily, but based on what the Joint Committee on Taxation has provided the Finance Committee as being sound estimates.

Mr. MUSKIE. I can only assure the Senator, the Budget Committee operates on the basis of the inputs it gets from the appropriate committees of the Congress and the Senate, from the Office of Management and Budget, the Treasury Department, anybody who can give us enlightenment on this important question of revenues.

We do not like deficits. If we could, by raising revenues in a way that is responsible, reduce deficits, nobody would like that better than the Budget Committee, I assure the Senator.

But, on the other hand, we are not going to just arbitrarily increase revenues in order to reduce the deficit.

Mr. MATSUNAGA. The figures presented to us were presented to the Finance Committee on September 5. I do not know whether these were taken into consideration, but the chairman is not really definite as to whether they were

or not, and that is the response—except for the $2 billion?

Mr. MUSKIE. The Senator can ask how much increase Chrysler will contribute to the Treasury next year, and I would not have the answer to that.

We are a macroeconomic committee. We try to get the best revenue estimates we can.

I am under the impression the chairman of the Finance Committee watches our estimates pretty closely. If we set a number that is unreasonably high or unreasonably low, he is inclined to be the first to come to us to say so, because he does not like to be under the pressure of the Budget Committee telling him what he ought to do or ought not to do.

I assume that if our revenue estimates are numbers he agrees with, that they are probably pretty good, and if he does not agree with them, he will tell me so, and why. He has access, as the Senator just told us, to the information available to the Joint Committee on Taxation—as he should.

I mean, they are first boss for the chairman of the Finance Committee.

Mr. MATSUNAGA. I thank the chairman for his remarks.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California has 3 minutes remaining on the amendment.

Mr. CRANSTON. Mr. President, I would like to say to the distinguished chairman of the committee that I have not charged, hinted, or suggested that he or his committee is hostile to veterans. If that charge has been made, I disassociate myself from it. I know it is not true.

Mr. President, I would like to point out, in response to the distinguished floor manager, that in the 50 minutes, more or less, that I and others devoted to support of our amendment, I believe less than 30 seconds was spent in indicating the veterans' organizations support my amendment.

It is, therefore, I think, a rather clear indication of the weakness of the floor manager's position that he devoted so much attention at the outset of his rebuttal to that one point, rather than coming to grips with the merits of this issue.

Mr. MUSKIE. Will the Senator yield?

Mr. CRANSTON. Certainly.

Mr. MUSKIE. Would it be appropriate for me to answer in rebuttal, that the little time he spent on it on the floor suggests how unimportant it may be, in his judgment.

Mr. CRANSTON. In that connection, I point out that in June, over the opposition of the veterans' organizations, I and the Veterans' Affairs Committee amended H.R. 3892, a House-passed veterans' health bill, to lead to a savings of $35 million if enacted.

The Veterans' Affairs Committee, I stress, is working for $478 million in savings over the next 5 fiscal years. So we are doing what we can to contribute to the effort by many of us, with the committee taking a strong lead, to move toward a balanced budget and to cut costs where we can, in an effective, equitable, and appropriate way.

It has been asserted by the floor manager that the proposed budget resolution would include funding for an 11.1-percent cost-of-living increase in service-connected disability compensation benefits. That assertion ignores the fact that the proposed budget levels for function 700 in section 3 of the substitute resolution and the proposed instruction to the Veterans' Affairs Committees in section 1, to reduce spending by $100 million in budget authority and outlays, do not—I repeat, do not—allow for this realistic cost-of-living increase in compensation programs unless further reductions are made in veterans' entitlement programs beyond those the Veterans' Affairs Committee has already recommended in its painstaking, exhaustive efforts to achieve savings.

Thus, under the approach now recommended by the able chairman of the Budget Committee, the compensation cost-of-living increase would not be provided for in a direct, straightforward manner; rather, part of the necessary funding would have to come from funds derived from reductions in other veterans' entitlement programs. As proposed by the floor manager, that would mean total elimination of GI bill benefits for flight and correspondence training courses, the preclusion of any cost-of-living increase in GI bill benefits—and it has been 3 years since the last such increase—and elimination of the targeted delimiting date extension that the Veterans' Affairs Committee is proposing in S. 870 to assist educationally disadvantaged and unemployed Vietnam-era veterans.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CRANSTON. May I have 2 additional minutes on the bill?

Mr. MUSKIE. I yield.

Mr. CRANSTON. I believe that Mr. President, this is an unrealistic and unfair approach and is tantamount to the Budget Committee dictating to the Veterans' Affairs Committee its legislative program for veterans' programs. The most dangerous feature of this "musical assumptons" game, of course, is that Senators may actually be misled into thinking that, if they support the floor manager's position, they are making adequate provision for a realistic cost-of-living increase in compensation benefits.

That just is not so, Mr. President.

In addition, Mr. President, I wish to stress against that the Budget Committee, as I have previously indicated is recommending a $200-million reduction in VA health-care appropriations for fiscal year 1980. Acceptance of this recommendation would require a reduction of nearly 10,000 VA health care personnel below the level which the Senate approved in H.R. 4394, the HUD-Independent Agencies Appropriations Act for fiscal year 1980 and to which the conferees on that legislation have also agreed. Adoption of the Budget Committee's recommendation would be a truly devastating blow to the VA's ability to provide needed health-care services. In fact, I am convinced that the Budget Committee's proposal if adopted, would directly impair the VA's ability to provide quality medical care to veterans at facilities across the Nation.

Finally, Mr. President, I again urge that the cuts that are assumed in the Budget Committee GI bill and burial benefits recommendations actually be offered as amendments when the appropriate legislation, S. 870, comes before the Senate. Then we can directly find out the will of the Senate on these proposals in concrete legislative form, rather than sweeping them into a budget resolution where the Senate will not have an opportunity to vote up or down on each of these separate proposals for cuts.

I doubt that the full Senate would make such cuts if Members were aware of the exact situation involved in a proposal upon which they could vote directly in the Senate. That is the way for the Senate to work its will on such matters.

Mr. MUSKIE. I yield myself 2 minutes.

Mr. President, unless I did not hear what I thought I was hearing, I have been confronted with two arguments that seem in conflict with each other. First, if the Budget Committee suggests particular places to make cuts, it is dictating. But if it does not suggest places to cut, then it is being unrealistic, because there are no ways to make the cuts.

Any committee can make that argument. It is a constant argument the Budget Committee faces.

Mr. President, we are not a line item committee, but we feel some responsibility to take into account some program specifics—How are programs to be funded? Which ones are proposed to be funded and at what rates? What is the validity of proposals that come from one source or another for reductions in spending?

If I understand Senator CRANSTON correctly, we should not listen to anybody else's suggestions for cuts in veterans' programs unless he endorses them; that we should make no proposals for specific areas of savings unless he endorses them; and that if he has no such specific proposals for us to recommend, we should make no proposals for overall cuts because we do not know what we are talking about. That seems to be the sum and substance of the argument.

Now, Mr. President, with respect to additional cuts in entitlement programs, I happen to believe there is a place where this can be done. But the Veterans' Committee, apparently, is not interested in trying.

Let us take the flight training and correspondence school proposal. What are the facts here? Well, in flight training only 16 percent of the graduates are employed in an aeronautical profession. In 1978, only 4,000 commercial flight jobs were open but there were more than 20,000 veterans in training. Further, a GAO study demonstrates that 57 percent of veterans are in flight training for recreational purposes. And the average cost of this recreational flight training is more than $3,200 per year. For correspondence courses, the completion rate is only 34 percent and only 11 percent of the students enter a training-related profession.

Mr. President, if making a sound judg-

ment is to be based on priorities, what do those facts suggest to anybody? And there is $79 million to be saved in this program alone.

The Senator talks about cuts in health care that we are mandating. But they are not involved in this reconciliation proposal. That is an appropriations matter for the Appropriations Committee to consider. The Senate's vote on this Cranston amendment will provide for an increase in appropriations. It has nothing to do with entitlements.

So Senator CRANSTON puts it in here in order to get the political clout or the emotional clout of veterans' health care benefits added to his amendment. It should not be here at all. If Senators vote for his amendment, Senator MAGNUSON's Appropriations Committee then will be pressured to acknowledge the $200 million increase in health care for veterans in the appropriations instruction.

Mr. President, I have listened to the bulk of the debate on this by the other side. I have given up my own time in order to give them all the time they might require, and all I have succeeded in doing is giving them an opportunity to obfuscate the real issue that is involved here. The real issue is whether this committee, the Veterans' Committee, beyond all others, should be exempted from any and all responsibility to find some savings to hold down the cost of Government. That is what they are asking for. They are asking for preferential treatment, not only to eliminate the savings responsibility, but also to add $300 million overall to the spending which they previously had been authorized by the first concurrent budget resolution to support.

Mr. President, I am going to move to table the Cranston amendment——

Mr. CRANSTON. Mr. President, may I have 1 minute before the Senator does that?

Mr. MUSKIE. I yield the Senator 1 minute.

Mr. CRANSTON. Mr. President, with regard to veterans health care, there is a cut proposed by the Budget Committee in function 700, mission 3, from $6.3 billion to $6.1 billion. The $6.3 billion figure was already approved by the Senate and the conference committee on the appropriations bill. So there is a cut there, and our amendment to the function 700 totals clearly had to deal with it from the point of view of what I believe and what others on the legislative committee believe is necessary to assure adequate health care for service-connected disabled and other veterans who need medical help.

The Senator suggests that the committee is not trying to save on flight training. Just before this debate began, I was in the Veterans' Committee meeting with some people who are involved in correspondence training, listening to their complaints about my efforts and the committee's efforts to make some cuts in the correspondence training program.

Regarding flight training, I stress that S. 870, which was reported by the committee, would save $27.7 million on flight training in fiscal 1980 and $140 million over 5 years. So the Committee on Veterans' Affairs is trying to make responsible cuts, and is seeking no exemptions from the process.

Indeed, we have recommended cuts in the exact program cited by the Senator from Maine.

I am seeking—the committee is seeking—to be fiscally responsible, but we cannot stand by idly and see cuts made to balance the budget on the backs of veterans.

Mr. MUSKIE. This reconciliation instruction will not balance this year's budget, next year's budget, or the following one.

I say to the Senator it is a phony argument. What he is saying is that he will make no effort in combination with other committees here to reduce spending to a level previously approved by the Senate. The whole argument here is that the Senate and Congress have approved spending in excess of the first concurrent resolution. What we are trying to do is return to that level and he does not want to. That is his argument pure and simple.

Mr. President, I move to table the amendment.

Mr. CRANSTON. Mr. President, may I have 15 seconds?

Mr. MUSKIE. Mr. President, I have been yielding the bulk of the time all afternoon. Every time I do I get another argument that requires an answer. But the arguments do not hold up any better the second time they are offered than the first time.

So, Mr. President, I move to lay the amendment on the table and ask for the yeas and nays on the motion.

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

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Louisiana (Mr. LONG), the Senator from Arkansas (Mr. PRYOR), the Senator from Indiana (Mr. BAYH), and the Senator from Delaware (Mr. BIDEN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD), is absent on official business.

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

The PRESIDING OFFICER (Mr. LEAHY). Have all Senators in the Chamber who wish to vote voted? Are there any Senators who have not voted who wish to vote?

The result was announced—yeas 49, nays 39, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—49

Armstrong	Garn	Muskie
Baker	Glenn	Nunn
Baucus	Goldwater	Packwood
Bellmon	Hart	Pell
Boren	Hatch	Percy
Boschwitz	Hatfield	Proxmire
Bradley	Hayakawa	Ribicoff
Byrd, Harry F., Jr.	Heflin	Roth
	Javits	Schmitt
Cannon	Jepsen	Schweiker
Chafee	Johnston	Stennis
Chiles	Kassebaum	Stevens
Cohen	Lugar	Stevenson
Danforth	Magnuson	Wallop
Domenici	Metzenbaum	Warner
Eagleton	Morgan	Zorinsky
Exon	Moynihan	

NAYS—39

Burdick	Huddleston	Randolph
Byrd, Robert C.	Humphrey	Riegle
Church	Inouye	Sarbanes
Cochran	Jackson	Sasser
Cranston	Kennedy	Simpson
DeConcini	Leahy	Stewart
Dole	Levin	Stone
Durenberger	Mathias	Talmadge
Durkin	Matsunaga	Thurmond
Ford	McGovern	Tower
Gravel	Melcher	Tsongas
Helms	Nelson	Williams
Hollings	Pressler	Young

NOT VOTING—12

Bayh	Culver	McClure
Bentsen	Heinz	Pryor
Biden	Laxalt	Stafford
Bumpers	Long	Weicker

So the motion to lay on the table Mr. CRANSTON's amendment (UP No. 556) was agreed to.

UP AMENDMENT NO. 557

(Purpose: To adjust levels of revenues, new budget authority, and outlays so as to provide no real growth in Federal spending)

Mr. SCHWEIKER. Mr. President, I send an amendment 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 Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 557.

On page 5, strike all following the first sentence and insert the following—

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

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

The amendment is as follows:

On page 5, strike all following the first sentence and insert the following:

(a) the recommended level of Federal revenues is as follows:

Fiscal year 1980: $510,200,000,000;
Fiscal year 1981: $592,100,000,000;
Fiscal year 1982: $637,000,000,000;

and the amount by which the aggregate levels of Federal revenues should be increased or decreased is as follows:

Fiscal year 1980: +$2,000,000,000;
Fiscal year 1981: +$9,700,000,000;
Fiscal year 1982: —$38,700,000,000;

(b) the appropriate level of total new budget authority is as follows:

Fiscal year 1980: $630,000,000,000;
Fiscal year 1981: $641,700,000,000;
Fiscal year 1982: $707,700,000,000;

(c) the appropriate level of total budget outlays is as follows:

Fiscal year 1980: $540,900,000,000;
Fiscal year 1981: $582,000,000,000;
Fiscal year 1982: $619,800,000,000;

(d) the amount of the deficit or surplus in the budget which is appropriate in the light of economic conditions and all other relevant factors is as follows:

Fiscal year 1980: —$30,700,000,000;
Fiscal year 1981: +$10,100,000,000;
Fiscal year 1982: +$17,200,000,000;

The PRESIDING OFFICER. The Senate will be in order. The Chair cannot hear Senators.

The Chair will remind the Senator from Pennsylvania that until the time on the Muskie amendment has expired, no further amendments are in order except by unanimous consent.

Mr. MUSKIE. Mr. President, we set the pattern, I think, on the two earlier amendments; so I ask unanimous consent that the Schweiker amendment be considered in order at this time, even though all time has not expired on the Muskie amendment.

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

Mr. SCHWEIKER. Mr. President, I offer an amendment to reject the Budget Committee's acceptance of 48-percent inflation, to reduce proposed Federal spending by $81 billion, and to reduce Government revenues by $144.6 billion over the next 5 years. I am startled and deeply disappointed by the Budget Committee's resignation and sense of defeatism in the fight against inflation. On page 25 of its report, the committee spells out its forecast for consumer prices for fiscal years 1980 to 1984. The forecast: Little progress can be made to stop rising consumer prices during the next 5 years. This Senator believes that is nonsense.

Under the fiscal policy plan recommended by the Budget Committee, consumer prices will rise by a shameful 48 percent in the next 5 years. By way of historical comparison, you have to go all the way back to the 5-year period of 1916 to 1921 to find a more inflationary period. Not even the inflation-racked decade of the 1970's surpasses what the Budget Committee says is in store for the American people who are already pressed to the breaking point by inflation.

The Senate should feel embarrassed to budget in this 48-percent inflation. At a time when public opinion polls show that inflation is the No. 1 issue in America, the Senate cannot in good conscience endorse a policy which budgets in devastating inflation for years to come. I believe any budget resolution which acquiesces to devastating inflation is an unacceptable starting point for determining the budget.

Consider what 48-percent inflation will mean to those on fixed incomes and to the poor. Bread could cost $1.20 a loaf. Milk could be $3 a gallon. Without any new OPEC-induced price increases, gasoline could sell for $1.50 a gallon. If we agree to this, who will answer to the poor, the elderly, and others living on fixed incomes who cannot possibly stay even with a price spiral out of control?

Consider what this unparalleled inflation will do to young couples just starting out. The price of today's $70,000 home would be $104,000 by 1984, with a down payment of $21,000. The monthly mortgage, not including taxes and insurance, at 11 percent for 25 years will be $813, about 51 percent of the average family monthly income today. This means that millions of young couples would lose the right to buy a home at a price they can afford. Besides being frozen out of the housing market, the decision of when to start a family will also be seriously affected. Millions of dual wage families will be forced to conclude they cannot forgo a potential mother's income because manufactured inflation from Washington makes child rearing a losing proposition.

Tragedies for other vulnerable groups are certain unless we act now to prevent them. Is there anyone in the Senate who doubts this? This country simply cannot withstand 48 percent inflation squeezed into only 5 short years. Our cities will be in upheaval, our rural areas bankrupt. Caving in to inflation now will define new limits of irresponsibility. We would be surrendering the war before the first shot is fired. Well, I feel we should fight to the last man—not wave a white flag.

The committee believes a 45 percent increase in Federal outlays over 5 years is an austere policy since prices are expected by them to rise by 48 percent. I concur that even a 45 percent spending increase over 5 years might earn the title of austerity if it takes place during a time when prices rise by 48 percent. Federal spending growth, after adjustment for inflation, would be negative. But a 45 percent spending increase is not austerity budgeting if Congress will act to bring inflation down to its historic rate—or at least closer to it.

During the guns and butter decade of the 1960's, inflation averaged 2.7 percent annually, or 14.5 percent over a 5-year period. And during the fifties, inflation averaged 2.1 percent a year, or 11 percent over a 5-year period, not 48 percent. If inflation is brought under control and the country matches the experiences of the fifties and sixties, then a 45 percent spending increase in half a decade is unjustifiable. People do not want Government to get bigger, any more than they want more inflation.

For these reasons, I believe the Senate should construct an austere budget based on inflation rates which are tough, but realistic if the Senate has the will to achieve them.

Just what are realistic inflation goals for the Senate to strive for over the next 5 years? In an attempt to answer this question, I contacted seven economists of national stature. Their political beliefs span the spectrum from liberal to conservative. Senators will see their projections on table A of the summary sheet of my amendment before them.

The Budget Committee accepts an inflation rate for the next 5 years which amounts to 148.3 on a compounded cumulative inflation index which uses fiscal year 1979 as 100.

Each of the seven leading economists contacted during the week of August 27—that was just a few weeks ago—was asked to provide his projection of consumer price increases for each of the next 5 fiscal years assuming that the economic policies he favored were adopted. All but one thinks we can do far better than the Budget Committee.

Only one, Otto Eckstein, at 149.2, comes out anywhere near the inflation index of 148.3 which the Budget Committee would have us accept. Listen to the others:

Arthur Okun at 140.2; Walter Heller at 141.4; Michael Evans at 137.3; Milton Friedman at 142.2; Martin Feldstein at 133.8 and Arthur Laffer at 125.1. Taken together as a consensus, their projections give us a cumulative 5-year inflation index of 138.2, a full 10 points lower than the inflation increases the Budget Committee asks us to accept, in their report and their resolutions.

The average consensus inflation rate which can be achieved if you combine the projections of these distinguished economists over the next 5 years is 6.7 percent, compared to the 8.2 percent accepted by the Budget Committee.

That is a difference of a full 1.5 percentage points, one-and-a-half percentage points for each of those fiscal years.

When the consensus forecast is used, we see that no real growth budgeting—and that means, by my definition, letting the Federal Government spend just enough more to keep even with inflation—we see that no real growth budgeting requires budget authority and outlay cuts from the committee resolution of $2.2 billion in fiscal year 1980, $7.5 billion in fiscal year 1981, and $14.9 billion in fiscal year 1982.

The question of which policies should be selected to lower inflation will be chosen through debate in the Congress, but I believe the Congress can and will develop a sound strategy. We must do so in the interests of the country.

Senators may freely compare the budget recommended by the committee and by me on their summary sheets which I ask unanimous consent to have printed at this point in my remarks.

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

TABLE A

[In percent except index]

Consumer price increase projections	Fiscal year— 1980	1981	1982	1983	1984	Annual average	Fiscal year 1980–8, compounded cumulative inflation index (fiscal year 1979=100)
Arthur Okun (former chairman, Council of Economic Advisers)	9.0	8.0	7.0	6.0	5.0	7.0	140.2
Otto Eckstein (president. Data Resources. Inc.)	10.3	8.4	8.3	7.4	7.3	8.3	149.2
Walter Heller (former chairman, Council of Economic Advisers)	8.5	7.8	7.1	6.5	6.0	7.2	141.4
Michael Evans (former president, Chase Econometrics)	9.7	7.5	6.2	5.2	4.2	6.6	137.3
Milton Friedman (Nobel laureate)	9.7	8.2	7.2	6.2	5.2	7.2	142.2
Martin Feldstein (president, National Bureau of Economic Research)	8.0	7.0	6.0	5.0	4.0	6.0	133.8
Arthur Laffer (former OMB Chief Economist)	8.0	6.0	4.0	3.0	2.0	4.6	125.1
Leading economists consensus inflation factor (Schweiker amendment)	9.0	7.6	6.5	5.6	4.8	6.7	138.2
Budget Committee projections	9.8	8.6	7.7	7.5	7.4	8.2	148.3

Note: Economists' inflation rate projections are based on interviews during the week of August 27. Each was asked to provide his projection of consumer price increases for each of the next 5 fiscal years assuming that the economic policies he favored were adopted.

TABLE B.—REVISED TO REFLECT MUSKIE AMENDMENT TO BUDGET RESOLUTION

Inflation factor (Consumer Price Index)	Fiscal year— 1980	1981	1982	1983	1984	Annual average increase	Fiscal years 1980–84, compounded cumulative price increase (percent)
Schweiker amendment (percent)	9.0	7.6	6.5	5.6	4.8	6.7	
Cumulative inflation index—(Fiscal year 1979=100)	109.0	117.3	124.9	131.9	138.2		38.2
Committee resolution (percent)	9.8	8.6	7.7	7.5	7.4	8.2	
Cumulative inflation index—(Fiscal year 1979=100)	109.8	119.2	128.4	138.1	148.3		48.3
						Cumulative reduction fiscal years 1980–84	
Budget authority (billions):							
Schweiker amendment	$630.0	$641.7	$707.7	$739.8	$799.1		
Muskie amendment	632.2	649.2	722.6	762.2	833.1		
Schweiker budget authority reduction	2.2	7.5	14.9	22.4	34.0	$81.0	
Outlays (billions):							
Schweiker amendment	540.9	582.0	619.8	654.5	685.9		
Muskie amendment	543.1	589.5	634.7	676.9	719.9		
Outlay reduction with Schweiker amendment	2.2	7.5	14.9	22.4	34.0	81.0	
						Cumulative fiscal years 1980–84	
Revenues (billions):							
Schweiker amendment	510.2	592.1	637.0	704.7	769.7		
Committee resolution	514.7	603.6	658.4	744.4	837.2		
Taxpayer savings with Schweiker amendment	4.5	11.5	21.4	39.7	67.5	144.6	
Annual surplus (billions):							
Schweiker amendment	−30.7	+10.1	+17.2	+50.2	+83.8	+130.6	
Committee resolution	−28.4	+14.1	+23.7	+67.5	+117.3	+194.2	

Mr. SCHWEIKER. Mr. President, the biggest difference between them is that I believe the committee recommendation is based on unacceptable inflation that will plague the country.

In a literal sense, a vote for the committee budget is a vote which proclaims to the public that the Congress and the administration cannot work together to slow the price spiral. It is a vote of "no confidence" in the American system of Government. It says the people's representatives cannot act responsibly to solve the No. 1 domestic issue today—inflation. Alternatively, if the Budget Committee inflation assumptions prove wrong, then the people will rightly conclude that all of the talk about austerity is a sham—a cloak to mask rapid spending growth. Congress will have talked conservatively, but have budgeted liberally. The hypocrisy will be impossible to conceal.

I believe we must make it possible for people to buy food, gas, and housing at prices they can afford. I urge my colleagues to vote for my budget changes which assume the Congress will act to make this possible and to allow the American people to maintain their standard of living.

Mr. President, I believe it is essential that when the Senate considers its budget document, that we do not assume, as a matter of fundamental economic, budgeting, and appropriation policy, that we are going to have a 48-percent growth in inflation in the next 5 years. I think that is much too high. The seven leading economists I polled, who cover the spectrum from liberal to conservative, averaged some full 10 percentage points below that. I believe that at least is a target that this country ought to be shooting for.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE. Mr. President, I must say that I find this amendment as difficult to deal with as any which has been offered or is likely to be offered. That is not because there is any particular pressure group or constituency involved on the other side, but because what it asks of me is that, instead of the economic crystal ball which the Budget Committee and the Congress have used over the last 5 years, we should use another one, of Senator SCHWEIKER's contriving, to project future economic events.

The Senator has properly said that the 5-year projections of the Senate Committee on the Budget assume a cumulative 48-percent inflation over the next 5 years. It is of interest, I think, to note that over the past 5 years that figure was 46 percent, only 2 percentage points off from the projection for the next 5 years. I offer that not as being any more accurate an indicator of what will happen than the Senate Budget Committee projects or than Senator SCHWEIKER projects, but merely to point out that, given the inflation experience we have had in recent years, that we are still experiencing, and the upward trend in inflation that we have experienced this year, the Senate Budget Committee is not that much out of line with what is reasonable as we look to the future. Not that it is reasonable to experience 48-percent cumulative inflation over 5 years. I would like to see that zero. But neither Senator SCHWEIKER nor I have come up with any way of limiting inflation so that there is no increase in the budget attributable to inflation between now and 5 years from now. We both assume there is going to be inflation.

So what do we come down to? We come down to this: Is either Senator SCHWEIKER or the Senate Budget Committee more accurate in its vision of the inflationary future? Which? Maybe it

ought to be 50 percent; maybe it ought to be 40 percent; maybe it ought to be 60 percent; maybe it ought to be 20 percent.

What do we do, just arbitrarily pick a figure? Or suppose, as is suggested by the Senator's argument, we ought to take a handful or two handsful of economists and ask them each, individually, to make a projection, add up the figures, divide by the number of economists, and choose that. Is that more rational, more likely to be correct, more likely to be sound than a Schweiker projection or a Senate Budget Committee projection or a CBO projection or an OMB projection? I confess I do not know which is the best.

All I know is that if you have created an institution, as we have, in the congressional budget process and within that institution, if you have created an agency whose business it is to make economic projections, the best way to avoid reshaping and shaping those projections to suit your political inclinations is to rely on that agency as consistently as you can, unless outside events, not our arbitrary judgment, suggest otherwise.

We have used CBO's economic projections as the basis for the entire budget. Changing those economic projections, we change every number, just about every number in the congressional budget resolution.

Now, is that something to do on the Senate floor?

Changing inflation projections changes projections of revenues, not for just 1 year, but for the next 5 years.

Changing inflation projections changes projections of the cost of programs, not for just this year, but for all 5 years.

Changing inflation does not change estimates of the cost of programs uniformly, some will be impacted more seriously than others.

So that if it is the Senate's desire, if we change economic assumptions on the floor and then, proceeding on the basis of those projections, rewrite every number in the congressional budget resolution, that, of course, is the Senate's prerogative. I do not recommend it.

The Senator described his own projections, but let me say this about them. His estimates of the reduction in revenues resulting from his lower inflation projection are somewhat higher than those currently in use by the Senate Budget Committee. Our estimates, using his inflation—and he is proposing to use a 9 percent inflation rate for 1980—using a 9 percent inflation rate rather than the 9.8 percent assumed by the Senate Budget Committee, would, according to him, result in a reduction of $4.5 billion in revenues in fiscal year 1980.

We would say that ought to be $2.4 billion using his 9 percent. That is a big difference. That is $2.1 billion difference in the fiscal year just ahead of us, changing those inflation numbers.

Should we do that, it would mean raising the deficit, of course, unless we reduce outlays accordingly, and Senator SCHWEIKER would do that. He would propose reducing outlays in fiscal year 1980 by $1.8 billion.

The Congressional Budget Office would say that instead of $1.8 billion reduction in outlays, the 9 percent inflation rate would give us $600 million, or about one-third the amount of reduction in outlay Senator SCHWEIKER suggests.

Where does that put us if we try to change this whole scenario on the floor? Every Senator is then free to make his own economic assumption. He might say, "Well, I like Senator SCHWEIKER's revenue reduction," or "I like the Congressional Budget Office revenue reduction of $2.4 billion because that would have less impact on the deficit than Senator SCHWEIKER's $4.5 billion, but I like CBO's $0.6 billion reduction in outlays better than I like Senator SCHWEIKER's $1.8 billion because that would leave more room for programs.

So we can make any combination we want to, take this outlay reduction, that revenue reduction, that inflation number, that unemployment number, and each of us individually could reshape this budget resolution and the assumptions upon which it is based to suit himself and his own political problems.

I just do not think that is the way to do it, Mr. President.

I yield to my good friend from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I appreciate Senator MUSKIE's yielding for a question.

As I understand the Schweiker amendment, it would actually project a deficit of almost $3 billion larger than the Budget Committee's $28 billion projection. Is that correct?

Mr. MUSKIE. Using his own numbers, he comes up with a deficit of $30.7 billion in 1980 compared with the $28.4 billion in the second budget resolution.

Mr. PERCY. I am sympathetic with Senator SCHWEIKER's goal of trying to reduce inflation. In the Humphrey-Hawkins bill we included a goal as a way to try to bring inflation down from the high rates we have experienced in recent years.

I have, however, a problem with this present amendment, as I understand it. I have tried to be sympathetic with the goal of Senator SCHWEIKER but, on the other hand, also be realistic about the possibility of achieving his lower inflation rates. If we do not meet these lower rates, then what will the effect be on the budget?

I would like to believe we are going to average less than 10 percent inflation this year, but I do not think we will do it. In the first 6 months of 1979, the rate was over 10 percent and it has not shown signs of slackening.

In eight of this, is it really realistic to assume next year it will drop all the way down to 9 percent? That is a horrendous rate and yet we are getting used to these figures, unfortunately.

I hope we will bring that inflation rate down. But we should not kid ourselves into thinking we can do it by this means.

Now, what effect does this have if we actually accept the Schweiker amendment? Would that set for us a goal that would somehow anchor us in a little bit more? Or would the lower rates, if we do not achieve them, then make the job of budgeting all that much harder next year? Next year is the real payoff beginning October 1. That is when we have said that, come hell or high water, we will balance the budget and even show a slight surplus in it. That goal, I hope, we will not give up one bit on.

Mr. MUSKIE. I agree with what the Senator is saying.

With respect to revenues, the effect of adopting the Schweiker amendment would be to reduce the revenue aggregates. That might or might not trigger tax cut legislation by the Finance Committee. On revenues, the budget aggregates are a floor, not a ceiling. It may or may not have any impact, really, on tax legislation because the Finance Committee and the Congress may not honor that floor.

With respect to outlays in budget authority, the effect would vary across the board because we did not assume inflation for every item in the budget to the same extent.

There are index programs, as the Senator knows, which must reflect inflation fully.

With respect to pay, those figures reflect at least comparability, but, in a sense, inflation, that Congress and the President between them are willing to do so, but the President approved 7 percent, which is below the rate of inflation. So that with respect to pay, I am not sure what the effect of Senator SCHWEIKER's amendment would be.

Seven percent is the effective pay cap because of the President's action. So we could not increase it above that. But Senator SCHWEIKER proposes a 9 percent inflation rate. So that would not be reflected in pay.

With respect to other programs, the effect would really mandate real cuts in many budget functions because we have not allowed fully for inflation.

So with respect to many budget functions, the numbers the Senator proposes, without, I gather, intending to make real cuts in programs, might have that effect in programs I could not now identify quickly.

Mr. PERCY. I thank my distinguished colleague for his explanation.

Could the Senator yield for a unanimous-consent request and also for just a quick general comment?

Mr. MUSKIE. Yes.

Mr. PERCY. Mr. President, I wish former Senator Sam Ervin were on the floor today, because of the years we spent together on the Governmental Affairs Committee. I was serving as ranking Republican at the time and Senator Ervin was chairman of the committee. Senator Muskie, you were the lead Senator on the Budget Reform Act, of which I was proud to be a principal cosponsor. I think Senator Ervin would feel that the budget process has exceeded our fondest aspirations.

We were concerned as to whether or not it really would work, whether it would be able to stand up against all the other committees of the Senate, and whether there would be a pulling together.

I think the genius of the selection process that brought Senator MUSKIE and Senator BELLMON together—as Budget Committee chairman and ranking Republican—was probably the best thing that happened to strengthen the new law. Also, I think the principle is fundamentally sound. Both Senators are working from a principle that is right and I know they feel deeply in their hearts that it is good for this country. It is the only procedure Congress has for restoring fiscal integrity to the Government and this country. Both Senators know they are right, and so does everyone else.

This last vote was tough. I have had a lot of telephone calls from Illinois veterans groups today reminding me of who elected CHUCK PERCY last November, who cast their votes for him. And now they want a vote for veterans programs through the Cranston amendment.

All I can say is that I gave a vote for the veterans. I gave a vote that would help keep the integrity of fiscal responsibility.

I think the veterans should be and are in the forefront of wanting to stamp out inflation, to stamp out irresponsible government spending, and to have a reckless Congress, which we have been many years in the past, reined in and under control. We need a cooperative spirit to do that.

The cooperation among the Appropriations Committee, the Budget Committee, and all other committees is rough at times.

I sat—and still do—on the committee that helped create the Budget Committee, the Government Operations Committee. We, too, are faced in this budget with a $100 million cut.

In facing a cut of $100 million, I know it is the tendency of many committee staffs to say, "Our committee is an exception. We can't possibly do it."

When we discussed our own cut last week, I said, "Under no conditions are we an exception. Everyone is an exception in that case. We can't make any exceptions. If we have no exceptions, then it is even-handed with everyone." We simply had to stand by the integrity of the budget process.

I commend the Democratic leadership that has helped work out this compromise. My colleagues on the Republican side are also supporting it. This is not a partisan issue. We all have gotten the message, and we all have taken the pledge. We are going to have fiscal responsibility in this country, and Congress is going to lead it.

The effort in the Budget Committee of working together with every other committee in the Senate is one of the most miraculous things I have seen in my 30 years in government and my 13 years in the Senate. I commend my distinguished colleagues for their inspired and determined leadership, their patience, and their persistence. The budget process is probably one of the finest things that has ever happened to veterans, to consumers, to businessmen, and to labor people. It is adding to the strength of this country by strengthening our economy.

We cannot always talk just military strength. Economic strength is just as important. A key to our economic strength is in the prudent use of taxpayers' dollars. That is why I feel at this time that I would like to bring to the attention of my colleagues the recent interim report of the Inspector General of GSA, Mr. Muellenberg, on the organization and operations of the GSA Inspector General's office.

This is the first report required under the 1978 Inspector General Act, which combined auditing and investigative resources in each of 12 agencies and departments under a single, high level official in each agency reporting directly to the agency head and Congress.

The deplorable scandals at GSA have shaken the confidence of the American people in the management and honesty of their government. I cannot overemphasize the importance of the Inspectors General in ferreting out fraud, corruption, excessive and wasteful spending and mismanagement in GSA and other Federal agencies. This is a goal to which I have been personally committed as ranking minority member of the Governmental Affairs Committee.

During this session of Congress my esteemed colleague, Senator CHILES, and I have carefully reviewed the qualifications of President Carter's nominees for Inspector General for the Departments of Commerce, HUD, Labor, Transportation, Interior and Agriculture, as well as for NASA, SBA, the Veterans' Administration, and GSA. To date we have confirmed 10 Inspectors General and are currently reviewing the nomination for the Community Services Administration.

Regrettably, the President has yet to submit his nomination for the Environmental Protection Agency. I strongly urge the President to direct his attention toward selecting an eminently qualified individual to fill this extremely important position so that the organization and work of the Office of Inspector General at EPA can begin as soon as possible.

Mr. President, no matter how qualified an individual may be to perform the duties of the Inspector General, the enormous task of preventing and detecting fraud and mismanagement in Federal programs cannot be accomplished without the full support of both Congress and the administration. Unfortunately, in a recent report the General Accounting Office stated that Federal audit organizations lack sufficient staffs to carry out their mission, because OMB and several agencies either drastically reduced or denied requests for additional audit staff. In an effort to alleviate this situation, GAO has asked OMB to develop guidelines to help department and agencies determine the number of auditors needed to adequately review Federal programs.

In the case of GSA's Office of Inspector General, I am happy to note that the Senate recently approved a revised budget request to provide $18.9 million and 593 positions for that Office. There can be little doubt that this is money well spent.

During his confirmation hearing I thoroughly questioned GSA Administrator Freeman on his plans for working with Mr. Muellenberg and the Justice Department task force. Mr. Freeman assured me that he would do everything possible to support Mr. Muellenberg in his efforts to investigate and prosecute fraud committed both by GSA employees and private contractors. Based on the present level of investigational activity, Mr. Freeman also made a commitment to the Governmental Affairs Committee to keep Congress well informed of GSA's progress in restoring the integrity of its operations through quarterly meetings with the chairmen and ranking members of the appropriate congressional committees.

I am encouraged by the progress made to date. In his interim report Mr. Muellenberg states that the organizational structure of GSA's Office of Inspector General is in place. The Office of Special Projects is currently assessing the areas most vulnerable to fraud in order to develop a comprehensive plan for auditing and investigating activities.

The Office of Audits will be upgraded to a staff of 450, providing an extensive audit program designed to detect and establish deterrents to fraud and to improve internal control of GSA programs. One important responsibility of the Audit Office is review of GSA self-service store operations to evaluate the effectiveness of strengthened internal controls in the Federal Supply Service. The report also highlights the audit planning of the Office of Audits in various areas such as motor pool operations, public building services, computer sciences, stockpile sales, and disbursements of all types. In addition to reviewing these programs and services, the auditors will provide professional advice to GSA procurement officials on accounting and financial matters to assist in negotiating, award, administration, repricing, and settlement of Government contracts.

The Inspector General's report cites several examples of the cost effectiveness of regular program audits. The General Contract Audit Division since January of this year has issued 43 audit reports recommending savings of $3 million. This translates into a savings of $464 per audit man-hour or a return of $19 on each dollar invested. Mr. President, this is testament to the rewards of giving the Inspectors General our full support. But doing audits and issuing reports is only a first step toward our goal of saving the taxpayers millions of dollars annually. The GSA Inspector General, I am happy to note, also intends to followup aggressively on completed audits.

The Office of Investigations, with a current staff of 78 investigators has since January opened 487 cases and closed 616. Most of these cases were in the area of white-collar crime, while the remainder dealt with debarment of contractors, misconduct and organized crime checks. The white-collar cases involved investigations of alleged fraud as well as conflicts of interest, bribery and falsification of time and attendance records. To date,

the GSA-Justice Task Force combined effort has led to the conviction of 86 Federal employees and several private contractors for defrauding the Government.

Finally, Inspector General Muellenberg has taken the innovative step of complementing the Offices of Audits and Investigations with a new Office of Inspections. This office consists of specialists in engineering, leasing, building management, and other relevant areas who conduct highly technical, professional inspections to determine if work was performed in accordance with specifications, or done at all. The report notes that the assistance provided by the inspectors to the auditors and investigators has contributed to the conviction of three GSA employees and six contractors for defrauding the Government of approximately $2.6 million. These inspectors also have taken actions to insure the debarment of corrupt contractors from Government contracting activities.

Mr. President, I congratulate Administrator Freeman and Inspector General Muellenberg on their efforts to date, and I look forward to working with them in the future to rid GSA of corruption and to restore the faith of the taxpayer in the efficient and honest operations of the Federal Government.

Senator CHILES has been the spearhead in the drive for inspectors general. We have confirmed the nominations of 10 inspectors general. We foresee future interim reports and savings of billions and billions of dollars. These savings can be wrung out of excessive, wasteful government spending just by that process.

As Everett Dirksen said:

A billion there and a billion there, and pretty soon you're talking about real money.

We are talking about real money today, but we also are talking about principles. If we win this battle today on reconciliation, the principle would have been established and we will have done a great service to the country and a great service to the future of the U.S. Senate.

Mr. MUSKIE. I thank the Senator from Illinois. It is appropriate that he should have made reference to an effort under Senator Dirksen a few years ago to accomplish this process.

It is not pleasant to cast the votes we have cast today. To do otherwise I believe would return us to those years, which we remember so well and which we hope are behind us.

Mr. President, I do not want my opposition to the Schweiker amendment to be misunderstood by him or by the Senate. His concern for the forces of inflation is appropriate. His attempt to focus and his attempt to deal with it by this particular means is certainly an appropriate one for us to consider.

I am simply troubled, as I have indicated, by an effort the consequences of which may be to launch us into an extensive and in-depth budget writing process on the floor, which I think would be risky. That is not to say that the Budget Committee is infallible or that CBO is infallible or that anyone else is infallible about projecting the future of inflation.

Let me say a few words about the inflation rate used in our 1980 forecast.

It was estimated by the Congressional Budget Office in July and, right now, inflation in consumer prices is outrunning the CBO forecast in July. Generally, CBO forecasts have tended to underpredict inflation, though they have been more accurate than the administration's.

Our latest comparison of forecasts shows no justification for revising the CBO forecast for 1980.

The average of 40 forecasters for July is three-tenths of 1 percent below CBO. Chase econometrics, in August, is three-tenths of 1 percent below CBO.

Data resources is three-tenths of 1 percent above CBO.

Wharton, in August, is 1.2 percent above CBO.

So that with respect to 1980, we are in the lower end of the range rather than in the higher end.

For fiscal 1981 through 1984, the Senate Budget Committee projection of inflation incorporates the assumption of a reduced rate of growth in productivity and the effects of the fiscal policy of the first concurrent resolution as approved by the Senate, estimated in accordance with a standard large macroeconomic model.

It certainly would be welcome if inflation were to decline as Senator SCHWEIKER projects, but he offers no reason to believe that this would be the case. If it should turn out to be so in future years, the budget resolutions for those years can be adjusted, when more information is available.

At the present time, many economists are now assuming the core or underlying rate of inflation set by the trend of unit labor costs at around 8 percent. In 1978, unit labor costs rose 8.1 percent; and in the most recent quarter of 1979, it was 10.1 percent above a year earlier.

Energy prices can be expected to rise faster than this underlying rate of inflation, resulting in a higher rate of increase in consumer prices.

We can reduce inflation by holding to restraint in our fiscal and monetary policies, and we urge that. We can reduce inflation by policies to increase productivity and reduce business costs, and we welcome that.

We can reduce inflation by fostering conditions under which the wage/price spiral can be wound down. But we cannot reduce inflation by simply assuming it away.

It is rather ironic, Mr. President, to have an amendment arguing for lower inflation and revenues and a higher fiscal year 1980 deficit just after a debate on the floor in which it was suggested that revenues should be higher in order to keep the deficit down. But that is the way of life for the Budget Committee, so we except to be confronted with these conflicts.

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

Mr. MUSKIE. I yield.

Mr. BELLMON. Mr. President, I simply point out that in the material which Senator SCHWEIKER is using to support his amendment there is a footnote at table A which says:

Economists' inflation rate projections are based on interviews during the week of August 27. Each was asked to provide his projection of consumer price increases for each of the next 5 fiscal years assuming that the economic policies he favored were adopted.

Mr. President, that is a very important caveat. These economists are all having different assumptions, and they are all the ones that each economist personally favors.

I think we have a dangerous trap over here before us. If the Senate gets in the practice of letting economists make their own assumption and then setting an inflation rate accordingly we would be in an impossible situation.

We created the Congressional Budget Office for the purpose of advising the Senate and the House of Representatives, and it seems to me that we have been wise in following their recommendations in most cases in the past. I personally would not want to get away from that practice.

Also, we can continue to work for and strive to get the inflation rate down. Certainly, I intend to do that. The votes we have had here this afternoon in the Chamber indicate the Senate supports that position. But we are not going to make any progress just by wishing inflation to go away or by assuming it is going to go away.

We have to work for that objective. If we do our work properly, then perhaps we can expect that inflation will moderate more rapidly than these assumptions indicate. But I believe in the meantime we have no choice but to go along with the Congressional Budget Office assumption which is what this resolution is based upon.

Mr. DOMENICI. Mr. President, will the Senator yield 3 minutes to the Senator from New Mexico?

The PRESIDING OFFICER. The Senator from Maine controls the time.

Does the Senator from Maine yield to the Senator from New Mexico?

Mr. MUSKIE. I yield.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the chairman.

Let me say that while I have great respect for the sponsor of this amendment, I, also, think there is great danger in adopting the amendment.

First of all, I really do not know what good there is in taking a Walter Heller and an Arthur Laffer and saying to them, "What do you assume," and then coming up with an average of what they think is going to happen to the American economy. One has developed the Laffer curve, which is a completely new approach to economics. It may be right. Who knows? The other has been advising that we should spend more and thinks that the great British economist who adopted the philosophy upon which we promoted deficit spending is the greatest thing since perhaps alphabet soup. And maybe that is what we would get here if we took Okun, Eckstein, Heller, Evans, Friedman, Feldstein, and Laffer, all of whom would have different assumptions, and then took their best guess of what would happen to inflation and then averaged it out and offered that to the Senate.

I understand that more or less that is where we are here. For the fiscal years

that he has chosen he also assumes that the economic policies favored were those of each of the average of these economists for each of the next 5 years.

I submit that if we had them before the Budget Committee, each of them, and we gave them the series of assumptions we had to make in this budget none of them would have agreed with all of the assumptions; therefore, they would have had to have made other than their best assumption. So what do we end up here with if we go with this? I hate to say it, but I think we end up with the lowest common denominator and we are apt to end up with some funny money. I do not think we should do either. We should remain consistent. We have remained consistent and changed only in conference one or two times because the House of Representatives chose to arrive at their own. We used CBO. I think it is apt to be as right as taking these excellent economists, each of whom has his own theory and philosophy of what is wrong with our budgetary process and then taking their best assumption and averaging it.

I think we are better off with ours, and I regret not to be able to support the distinguished senior Senator from Pennsylvania because he has certainly been extremely helpful in terms of fiscal responsibility in the budget process, but on this score I truly believe we should not be second-guessing every time we come to the Chamber in terms of economic assumptions and inflation. I hope the Senate will reject the proposal.

I thank the chairman for yielding.

Mr. SCHWEIKER. Mr. President, first I commend the Budget Committee for the work they have done. As they saw, I voted with them on the first two votes to protect the budget and not to increase it. I know they have a difficult job. I voted with them when the veterans were on the line and when the school lunch program was on the line. So I appreciate what they have done and what they are doing.

I think it is important to say that because we differ over where we hope to get rather than what our goals are. I think Senator MUSKIE is quite right. No one takes a back seat to him on fighting inflation. I want to make that very clear.

Having said that and meaning it, I think there is a fundamental question here that we should ask ourselves concerning what the Senate legislative process is all about. I think that the Budget Committee has every right and responsibility to do just what they have done, which is to come forth with a series of assumptions and projections based on their state of the art and their knowledge. I accept that.

But I do not accept the next point I hear from the Budget Committee which is that we should not challenge their work, that we have no responsibility to question or to say, "Maybe somebody on the committee made a mistake."

I think we would be derelict in our duty if we Senators do not ask questions concerning the work done by our committees. That, of course, is what I am doing.

The figure that particularly concerns me is the assumption that over the next 5 years price will rise by 48 percent. Now my good friend from New Mexico talks about funny money. Well, funny money is money falling in value by 48 percent in 5 short years. There are a lot of people who will feel that 48-percent inflation will produce a lot of money.

Mr. DOMENICI. It will.

Mr. SCHWEIKER. This is what I wish to draw to the attention of the Senate. Do we really want to set as a national goal over the next 5 years a 48 percent inflation rate? Almost none of the leading economists are anywhere near that figure and in fact most are 10 full percentage points under it.

I am not an economist. I do not pretend to be. This is why I went to the people who are experts. I was trying to sample a cross-section of political economists. No one can say that I stacked the deck with only liberal economists or conservative economists. That is why when this Senator read out the names of economists he spoke with he got a spectrum: Arthur Okun, Otto Eckstein, Walter Heller, Michael Evans, Milton Friedman, Martin Feldstein, and Arthur Laffer. These are respectable economists. Yes, they do span the political spectrum, but so does this Senate and so do the citizens in this country.

I do not know why anyone, particularly the economists in the CBO office, should have any monopoly on economic forecasting skill, knowledge, or expertise. I wonder whether anyone has such a monopoly.

So I think I have a right to question the Senate Budget Committee and the Congressional Budget Office when I see seven prize winning economists say that the Senate Budget Committee is 25 percent high in what they are assuming for inflation over the next 5 years, I think as a Senator I have the responsibility to raise some questions.

Just to enunciate these remarkable differences in inflation forecasts in the fiscal year 1980, the Budget Committee assumption is 9.8 percent inflation and the concensus of leading economists is 9 percent. For fiscal year 1981, the Budget Committee projects 8.6 percent, the leading economist 7.6 percent, 1 point below. And in fiscal year 1982 it is 7.7 percent for the Budget Committee and 6.5 percent for the economists, 1.2 percentage points below. For 1983 it is 7.5 percent for the Budget Committee and 5.6 percent for the economists, nearly 2 percentage points below. For 1984, it is 7.4 percent for the Budget Committee and 4.8 percent for the economists, approaching a 2½ percentage points difference.

These seven economists who say a 6½ percent inflation rate average over the next 5 years is achievable only if their policies are followed—and, I put this caveat right on my summary sheet—have the right to do so.

These economists, based on what they would like to see done, feel the Nation must still average an annual inflationary increase of 6.7 percent for 5 years, compared to the Budget Committee's average of 8.2 percent for 5 years. That is a difference of 1½ percentage points.

Now, 1½ percentage points per year may not sound like much, but when you accumulate it for 5 years you are talking about 48 percent inflation instead of 38 percent inflation, a 10-percentage point differences in price people must pay and a 10-percent difference in the size of the Federal budget.

We have the right to question the Budget Committee when the differences in projections are so large.

I think seven leading economists certainly ought to be able to stand up to the Congressional Budget Office. I will put that on the scale any day.

I do not think any committee has the knowledge or superabundance of intelligence to say, "We are right and everybody else is wrong."

I do not pretend to be right, but I sure pretend to have some economists who honestly differ with the assumptions the Budget Committee has made.

Mr. HATCH. Mr. President, will the Senator yield for a couple of comments?

Mr. SCHWEIKER. I yield.

Mr. HATCH. I agree with the distinguished Senator from Pennsylvania. He is making a pretty valid point. First of all, it is a well-known fact that the econometric models used by the Budget Committee do not take into account the supply side. They only take into account the demand side. Therefore, their models have been wrong.

Let me give a couple of illustrations to back up my remarks. My colleagues, in my opinion, should be very skeptical of the economic projections of the Budget Committee and the economic policies recommended by the Budget Committee. I have reviewed the history of the results the Budget Committee has projected would occur from the economic policies it has recommended in the past. I think my colleagues will be very interested in my findings.

Last year at this time, when the Senate was considering the second concurrent resolution for fiscal year 1979, the Budget Committee projected that outlays in fiscal year 1980 would be $536 billion and the revenues would be $500 billion, but indicated that there would need to be an additional stimulus of $8 billion in either tax cuts or additional spending to achieve the economic goals they projected. These goals, on a calendar year basis, were an inflation rate of 6.2 percent in 1980, 5.9 percent in 1981, 5.8 percent in 1982, and 5.9 percent in 1983. The unemployment goals were 6.2 percent in 1980, 5.9 percent in 1981, 5.8 percent in 1982, and 5.9 percent in 1983. Real economic growth was projected to be 3.9 percent in 1980, 4.3 percent in 1981, 4.3 percent in 1982, and 4.3 percent in 1983. The Budget Committee told the Congress at that time that if we would just follow the economic policies that they were recommending we could hope to achieve these economic goals. One year later it is interesting to examine what has happended to these projections.

For the 1979–83 period, outlays have been increased by $42.9 billion and revenues have been increased by $93.2 billion. Whereas last year at this time the Budget Committee was projecting real growth of 22.6 percent over the 5-year period, they are now projecting real growth of only 17.1 percent over the period. On the other hand, while last

year they were projecting inflation of 34.5 percent over the 5-year period, they are now projecting inflation of 51.6 percent over the period. In other words, what the Budget Committee is telling us is that they were wrong, that we will have significantly higher expenditures and taxes, that we will have less real economic growth, and more inflation. Obviously the economic policies of the Budget Committee are not working. They are producing a stagnating economy with lower and lower real economic growth and higher and higher rates of inflation. The Congress needs to understand why the Budget Committee has been so far off base in projecting the results of their economic policies.

I have a tendency to support the amendment of my friend from Pennsylvania because I think he is pointing out some very interesting projections.

What I pointed out in the first concurrent budget resolution was that we were balancing the budget on the backs of the taxpayers of America. We do it by playing with the figures. And we play with the figures based upon faulty econometric models which do not even consider the supply side of the equation or at least I do not believe they do, and I believe there is ample evidence to prove that they do not. I have even reached the point where I have asked for special hearings in the Budget Committee so that we might examine why they do not consider the supply side of the equation and the dynamics of the supply side that could occur that would tend to substantiate and back up my friend from Pennsylvania.

This is an important issue. I want to compliment the Senator from Pennsylvania for his leadership in arriving at this problem and putting it in the form of an amendment and bringing it to the attention of all of our colleagues on the floor and throughout the Senate, and in helping us to understand why the projections of a whole number of very top-flight economists, taken on a composite basis, cannot be equal to or outweigh or even be better than the projections of the Budget Committee, which is relying upon CBO, which has been so wrong in the past, and, I submit, will always be wrong, and will be very, very wrong in the future, unless we change this whole procedure and this whole methodology of arriving at these phony numbers we seem to arrive at every year.

Mr. SCHWEIKER. I thank the Senator very much because I know, as a member of the Budget Committee, he has worked extensively in this area and knows intimately the figures which he so articulately presented, and I appreciate having his support. I believe it is very important that during the process, which I supported and of which I was a cosponsor, we have the right to question when we honestly differ on very basic assumptions.

If the economists I contacted and the Committee were only a few percent off on their inflation forecasts, I would understand, and I say, "Oh, well, let us not raise the issue."

But it seems to me that when you compare a 48-percent price increase to a 38-percent price increase, a full 10 percentage points off, then I think I have a responsibility to investigate these differences further and bring this issue to the attention of my colleagues.

Just as the distinguished Senator from Utah mentioned, the supply side of the equation being overlooked, I think we have not consulted with some of the proper authorities who have an input in the country and are the movers and shapers in the economic world. I believe it is essential that we do not create the impression that we will assume there will be inflation for eternity and a day.

I think that many believe Washington causes inflation. That is a debatable presumption. My point is that we need not provide more evidence deliberately. We know there is going to be an inflation for the next 5 years. We must budget for it. But must we budget in inflation that assumes the worst will happen? This is what I object to. Fundamentally we are telling the people back home they are right about Washington, that inflation does start here.

● Mr. STONE. Mr. President, like many of my colleagues in the Senate, one of my main goals during this Congress is to restrain Federal spending in order to curb inflation. As many of you know, I am a joint author of Senate Joint Resolution 56, the Heinz-Stone constitutional amendment which places a limitation on Federal spending as a percentage of national economic growth. I have also joined several of my colleagues in working for across-the-board cuts in various appropriation bills.

However, in this budget-trimming process there are priorities. One of the highest priorities for me is to the men and women who came to the aid of our country in times of need—the veterans. As Senate Concurrent Resolution 36 presently stands I believe it will adversely affect our Nation's commitment to this group of individuals—particularly those who were disabled in the service and those in VA hospitals.

The Senate Veterans' Affairs Committee has made every reasonable effort to restrain spending. There have been few initiatives reported by us this year. One of the measures was the bill to provide readjustment counseling for Vietnam veterans—and I do not consider this a new program but rather an old program that was 10 years late. Our recommendations to the Budget Committee were held to a bare minimum and I cannot now support proposals to cut spending levels even further.

The Cranston amendment to the second concurrent budget resolution seeks to strike the instructions to the Senate Veterans' Affairs Committee to report legislation to save $100 million in budget authority and outlays. The only way for the committee to meet the Budget Committee's proposed instructions is to directly eliminate some veterans' benefits—reducing GI bill education eligibility from 10 to 8 years, or terminating burial benefits, several training programs or the targeted delimiting date extension for educationally disadvantaged veterans. I do not think it is fair to tell our veterans they are entitled to certain benefits and then to turn around and tell them we have changed our minds. In addition, the Veterans' Committee has reported, and is scheduled to consider cost-saving legislation. But to force us to draft proposals within the next month to cut $100 is unreasonable.

The Cranston amendment also adds $300 million in budget authority that is vitally needed to provide an adequate cost-of-living adjustment to service-disabled veterans. Our earlier projections for the adustment were thrown off by the rapid increases in the Consumer Price Index in recent months. These funds are also needed to maintain if not improve the quality of health care at VA medical facilities—care that has already been hindered by budget cuts over the past year.

I have received numerous complaints, as I know many of you have, about the quality of care provided at Veterans Administration medical facilities. I had received sufficient evidence about conditions at the VA hospital in Tampa—including allegations of patient deaths—to warrant an investigation by the Chief Medical Director. While the VA's report gave many reasons for the incidents, some of the problems were attributable to the funding cut-backs and the VA's inability to recruit quality medical personnel.

Mr. President, I believe the Senate Veterans' Affairs Committee has shown itself to be fiscally responsible in the preparations of the fiscal year 1980 budget. Our estimates were based on the commitments Congress has made to our Nation's veterans. I do not think we should now—or ever—back away from these commitments. Senator CRANSTON's amendment is a reasonable proposal, and I would urge my colleagues to give him their support.●

Mr. SCHWEIKER. Mr. President, I am prepared at this point to wind up my side of this debate.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. (Mr. GRAVEL). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCHWEIKER. I yield the floor.

Mr. MUSKIE. I am willing to yield back the remainder of my time.

Mr. SCHWEIKER. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me 1 minute?

Mr. MUSKIE. I yield to the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I am about to propound a request that I believe has been agreed to among the principals involved in the amendment, Mr. MUSKIE, Mr. DOMENICI, and Mr. BELLMON, the minority leadership, and others.

I ask unanimous consent that upon the disposition of the pending amendment, Mr. DOMENICI lay down his amendment, which would establish a time period for reconciliation and decision, and that at 10 o'clock tomorrow morning the Senate resume consideration of that amend-

ment, with no time being charged against it today; that there be 45 minutes on the amendment to be equally divided between Mr. DOMENICI and Mr. MUSKIE; and that at the hour of 10:45 a.m. the Senate vote up or down on the Domenici amendment, and that the vote on the amendment by Mr. MUSKIE—Mr. MUSKIE's amendment is the modified reconciliation amendment—the vote on that amendment occur immediately after the disposition of the Domenici amendment.

Mr. BAKER. Mr. President, reserving the right to object—and I will not object—I wish to inquire is it clear that this amendment is the same amendment that Senator BELLMON and Senator DOMENICI had spoken of earlier? I see they are both on the floor, and I might ask for their remarks.

Mr. DOMENICI. Yes. Reserving the right to object, it should be clear that it is. I will say to our leader that while I am not one who is reluctant to take credit, this should definitely be referred to as the Bellmon-Domenici amendment, in that order, since he is our leader here on the floor.

We had an agreement that that was the case. So I have no objection, excepting that wherever the majority leader refers to the Domenici amendment, that he would also have it as Bellmon-Domenici, and I would not object.

Mr. ROBERT C. BYRD. I noticed Mr. BELLMON perspiring heavily and squirming in the chair, but I did not know it was over the use of his name.

Mr. DOMENICI. Because Mr. BELLMON has worked so hard today, he would like very much to rest for a while, and he has authorized me to speak in his behalf.

Mr. ROBERT C. BYRD. Very well. Mr. BELLMON is usually able to speak for himself.

Mr. BAKER. Mr. President, if the Senator will yield, I cannot decide whether the Senators are sharing the blame or the credit, but apparently it is to be known as the Bellmon-Domenici amendment.

If the Senator will yield further, is this an amendment in the nature of a substitute, do I understand?

Mr. DOMENICI. No, it is not.

Mr. BAKER. Then it would not preclude other amendments in the nature of a substitute.

Mr. ROBERT C. BYRD. The amendment is in the second degree.

Mr. DOMENICI. The amendment is in the second degree, and I believe the unanimous consent agreement provides we will only——

Mr. ROBERT C. BYRD. I am not sure whether it is an amendment in the second degree.

The PRESIDING OFFICER. It is a first-degree amendment.

Mr. BAKER. So it would be amendable in one more degree?

Mr. ROBERT C. BYRD. It would be, except that the vote will occur at that time. But another amendment could come in without being debated.

Mr. BAKER. Mr. President, I have no objection.

The PRESIDING OFFICER. The reason for that is that the amendment offered by the Senator from Maine is a substitute for the whole resolution, and under the precedents does not kill a degree.

Mr. TOWER. Mr. President, reserving the right to object, I just wanted to know if Senator HOLLINGS has been consulted on this, because he has an amendment; I am not sure whether he intends to offer it as an amendment to the amendment of the Senator from Maine, or after the disposition of the amendment of the Senator from Maine.

Mr. MUSKIE. It is my understanding that he intends to offer it after the disposition of my amendment; so it would not affect the reconciliation.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

I ask unanimous consent that it be in order at this time to order the yeas and nays on the amendment by Mr. DOMENICI.

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

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

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

The yeas and nays were ordered.

Mr. MUSKIE. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on the Muskie amendment.

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

Mr. MUSKIE. I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. DOMENICI. Is there a motion to table pending?

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 557) of the Senator from Pennsylvania (Mr. SCHWEIKER).

Mr. ROBERT C. BYRD. Mr. President, this will be the last rollcall vote today.

Mr. LEAHY. This is up or down?

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. CULVER), the Senator from Arkansas (Mr. PRYOR), the Senator from Indiana (Mr. BAYH), and the Senator from Delaware (Mr. BIDEN) are necessarily absent.

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

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Vermont (Mr. STAFFORD) is absent on official business.

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

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

The result was announced—yeas 28, nays 60, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—28

Armstrong	Goldwater	Roth
Boren	Hatch	Schmitt
Boschwitz	Hayakawa	Schweiker
Byrd, Harry F., Jr.	Heflin	Simpson
Cochran	Helms	Thurmond
DeConcini	Humphrey	Tower
Durenberger	Jepsen	Wallop
Ford	Lugar	Warner
Garn	Pressler	Young
	Proxmire	

NAYS—60

Baker	Hart	Muskie
Baucus	Hatfield	Nelson
Bellmon	Hollings	Nunn
Bradley	Huddleston	Packwood
Burdick	Inouye	Pell
Byrd, Robert C.	Jackson	Percy
Cannon	Javits	Randolph
Chafee	Kassebaum	Ribicoff
Chiles	Kennedy	Riegle
Church	Leahy	Sarbanes
Cohen	Levin	Sasser
Cranston	Long	Stennis
Danforth	Magnuson	Stevens
Dole	Mathias	Stevenson
Domenici	Matsunaga	Stewart
Durkin	McGovern	Stone
Eagleton	Melcher	Talmadge
Exon	Metzenbaum	Tsongas
Glenn	Morgan	Williams
Gravel	Moynihan	Zorinsky

NOT VOTING—12

Bayh	Culver	McClure
Bentsen	Heinz	Pryor
Biden	Johnston	Stafford
Bumpers	Laxalt	Weicker

So Mr. SCHWEIKER's amendment (UP No. 557) was rejected.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized to call up his amendment.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Has the vote been announced?

The PRESIDING OFFICER. The vote has been announced.

UP AMENDMENT NO. 558

(Subsequently numbered amendment No. 437)

Mr. STEVENS. Mr. President, pursuant to previous agreement, I call up the Bellmon-Domenici amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Messrs. BELLMON, DOMENICI, ARMSTRONG, BOSCHWITZ, HATCH, and Mrs. KASSEBAUM, proposes an unprinted amendment numbered 558.

Mr. STEVENS. 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:

Delete the first paragraph of Section 1(a) of the pending amendment and insert in lieu thereof:

"The allocation pursuant to Section 302 (a) of the Budget Act to the Committee on Appropriations for all legislation within its

jurisdiction shall not exceed $383.6 billion in budget authority and $338.4 billion in outlays as assumed in this Budget Resolution. All bills making appropriations for the Fiscal Year beginning Oct. 1, 1979, not enrolled as of the date of enactment of this resolution shall not be enrolled until:

"(a) all regular FY 1980 appropriations bills are ready for enrollment;

"(b) The Committee on the Budget has reported to the Senate an estimate of the budget authority and outlays attributable to each FY 1980 appropriations bill which has been enacted or which is awaiting enrollment;

"(c) The Committee on the Budget has reported to the Senate a detailed estimate of the foreseeable supplemental requirements for appropriations and permanent appropriations for Fiscal Year 1980.

"If the Budget Committee report under this Section indicates that the foreseeable total of all bills within the Appropriations Committee's jurisdiction for FY 1980 will exceed the totals provided by the section for all such bills, then it shall not be in order for the Congress to consider a motion for sine die adjournment for the First Session of the 96th Congress until the Committee on Appropriations of each House has reported a bill or resolution rescinding or reconciling FY 1980 appropriations provided in already enacted bills or in bills awaiting enrollment, and Congress has completed action on such bills or resolutions."

THE SECOND CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1980

● Mr. MORGAN. Mr. President, in its report on the first budget resolution for the fiscal year 1980 budget last spring, the Senate Budget Committee determined that "inflation is the Nation's most serious economic problem and the most imposing challenge confronting its fiscal policymakers."

As the committee now reports, and I agree, that assessment has not changed. Indeed, developments since the first budget resolution have underscored the importance of a national need to squeeze inflation out of our economic system.

The Congressional Budget Office forecast inflation of 6.5 to 8.5 percent in 1980 at the time of the first resolution. CBO now forecasts 1980 inflation ranging from 7.9 to 9.9 percent. This year's inflation rate will be higher still than either of these figures.

At the same time, we can not ignore recent figures for comparison from our allies—and competitors—in Europe. While the American Consumer Price Index has been increasing at over 11 percent in recent months. Germany has experienced only moderate increases, resulting in an increase for the last 12 months of less than 6 percent. In July, the most recent month available for figures, prices did not rise in Holland. Norway's Consumer Price Index actually dropped, and in Luxembourg prices rose only 0.5 percent.

In adopting the first budget resolution. Congress made a commitment to stringent restraint on spending in conjunction with a disciplined revenue policy. Congress determined that the Federal Government should exercise leadership in a broad national battle against inflation and Government growth by lowering spending and reducing the Federal Government's share of GNP.

We must not jump ship at the first sight of a storm. Economists in and out of Government have argued forcefully that fiscal stimulus might come too late to rescue the economy from what many still predict will be a moderate and relatively brief recession. As the Director of the Congressional Budget Office, Dr. Alice Rivlin, told the Budget Committee:

One response to a rise in the jobless rate would be greater fiscal stimulus. But such a response could aggravate the already high inflation. In this situation, the Congress may want to examine closely the policy option of continuing current policy and making no immediate change.

We all are very sensitive to the condition of the economy, the pressures confronting the American taxpayer, the need for increased investment incentives, and general tax reductions at the appropriate time. I believe, however, that at this time the need for fiscal restraint supersedes the need for a tax cut.

In the first budget resolution report, it was stated that:

The Members and committees of Congress must be willing to accept discipline if Congress is to meet its obligation to produce a restrained and prudent budget commensurate with the character of our national economic needs.

Unfortunately, the mandate for restraint has not been uniformly met. Many Senate committees have failed to make savings in programs under their respective jurisdictions. The first budget resolution assumed reductions in outlays of $5.6 billion below existing law. No voice was raised against that policy on the Senate floor. Indeed, many a speech has endorsed the policy of frugality. Many a press release has broadcast a firm commitment to the painful politics of austerity.

It is clear at this point that rhetoric has not been reflected in policy. Less than 30 percent of the necessary savings in reductions of outlays have been realized at this stage of legislative action. It also appears that, apart from lost savings, the appropriations process in the Senate has added more than $2 billion in outlays to the first budget resolution totals. We must now draw the line.

This second budget resolution, which I support, draws that line. It includes reconciliation instructions which will direct Senate committees to take a second look at the spending legislation which they have already approved. In the first resolution, the committee asked the Senate to make stringent spending sacrifices. The Senate endorsed that position. Now, Senators and committees are asked to fulfill that pledge.

Any route to a balanced budget—in 1981 or at any time—will be rigorous and painful. Congress, however, must make an assertive response to the clear and pressing need for the elimination of the Federal deficit.

Recession and the acceleration of inflation make this effort rigorous and still more painful. I remain convinced that the price must be paid and that the goal can still be achieved.

The Budget Committee has taken account of reestimates of program costs due to inflation, of the emergence of new energy needs and of a commitment to the achievement of new strategic weapons capabilities. It can still prudently recommend a budget which contains a deficit lower than that projected for the current fiscal year, fiscal year 1979.

Also, in spite of pressures, the committee again recommends a budget path which leads to balance in fiscal 1981. The needs which motivated the committee to press for a near-term balance have not dissipated. Neither has its—nor my—determination to spare no efforts in the ongoing campaign to achieve it.

In confirming its commitment to restraint, the Senate can assure the Nation of its determination to take a firmer hold on inflation and restore our economy to a state of health and balance.

The second budget resolution will be binding. Its proposed deficit reduction for 1980, a balanced budget for 1981 and a balanced budget with major tax cuts in 1982 I want to be as equally binding. Foremost in our objectives must be adhering to the savings of $4 billion in outlays for fiscal year 1980 to which we agreed in the spring. Without these savings, the 1980 deficit will rise from the estimated $28 billion in the resolution to $32 billion, exceeding the 1979 deficit of nearly $30 billion and reversing the steady trend of declining defects we have tried so hard to achieve.

We must undertake the necessary "reconciliation" process at this time, as the Budget Act provides, in order to reduce the excess spending which has crept in since adoption of the first budget resolution if we are to have any credibility whatsoever with our constituents. How many of us have talked about limiting Government growth in order to discourage inflation? Our vote on adoption of the second budget resolution will be a ready test of that credibility.●

Mr. MUSKIE. 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.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, for not to exceed 20 minutes, and that Senators may speak therein up to 5 minutes each.

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

WORLD PRICE OF GOLD HITS $350 AN OUNCE

Mr. MUSKIE. Mr. President, I thought it ought to be noted in the RECORD that the world price of gold hit a new historic high today of more than $350 an ounce.

I can remember when it was set at $35 an ounce when I was a college freshman back in the early 1930's. It held at $35

until 1971 when we went off the gold standard.

It is now, I gather, the percentage of 1,000 percent higher than $35, which is a dramatic piece of evidence that we need the kind of fiscal policy the Senate is writing today, if we ever needed it.

SOVIET BUILDUP IN CUBA

Mr. THURMOND. Mr. President, on Friday, September 14, I made a floor statement reference to the buildup of a military outpost in Cuba by the Soviets.

This situation was further confirmed publicly in an article published on Saturday, September 15, in the Washington Post newspaper entitled "Soviets Sending Cuban Military 7th Guided Missile Patrol Boat."

Mr. President, the Soviet Union is turning Cuba into a military camp. Besides the Soviet combat brigade already located in Cuba there is a continual buildup of the Cuban military.

The Soviets are at this moment towing to Cuba the 7th 205-ton guided missile patrol boat of the Osa II class. This boat will be added to a Cuban force buildup which now includes 2 diesel submarines, 18 patrol boats larger than the Osa, 18 older Komar missile boats and 7 landing craft. A naval base in Cuba for these vessels and visiting Soviet ships is nearly complete.

The Senate might ponder why the Soviets are giving the Cubans landing craft. Landing craft are used for offensive military operations and would enable the Cubans to put forces ashore in many Latin American countries.

I urge that President Carter withdraw the SALT II Treaty from the Senate until the Soviets remove their own forces from Cuba and stop this military buildup of the Cuban forces.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

SOVIETS SENDING CUBAN MILITARY 7TH GUIDED MISSILE PATROL BOAT

(By George C. Wilson)

In a bizarre bit of gunboat diplomacy, or perhaps because of a foul-up, the Soviet Union is sending a seventh guided missile patrol boat to Cuba, sources said yesterday.

A Soviet freighter, sources said, was towing the 205-ton gunboat of the Osa II class toward Cuba yesterday as Secretary of State Cyrus R. Vance and Soviet Ambassador Anatoliy F. Dobrynin were conferring in Washington on ways to defuse the issue of Soviet troops in Cuba.

This latest example of Soviet military aid to Fidel Castro is expected to add one more complication to the Vance-Dobrynin talks and to provide fresh ammunition for politicians charging the Soviet Union with "bad faith" for stationing up to 3,000 combat troops in Cuba.

U.S. intelligence observed the Soviet freighter out of the Black Sea at the end of August, learned the declared port of destination was Havana and has been watching ever since.

Although there is always a chance the freighter will be ordered to turn around, given the delicate state of Washington-Moscow relations, there was no evidence of this last night.

The newest delivery of an Osa patrol boat, though far from a bluewater threat to the United States does represent part of what U.S. Navy leaders consider a significant modernization of Cuba's navy.

Retired British Capt. John Moore, editor of Jane's Fighting Ships, said in the latest edition of the book, that Soviet aid has put Cuba in a new naval league, especially in comparison to its Latin American neighbors.

The Osa en route to Cuba would be the seventh the Soviets have sent to the island during the last few years. With a speed of about 36 knots and armed with four SSN2 styx antiship missiles, the Osa boats are ideal for protecting Cuba's coastline or making hit-and-run strikes against navies of comparable size.

The Soviets also have sent Cuba 18 patrol boats larger than the Osa; 18 older Komar missile boats; seven landing craft and two diesel submarines as part of the modernization program.

CITIZENS BY BIRTH OR CHOICE HAVE A COMMON RESPONSIBILITY

Mr. RANDOLPH. Mr. President, earlier this year, on July 23, President Carter issued Proclamation No. 4670, declaring September 17, which is today, as Citizenship Day.

On September 17, 1787, at Independence Hall in Philadelphia, our Founding Fathers adopted the Constitution. On September 17, 1796, our first President, George Washington said, in his Farewell Address—and I ask my colleagues to listen to these words:

> Citizens by birth, or choice, of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism, more than any appellation derived from local discriminations.

Mr. President, I want to say that on Friday during this Constitution Week, September 21, there will be approximately 35 men and women who will be nationalized as American citizens in a ceremony to take place at Montgomery County Court, Rockville, Md., at 2 p.m. My reason for referring to this is simply to say that Milagros Altagracia Carr, a native of the Dominican Republic, the wife of my grandnephew, Randolph Carr, is one of those who will become citizens on that date. I appreciate the opportunity to call attention to the importance of Citizenship Day and Constitution Week.

Mr. President, I ask unanimous consent to have printed in the RECORD the Proclamation by the President of the United States of July 23, 1979.

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

CITIZENSHIP DAY AND CONSTITUTION WEEK, 1979

(Proclamation 4670 of July 23, 1979)

By the President of the United States of America:

A Proclamation: On September 17, 1787, in Independence Hall, Philadelphia, our Founding Fathers adopted the Constitution of the United States. With this great document as its cornerstone, our country has become the finest example in all history of the principle of government by law, in which every individual is guaranteed certain inalienable rights. The strong beliefs of its authors in the worth of the individual and the rights to be enjoyed by all citizens have made the Constitution not only an enduring document but one which finds new life with the passing of years and continues to inspire freedom-seeking people all over the world.

On February 29, 1952, by joint resolution (36 U.S.C. 153), the Congress designated September 17 as Citizenship Day, in commemoration of the formation and signing of the Constitution as a reminder of the privileges and responsibilities of citizenship. By a joint resolution of August 2, 1956 (36 U.S.C. 159), Congress authorized the President to designate the period beginning September 17 and ending September 23 of each year as Constitution Week and to issue a proclamation calling for the observance of that week.

Now, therefore, I, Jimmy Carter, President of the United States of America, call upon appropriate Government officials to display the flag of the United States on all Government buildings on Citizenship Day, September 17, 1979. I urge Federal, State and local officials, as well as leaders of civic, educational and religious organizations to conduct meaningful ceremonies and programs on that day.

I also designate as Constitution Week the period beginning September 17 and ending September 23, 1979, and urge all Americans to observe that week with appropriate ceremonies and activities in their schools, churches, and in other suitable places in order to foster a better understanding of the Constitution, and of the rights and duties of United States citizens.

In witness whereof, I have hereunto set my hand this twenty-third day of July, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

JIMMY CARTER.

STATUS OF GSA ANTIFRAUD EFFORT

Mr. PERCY. Mr. President, Inspector General Muellenberg of the General Services Administration recently submitted to Congress his interim report on the organization and operations of the GSA Inspector General's Office. This is the first report required under the 1978 Inspector General Act, which combined auditing and investigative resources in each of 12 agencies and departments under a single, high level official in each agency reporting directly to the agency head and Congress.

The deplorable scandals at GSA have shaken the confidence of the American people in the management and honesty of their Government. I cannot overemphasize the importance of the Inspectors General in ferreting out fraud, corruption, excessive and wasteful spending, and mismanagement in GSA and other Federal agencies. This is a goal to which I have been personally committed as ranking minority member of the Governmental Affairs Committee.

During this session of Congress my esteemed colleague, Senator CHILES, and I have carefully reviewed the qualifications of President Carter's nominees for Inspector General for the Departments of Commerce, HUD, Labor, Transportation, Interior, and Agriculture, as well as for NASA, SBA, the Veterans' Administration, and GSA. To date we have confirmed 10 Inspectors General and

are currently reviewing the nomination for the Community Services Administration.

Regrettable, the President has yet to submit his nomination for the Environmental Protection Agency. I strongly urge the President to direct his attention toward selecting an eminently qualified individual to fill this extremely important position so that the organization and work of the Office of Inspector General at EPA can begin as soon as possible.

Mr. President, no matter how qualified an individual may be to perform the duties of the Inspector General, the enormous task of preventing and detecting fraud and mismanagement in Federal programs cannot be accomplished without the full support of both Congress and the administration. Unfortunately, in a recent report the General Accounting Office stated that Federal audit organizations lack sufficient staffs to carry out their mission because OMB and several agencies either drastically reduced or denied requests for additional audit staff. In an effort to alleviate this situation, GAO has asked OMB to develop guidelines to help departments and agencies determine the number of auditors needed to adequately review Federal programs.

In the case of GSA's Office of Inspector General, I am happy to note that the Senate recently approved a revised budget request to provide $18.9 million and 593 positions for that Office. There can be little doubt that this is money well spent.

During his confirmation hearing I thoroughly questioned GSA Administrator Freeman on his plans for working with Mr. Muellenberg and the Justice Department task force. Mr. Freeman assured me that he would do everything possible to support Mr. Muellenberg in his efforts to investigate and prosecute fraud committed both by GSA employees and private contractors. Based on the present level of investigational activity, Mr. Freeman also made a commitment to the Governmental Affairs Committee to keep Congress well informed of GSA's progress in restoring the integrity of its operations through quarterly meetings with the chairmen and ranking members of the appropriate congressional committees.

I am encouraged by the progress made to date. In his interim report Mr. Muellenberg states that the organizational structure of GSA's Office of Inspector General is in place. The Office of Special Projects is currently assessing the areas most vulnerable to fraud in order to develop a comprehensive plan for auditing and investigating activities.

The Office of Audits will be upgraded to a staff of 450, providing an extensive audit program designed to detect and establish deterrents to fraud and to improve internal control of GSA programs. One important responsibility of the Audit Office is review of GSA self-service store operations to evaluate the effectiveness of strengthened internal controls in the Federal supply service. The part also highlights the audit planning of the Office of Audits in various areas such as motor pool operations, public building services, computer services, stockpile sales, and disbursements of all types. In addition to reviewing these programs and services, the auditors will provide professional advice to GSA procurement officials on accounting and financial matters to assist in negotiating, award, administration, repricing, and settlement of Government contracts.

The Inspector General's report cites several examples of the cost effectiveness of regular program audits. The General Contract Audit division since January of this year has issued 43 audit reports recommending savings of $3 million. This translates into a savings of $464 per audit man-hour or a return of $19 on each dollar invested. Mr. President, this is testament to the rewards of giving the Inspectors General our full support. But doing audits and issuing reports is only a first step toward our goal of saving the taxpayers millions of dollars annually. The GSA Inspector General, I am happy to note, also intends to follow up aggressively on completed audits.

The Office of Investigations, with a current staff of 78 investigators has since January opened 487 cases and closed 616. Most of these cases were in the area of white collar crime, while the remainder dealt with debarment of contractors, misconduct, and organized crime checks. The white collar cases involved investigations of alleged fraud as well as conflicts of interest, bribery, and falsification of time and attendance records. To date, the GSA-Justice task force combined effort has led to the conviction of 86 Federal employees and several private contractors for defrauding the Government.

Finally, Inspector General Muellenberg has taken the innovative step of complementing the Offices of Audits and Investigations with a new Office of Inspections. This office consists of specialists in engineering, leasing, building management, and other relevant areas who conduct highly technical, professional inspections to determine if work was performed in accordance with specifications, or done at all. The report notes that the assistance provided by the inspectors to the auditors and investigators has contributed to the conviction of 3 GSA employees and 6 contractors for defrauding the Government of approximately $2.6 million. These inspectors also have taken actions to insure the debarment of corrupt contractors from Government contracting activities.

Mr. President, I congratulate Administrator Freeman and Inspector General Muellenberg on their efforts to date, and I look forward to working with them in the future to rid GSA of corruption and to restore the faith of the taxpayer in the efficient and honest operations of the Federal Government.

APPEARANCE OF IMPROPRIETY IN THE DEPARTMENT OF JUSTICE

Mr. HATCH. Mr. President, I have been concerned for quite some time now about the professional responsibility section of the Department of Justice. There is no Federal agency with respect to which it is more critical that there not even be the appearance of indiscretion or conflict of interest. That the section has not met the standard of avoiding the appearance of impropriety as well as the actual fact of impropriety is a matter about which I have some concern. I ask unanimous consent to have printed in the RECORD at this point a selection of four recent newspaper items highlighting these problems.

The being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 10, 1979]

COVER-UP SCORECARD

(By William Safire)

WASHINGTON.—Philip Heymann, Chief of the Criminal Division of the Department of Justice—who boasts of his experience as a special prosecutor investigating Republicans—has been leading the Carter Administration fight to prevent the appointment of special prosecutors to investigate Democrats.

The thin-skinned ex-Harvard professor has been derogating the Ethics in Government Act, which mandates court-appointed independent prosecutors to handle charges against high officials. Mr. Heymann wishes us to believe he can do better. His record:

1. The Vesco bribe accusation. A fugitive financier paid $10,000 to a crony of Hamilton Jordan's to get President Carter to intercede in his behalf. When a Carter aide made the approach, President Carter—instead of blowing the whistle on an apparent bribe—wrote his Attorney General a note directing him to see the possible fixer.

Because it could not ignore columnist Jack Anderson's revelations, Justice grudgingly convened a grand jury. After 11 months, the grand jury foreman went public with charges of "cover-up." He was disgusted with Justice's foot-dragging to protect the White House.

In a meeting called to allay suspicion that Justice prosecutors were obstructing the grand jury, Mr. Heymann admitted that he considered the sworn testimony of a key White House aide to have been untruthful.

When this admission was accurately reported by Edward Pound of The New York Times, Mr. Heymann issued an artful statement claiming he had never actually used the word "perjury" in connection with Mr. Carter's aide. With that narrow denial, Mr. Heymann tried to placate the White House and mislead the public, but the truth is that the chief criminal law enforcement officer of the U.S. led several witnesses to believe that a Special Assistant to the President had lied under oath.

2. The Lance case. Exactly two years ago—in September, 1977—Justice was handed the evidence of Lance wrongdoing by the S.E.C. and Treasury's Controller of the Currency. Result: the Treasury Secretary fell from favor, the S.E.C. enforcement chief's career has been blocked, and all the Justice officials forced to work on the case have fled.

The indictment was returned in May of this year, breaking little new ground. The politically embarrassing trial is not scheduled until late January of next year, and is likely to be postponed further, until after the early primaries. The venue will be most favorable to the President's friend.

3. Koreagate. This case hinged on the ability to convict former Congressman Otto Passman of taking over $200,000 in bribes, and then to turn him into a witness against a dozen other Congressmen. But Mr. Heymann's Criminal Division—to the amazement of the District of Columbia judge—permitted the bribery charge to be tied to

an income tax charge, which automatically enabled Mr. Passman to change the venue to his home town in Louisiana.

As predicted here, Mr. Passman was promptly acquitted, and—thanks to the ineptitude of Mr. Heymann's "Public Integrity Division"—twelve bribetakers now sit safely in Congress.

4. The Marston affair. When corrupt Congressman Joshua Eilberg called President Carter to demand that he fire the Republican prosecutor who was closing in on him, the President told Justice to do just that. Mr. Heymann has suppressed the F.B.I. report on this suspected obstruction of justice. Inquiring Congressman Bob Walker (R.-Pa.) is told only that the President has been "exonerated," but the embarrassing report must remain secret because it "contains information that is inextricably intertwined with other current criminal investigations."

5. The Carter warehouse money laundry. Only when prodded in this space to "follow the tangent" did Mr. Heymann permit Lance investigators to follow leads into questionable fund-raising by the Carter family. The Ethics in Government Act was circumvented, because cover-uppers at Justice did not want a panel of judges to pick an aggressive, independent prosecutor; under pressure the Carter men chose amiable Paul Curran, and sought at first to restrict his powers, with his acquiescence. Press agitation stopped that nonsense, and now the probe is ambling along. (The long delay in the related Lance case, however, means that no heat is being applied to Lance to induce him to cooperate in the Carter warehouse case.)

6. The Jordan cocaine charge. Last year, when Presidential Drug Adviser Peter Bourne was caught fraudulently prescribing drugs, he told newsmen that illicit drug use was frequent among Carter staffers. But Philip Heymann decided not to send a single F.B.I. investigator to question Mr. Bourne; his apparent crime was shrugged off.

Were it not for the new Ethics in Government Act, that is exactly how Mr. Heymann would be handling the accusations of cocaine use against the President's Chief of Staff. D.C. drug sleuths conduct well-publicized busts against newsletter writers, but have no inclination to follow the white stuff into the White House.

The record of the Carter Department of Political Justice has been a series of grudging investigations, unconscionable foot-dragging, suspicious ineptitude and self-righteous posing. No wonder Philip Heymann resists the appointment of special prosecutors now required by law: they might even investigate, prosecute and convict a Democratic public official.

[From the Washington Post, Sept. 11, 1979]

THE WHITE HOUSE AND THE VESCO CASE

(By Jack Anderson)

Some federal grand jurors wanted to summon President Carter to explain his role in the alleged Robert Vesco influence-buying scheme. For the key to the mystery, despite an intensive effort to remove it elsewhere, still lies in the White House.

The grand jurors had to settle for a statement, which Carter gave to the Justice Department. But this merely heightened the mystery. Like so many other statements that have come out of the White House on this case, the president's explanations conflicted with an earlier White House version.

This much has been established: Spencer Lee IV, a close chum of White House honcho Hamilton Jordan, has admitted accepting a $10,000 payment to seek Jordan's intervention in behalf of financial fugitive Robert Vesco.

Lee flew to Vesco's estate in Costa Rica, where a multimillion-dollar payoff was discussed. Next, Lee stopped off at Nassau where he helped form a dummy corporation to launder the payoff money. Then he flew to Washington for the purpose of enlisting Jordan in the scheme.

Both Lee and Jordan deny that they ever discussed the Vesco offer. Instead, Lee confided the details to their mutual friend, White House aide Richard Harden. According to the White House version, Harden persuaded Lee to drop the deal.

Yet Lee never bothered to return the $10,000 advance. Authenticated telephone records also show that he was still in touch with Vesco a year later. Lee also remained in contact with the instigator of the alleged plan, R.L. Herring, who has now been convicted of racketeering and fraud in another case.

Harden, meanwhile, informed the president that Vesco had offered "a large sum of money" to gain entree to the White House. At first, a White House spokesman claimed Carter had "no recollection" of Harden's report.

But a conspiracy by Vesco to buy exoneration through the White House is not the sort of report that a president is likely to forget. In the statement he submitted to the Justice Department, he confessed having a "hazy memory" of the incident.

It was the president's legal duty, of course, to report the alleged bribe offer to the Justice Department. Yet both Carter and Harden neglected to advise the proper authorities of the alleged plan. Instead, the president scribbled a note to then-Attorney General Griffin Bell asking him to see Lee. The note, written on Feb. 15, 1977, urged Bell: "Please see Spencer Lee of Albany when he requests an appointment."

Three months later, the president appointed this same Spencer Lee to the judicial nominating committee. Thus the man who had confessed his involvement in the alleged scheme wound up with a presidential commission to help select federal judges.

There have been other inconsistencies worth noting:

At a White House briefing, Jordan sought to disassociate himself totally from the alleged Vesco plan. He told reporters that he knew absolutely nothing about the plan and that FBI agents had never questioned him about Vesco. This turned out to be untrue; he had been interrogated by the FBI a few weeks earlier.

The president's attorney and adviser, Charles Kirbo, swore that "nobody ever talked to me about Vesco" when he was first asked about the case. He had to back down after his office records showed that he had met with the Georgians on Jan. 13, 1977. But he continued to insist that he had "no recollection" of the meeting. Thus he joined the ranks of the forgetful Carter people who found an alleged conspiracy by Vesco to be too inconsequential to remember.

Copies of two letters, allegedly written by Lee to Jordan and Kirbo, turned up in our investigation. All three men denied any knowledge of the letters. We later exposed the fact that the letters had been concocted by R.L. Herring. But Herring insisted that he had lost the originals and had "reconstructed" them from memory. His former secretary, Gerolyn Hobbs, has now testified under threat of perjury that she typed the original letters and mailed them to Jordan and Kirbo.

Through a series of paper transactions, Vesco transferred a bloc of his prime stock to the Georgia influence peddlers. They wound up with shares in Property Resources Limited, a cash-rich, Bahamas-based company. Sources at the Securities and Exchange Commission estimated that the paper value of the stock deeded over to the Georgians was about $12 million. But the SEC has challenged Vesco's ownership of the stock, which prevented the Georgians from selling it and laundering the money through their Nassau corporation. Each of the Georgians, meanwhile, has given a different version of this complex payoff attempt.

These are just a few of the points that may have influenced the grand jury foreman, Ralph E. Ulmer, to offer his resignation—since rejected by the judge—in a letter charging "duplicity," "manipulation" and "cover-up."

[From the Washington Post, Sept. 13, 1979]

DOUBT REPORTED ON VESCO ROLE OF CARTER AIDE

The Justice Department has begun to doubt the grand jury testimony of a White House aide, Richard M. Harden, in a case involving Robert L. Vesco after federal investigators concluded that a close friend of Harden had repeatedly lied to them, according to sources familiar with the case.

The friend, W. Spencer Lee IV, failed at least two lie detector tests given by the FBI last February and March, the sources said. Harden's testimony before the grand jury was so close to Lee's account, the sources said, that prosecutors began to question Harden's veracity.

Lee, an Albany, Ga., lawyer, was retained by an intermediary for Vesco, the fugitive financier, to talk to the White House about Vesco's legal problems. Both Lee and Harden acknowledged last year that they discussed Vesco's case at a Feb. 8, 1977, meeting in Washington.

According to the sources, Lee volunteered to take a lie detector test after a federal grand jury and the Justice Department began looking into allegations last year that the White House had been approached in a scheme to fix Vesco's legal problems.

Vesco fled the United States nearly a decade ago after he was charged with bilking stockholders out of millions of dollars in an international swindle. According to an allegation made by R. L. Herring, a Georgia businessman, Vesco wanted to bribe Carter administration officials to drop the criminal charges and halt extradition proceedings against him.

The administration decided in June 1977 to abandon attempts to extradite Vesco from Costa Rica. But there is no evidence that anyone in the administration had acted in behalf of Vesco, who is now believed to be living in the Bahamas.

Harden, who testified last Dec. 20, reportedly told the grand jury that he talked Lee out of continuing to represent Vesco's interests when they met Feb. 8, 1977. He was also reported to have testified that he met a few days later with President Carter to brief him on the Vesco situation and to tell him that Lee was pulling out of the deal.

But the polygraph machine indicated Lee was untruthful when he stated that Harden's purpose in seeing the president was to advise him that Lee was getting out of the Vesco deal, the sources said. Further, they said, Lee's responses indicated that he had lied when he told the FBI that he had informed Harden on Feb. 8 that he was pulling out.

Lee previously acknowledged that he was paid $10,000 by a Vesco intermediary to approach the Carter administration for Vesco. And he acknowledged that he had been promised substantially more money from Vesco if he could get a "yes or no" answer from the White House on Vesco's request for a meeting.

The allegation of attempted bribery was made by Herring, the Vesco intermediary who said he contacted Lee because of Lee's close connections with White House aides. Herring was convicted last October on criminal fraud and racketeering charges unrelated to the Vesco inquiry, and has since been indicted on charges of bankruptcy fraud.

According to Harden's previous public statements about the Feb. 8 meeting, he and Lee discussed the Vesco situation over dinner at a restaurant here. He said he dissuaded Lee from continuing to represent Vesco's interests and that Lee asked him to explain to the president that Lee had decided to reject the Vesco deal.

Harden said they returned to Lee's hotel room and that Lee introduced him to Herring who had accompanied Lee on the trip.

On Feb. 15, 1977, according to his account, Harden met with Carter in the White House to brief the president about Lee's involvement with Vesco. Harden said the president told him that Lee should meet with the attorney general if he believed there was anything illegal involved.

In Harden's presence, the president then wrote a note to Griffin B. Bell, then the Attorney General, to "please see Spencer Lee from Albany when he requests an appointment." Bell has said he never received the note.

JUSTICE DEPARTMENT OFFICIAL EXPLAINS DELAY IN VESCO CASE INQUIRY

(By Charles R. Babcock)

The head of the Justice Department's criminal division said last night that failure to explain a three-to-four month delay in a grand jury investigation earlier this year probably contributed to a grand jury foreman's charge that the department was covering up to protect aides to the president.

Philip B. Heymann told reporters in his office that it was "discourteous and a mistake" not to tell the grand jurors that the FBI was interviewing witnesses about a scheme by fugitive financier Robert Vesco to approach aides to President Carter in an effort to fix his legal problems.

Ralph E. Ulmer, foreman of the Vesco grand jury, tried to resign last month, claiming the department had withheld information and delayed the grand jury process. His allegation seemed to gain some credence in light of reports that Heymann had told grand jurors he doubted the truthfulness of White House aide Richard Harden.

A Vesco emissary had paid $10,000 to W. Spencer Lee IV, an Albany, Ga., lawyer, to approach top Carter aide Hamilton Jordan, his boyhood friend, in early 1977. Instead, Lee claims, he saw only Harden, who talked him into dropping the plan to help Vesco. The financier had fled the country after being indicted on charges of stealing a fortune from stockholders.

Still unexplained is why Harden told Carter about Lee's approach and why Carter then wrote a cryptic note to then Attorney General Griffin B. Bell, telling him to see Lee.

Heymann was reluctant to answer questions about the Vesco case or the current FBI investigation of Jordan, who was recently accused of using cocaine at New York's Studio 54 disco last year by its indicted owners.

The criminal division chief repeated earlier remarks about his concerns with the special prosecutor law that triggered the Jordan investigation. He said he believed the new Ethics in Government Act should be amended but said it would be "too tough a thing to tackle in an election year, and too tough to tackle within a year of enactment of the bill."

He also said he was convinced that there could be no coverup of any major investigation in the department.

YOUNG PEOPLE AND LAND USE

Mr. HATCH. Mr. President, in August my colleague, Senator JAKE GARN, held a land use hearing in Cedar City, Utah. One of his witnesses was a young man by the name of Lyman Hafen. Mr. Hafen accurately and succinctly expressed in his testimony the problems which face young people who hope to enter into an agricultural profession.

I ask unanimous consent that his enlightening testimony be printed in the RECORD for the edification of this body.

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

My name is Lyman Hafen. I'm 23 years old. I was born and raised in St. George, Utah and am a graduate of Dixie College. I will graduate from Brigham Young University in December of this year.

My father and his two brothers are in the cattle business. Their operation is based in Clover Valley, Lincoln County, Nevada. Like the majority of the Western-states cattlemen, they own some private grazing ground but could not exist in the business without utilizing Bureau of Land Management lands.

My great-great grandfather Woods was an original settler in Clover Valley, Nevada as was my great-great grandfather Hafen in Santa Clara, Utah. Both of these pioneers were cattlemen and ran their herds on the then open ranges. Their sons continued in the cattle business and different family members of each generation have utilized the barren ranges of this area to produce livestock and derive a humble livelihood from otherwise unproductive land. My great grandfather, John Hafen was known as one of the best cowboys in Southern Utah in his day. My great grandfather, Lamond Woods was heralded as one of the best horsemen in Lincoln County, Nevada.

In establishing my cowboy heritage I must also mention my great-great grandfather, Jens Neilson who ran cattle first in Iron County, Utah and then settled in and became a prominent cowman in San Juan County, Utah. That heritage extended down to my grandfather, Edward Neilson and my uncle DeReese Neilson who have based their cattle operations in Blanding, Utah. I have been well exposed to the cattle business in this area.

I must say that I realize and understand that, in the past, some of the public ranges have been mistreated and overgrazed. I admit that my ancestors may have been involved, although not knowingly, in past overstocking of ranges. I am the first to agree that regulation is necessary on the ranges as it is in any situation where public resources are being used for private economic purposes. Now with that said, let me explain my reason for testifying today. It can be summed up in one sentence: The cowboy way of life, an institution native to the American west, is slowly fading away and dying.

Let me give an example from my own experience. Out of my high school graduating class I can name at least 20 families of my schoolmates that are involved either in the cattle business or in occupations directly related to agriculture. But out of those 20 families I cannot name one schoolmate who is now, or is planning in the future, to continue operating the family farm or ranch. In fact, out of the entire St. George community I can only name three or four young men from my generation who are pursuing careers in agriculture. I have many friends who have grown up in ranching families but are studying to become, or who have become, businessmen, lawyers, builders, doctors or other nonfood producing professions. I am not ignorant of the fact that many of my generation are not the least interested in farming or ranching, but many of us are. Its just not economically feasible for us to pursue it.

I grew up helping my dad on the ranch. I've learned to rope and handle cattle and to break and ride horses. I have developed the skills and have had the experience that would qualify me to raise cattle and produce beef on the public lands. But because of advice I've received from my own father and from other cattlemen, I am not pursuing a career as a cowboy, at least not until I become financially secure in another profession.

I realize there are many factors contributing to the difficulties of getting into the cattle business. The high cost of real estate, high interest rates and the fluctuating cattle market are all contributing causes to the problem, but I feel the major reason I have been advised against the cattle business is because of the federal land policies that are making public land use next to impossible.

It is sad that so many of my generation are being advised against agriculturally related professions. To me it seems that agriculture is taking a back seat to all the other special interests. This apparent trend appears ironic to me when the basic physiological need of man is food. The special interest groups appear to be forgetting that we must eat before we can use electricity, we must eat before we can burn gasoline in our cars, we must eat before we can go out and earn a living, and we must even eat before we can go backpacking.

Why are issues like the environment, energy and the economy taking a front seat while the problems of ranchers and farmers are treated as insignificant. Maybe as the impending hard times fall upon us we will realize that cattle grazing is more important than turtle preservation and that what a rancher has to say is as important as what an ecologist has to say.

I love and respect America. I have spent time in foreign countries and have come to realize that have more to be thankful for than any other nation in the world. I would never knowingly abuse the land that has provided my family's livelihood for generations nor do I feel that my ancestors have ever knowingly abused the land. I believe that those who work and sweat on the public lands are the true environmentalists.

I realize that administration by a governing power is necessary to maintain a balance on the land, but why can't this administration be closer to home? Why can't it create incentives for young people to enter agriculture instead of turning us away? Why can't we utilize this land to benefit and sustain our country in the most efficient ways possible? And why can't the voice of public land users play as great a part in policy formation as do the voices of people who have never even seen the land?

I wholeheartedly and sincerely support Senator Hatch's bill that provides for the cession and conveyance to the States of federally owned unreserved, unappropriated lands. I am aware of the many economic and political problems that would accompany such a change but the benefits for the American people would far outway the obstacles. The environment must be protected but the resources must also be utilized. The states are in a far better position to administer the protection of the environment and the use of the resources than is Washington.

It is my hope that any young American who has the knowledge, skill and guts to get into the cattle business, will be able to in the future.

I sincerely thank Senator Garn for being here. I praise the representation of our State in Washington by both Senators Garn and Hatch, they are truly voicing the sentiments of most Utahans.

FLIGHT TO FREEDOM

Mr. HATCH. Mr. President, over the weekend I heard news reports of two families escaping from East Germany.

This escape was accomplished through the construction of a homemade hot air balloon. Nothing signifies the difference between the East and the West more than events such as this. Risking their lives these people decided to leave a system that they could no longer live with. The reports stated that Peter Stelzyk, an aircraft mechanic, constructed the balloon with the assistance of Guenter Wetzel. These two men then, along with their wives and four children floated over the minefields guarding the border. When asked why they had done this Mr. Stelzyk replied: "It was no longer possible for us to lie to our children and put up with political conditions in East Germany."

Mr. President, during the August recess I had the opportunity to visit the border between East and West Germany. I can honestly say that the sight has left an impression on my mind that will never fade. As I stood on the border looking into East Germany I was confronted with a large chain-link fence about 10 feet high. Each pole supporting this fence was equipped with three tripmines which would detonate if anyone touched the fence with the force of a person attempting to scale it. Beyond the fence was an antivehicular ditch with concrete walls to prevent a vehicle from ramming the fence. Beyond that was an area of ground about 10 meters wide which was plowed to detect the presence of anyone in the area which otherwise might have gone undetected. At the edge of this area was an improved road which ran, as far as I could determine, the length of the border.

While I was at the border the East German guards sent a motorized patrol to investigate who had come in on the helicopter. As they scanned us with binoculars I felt a sense of rage and sorrowness well up in my bosom. How we could permit the Communist government to erect such a monstrocity is beyond me. I know the politics of such things, but I cannot help but feel a sense of shame that we have failed the people of Eastern Europe by allowing this to happen to them.

It is for these reasons that I offer my congratulations to Mr. Stelzyk and Mr. Wetzel and their families. We have always known freedom, they had only heard of it. They are the true defenders of the principle, for they were willing to take the highest gamble to achieve it.

HOW CONGRESS CAUSES INFLATION

Mr. HATCH. Mr. President, one of the most astute political writers of our time is Mr. Tom Bethell, who is the Washington editor of Harper's magazine. A few months ago he wrote one of the best pieces I have seen on the deregulation of natural gas. The excellence of that article is exceeded only by his recent article in the October issue of Harper's entitled "Fooling With the Budget: How Congress Causes Inflation."

As I read Mr. Bethell's article, although I may disagree with some of his characterizations, I was struck by the similarity of our thinking concerning the problems with the congressional budget process. But Mr. Bethell lays out these problems more succinctly and eloquently than I ever could. He has made a thorough analysis of the budget process and the economic analysis of the Congressional Budget Office, finding significant flaws in both and a bias toward increasing Government spending and against tax cuts which would stimulate the supply side of the economy.

Mr. Bethell's article should not be taken lightly by anyone who is serious about bringing fiscal control to the Federal budget. I commend his article to my colleagues and ask unanimous consent that it be printed in the RECORD at this point.

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

FOOLING WITH THE BUDGET

HOW CONGRESS CAUSES INFLATION

(By Tom Bethell)

(The state is that great engine by which everyone seeks to live at the expense of everyone else.—Frédéric Bastiat.)

On April 23, in the course of a debate in the United States Senate, Sen. William Proxmire of Wisconsin introduced an amendment to balance the federal budget. His plan was simple—to cut federal spending by the amount of the anticipated deficit, namely $29 billion. He made an interesting speech in favor of his proposal asking at one point:

Who comes to Washington to ask us to cut a particular program? You will wait a long time for an answer. Who comes? No one. Not ever. But hundreds come purporting to represent millions, asking us to increase spending for programs. Businessmen who come here from our states are never asking us to cut a particular program but asking for spending for defense contracts or homebuilding or public-works programs. Farmers never ride their tractors pleading for cutting anything. They come here asking for more price supports. Labor unions represent workers who suffer severely from inflation and government waste. But like business they come here to ask us to increase government spending. Governors and mayors often make great fiscal responsibility speeches and blame the squandermania of the federal government, but when they come here it is always, and I mean always, for more spending for them.

For years, in other words, all sectors of society have been petitioning Congress for relief from their pressing financial needs. And Congress, which saw itself at first in the role of servant—the elected servant of the people—duly paid out as much money as it was able to scrounge from the taxpayers. At first this worked well, and it seemed as though it would work forever. Farmers demanded subsidies to protect them from the rigors of free-market price movements. Businessmen persuaded Congress that it was better to bail out a large corporation than to allow any increase in unemployment, however temporary that increase might prove to be.

As long as the economy was growing sufficiently, this passing around of money from taxpayers to tax recipients seemed to be a satisfactory way for Congress to do business. Everyone seemed to be living at everyone else's expense, and hardly anyone worried or even noticed that an increasing percentage of this money was coming straight off the printing press—money with no commensurate wealth to back it up.

Slowly it became apparent to more and more people that there was a problem with this method, an increasing sluggishness. The economy was becoming alarmingly politicized. The government's share of the nation's income grew slowly but steadily. The federal budget—in deficit for nineteen of the past twenty years—reached a half-trillion dollars. Inflation proved intractable. And, so it seemed, one day we woke up (with a hangover) and our duly elected representative in Washington was no longer our servant. He was behaving as if he owned the manse.

It was in response to this transformation that the balance-the-budget movement slowly began to develop momentum. People saw that it no longer did any good to go to Washington with hands outstretched. That was how the problem began, after all. They gave you money, most of the time, but it was more and more frankly paper money, of declining value, and usually it had strings attached, too (environmental-impact statements, affirmative-action plans, forms to fill out).

By early 1979, then, it was Washington's turn to awaken with a start. Thirty states petitioned Congress for a constitutional convention that would mandate a balanced budget. This was impudence, it was generally agreed in the Capital, but it was nevertheless preferable to the earlier, related attack on Washington, the tax-cut movement of 1978. The proposals to cut the federal income tax offered by Sen. William V. Roth, Jr. (R-Del.), Rep. Jack Kemp (R.-N.Y.), Sen. Sam Nunn (D.-Ga.), and others had been beaten back, but they had made for some uncomfortable moments.

The Washington policy makers and Congressional leaders could at least see in the balanced-budget drive some relief from pressure. Not that they liked it. But the nice thing about a balanced budget (as the citizenry did not seem to realize) was that there were two very different ways of balancing it. You could cut spending (as Proxmire would try to do) or . . . when you thought about it . . . you could raise taxes.

THE PRINCIPAL VILLAIN

You might reply, They would not dare do a thing like that, would they? Increase taxes, so soon after Proposition 13? But if you think that, you haven't grasped Washington's cunningly devised fiscal machinery. The point is that the legislators in Washington don't have to perform the most unpopular task facing legislators elsewhere: namely, vote for tax increases. Taxes are steadily increasing all the time, thanks to the combination of inflation and the "progressive" tax code. This is a valued mechanism, because it is very nearly invisible. (On the other side, the taxpayers are becoming more and more restless because they can't quite see what is actually happening to them.)

When you get a cost-of-living pay increase (as a result of which your financial position remains the same) you are simultaneously shifted into a higher tax bracket—one in which you must send a higher *percentage* of your earnings to Washington. In this way, the amount of money that Washington has exacted of taxpayers in the past decade has grown astronomically (see Table 1). Bear in mind when looking at these figures that they have grown without Congress' having voted a single income-tax increase. The last year federal income-tax rates were increased was 1952. (Table 2 shows how low and high marginal tax rates have fluctuated because of legislated changes since World War II.)

In the late 1960s there was a Vietnam war surtax of 10 percent, but that was phased out after two years; and there have been occasional increases in Social Security taxes—particularly last year's increase, the major impact of which won't be felt until January, 1981. Otherwise, there have been no increases in the tax rates. In fact, there have been tax cuts, most recently in 1978, when the Congress voted at the last minute a "package" of

decreases including the Steiger Amendment to lower the capital-gains tax.

Therefore, although the schedule of tax rates is actually lower than it was is 1962, the average person has been pushed up higher in the schedule by inflation and consequently is taxed at higher rates. Inflation, then, is the great anonymous tax collector. That is the beauty of the system.

TABLE 1.—U.S. BUDGET: 1970–80 ESTIMATE

[In billions of dollars]

	Revenues	Outlays	Deficit	Federal Debt
1970	194	197	3	383
1971	188	211	23	410
1972	209	232	23	437
1973	232	247	15	468
1974	265	270	5	486
1975	281	326	45	544
1976	300	366	66	632
1977	358	403	45	709
1978	402	451	49	780
1979	461	494	33	830
1980	509	532	23	887

Resource: Office of Management and Budget.

TABLE 2.—U.S. INCOME TAX STRUCTURE: LEGISLATED CHANGES IN LOW AND HIGH MARGINAL TAX RATES SINCE WORLD WAR II

[In percent]

	Low	High
World War II	23	94
1945	19	86
1948	16	82
1950	17	84
1951	20	91
1952	22	92
1954	20	91
1964	16	77
1965	14	70

Source: U.S. Treasury Department.

Consider for a moment the following figures from a Library of Congress study. They show how rapidly we are being moved up into higher tax brackets by inflation. Between 1965 and 1975, the number of people in the 20-percent tax bracket rose from 19 percent of the population to 53 percent. The proportion of the population in the 25-percent bracket increased from 7 to 29 percent of the population. In other words, many more of us are being treated by the Internal Revenue Service as well-to-do, or moderately so, even when all we are doing is keeping abreast of inflated prices.

Many voters are understandably befuddled by this invisible tax-escalator, which seems to operate independently of any legislator. The frustrated taxpayers would like to get even with the elected representative responsible for the design and smooth functioning of this devilish machinery, but they can't find him. All they know is that their man in Washington occasionally votes for a modest tax cut. The resulting frustration of the population at large has been the principal driving force behind the balance-the-budget movement.

A good many Congressmen and Senators have long since calculated that they are not threatened by any of these taxpayer revolts, however, because the recipients of federal money in their districts are grateful to them in particular, while taxpayers in their districts merely experience a generalized frustration at "the system."

So the principal villain is inflation. Without it, legislators would have to vote for tax increases. It is clear, then, that inflation is the quiet ally of big-spending legislators. Do they cause it? What is the connection between budget deficits and inflation?

When a deficit is incurred, the U.S. Treasury doesn't simply default on its debts. It borrows money from the private sector, from individual savers, in effect selling them pieces of paper called "bonds" in return for dollars. In the past four years the government has borrowed more than $200 billion, which, according to Harvard economist Martin Feldstein, is about 40 percent of total private savings.

The government thus swills from the pond of private capital, and the immediate effect is to make it more expensive for people who want to borrow money to do useful things such as build factories and houses. In short, the heavy government borrowing drives up interest rates. (One of the reasons the federal budget is so large these days is that almost 11 percent of it, $56 billion, or ten times the amount spent on science, space, and technology, is required to make the interest payments to private-sector lenders.)

The increased interest rate promptly make life difficult for others in the economy who also want to borrow money, whether to start businesses or buy homes. At this point the Federal Reserve Bank comes under "pressure" (although its appointees are supposedly immune from direct political influence, inasmuch as they are not running for office and cannot be fired by the President before their terms expire) to reduce the interest rate. And here is where the truly inflationary act takes place: the Federal Reserve responds to pressure by buying back the pieces of paper called "bonds"—repurchasing them with freshly minted dollar bills. This new money enlarges the available quantity of capital, back to something like its former level, and down go interest rates again.

One could say, then, that federal budget deficits are not in themselves inflationary, provided the economy is prepared to swallow high interest rates. But if one concedes that high interest rates are intolerable, then deficit spending is by far the most important cause of the expansion of the money supply, which in turn translates into generally higher price levels a year or two later.

One of the great scandals of recent and current government rhetoric is that there has been a concerted attempt by the economic leadership to deny that budget deficits lead to inflation (or play anything more than a minimal role in inflation). The government consistently tries to maintain that price increases are the cause of inflation. This is like saying that meals cause hunger.

A little demagoguery here goes a long way, of course. The public can easily see and get annoyed at the price increases at the grocery store; however, the chicanery in Washington aimed at giving politicians large amounts of money to hand out to their constituents, and the complex way of paying off the debt thus incurred, cannot readily be observed. Similarly, the "wage and price controls" approach to inflation is mischief analogous to trying to prevent the expansion of a balloon into which air is being pumped by putting the balloon into a box and shutting the lid.

The only way to stop inflating the balloon is to stop pumping it up. But that is a course the politicians and those other functionaries who make up Official Washington do not want to take. They could do that by abolishing deficits. But they won't. The reason they won't, when all is said and done, is that they enjoy spending other people's money. It gives them a sense of power—it gives them power.

A TRANSFER OF POWER

Before joining the Senators in their deliberations, we must first go back a few years, to 1974, when the new Budget and Impoundment Control Act was passed by huge margins in both House and Senate. The vote in the Senate was 88–0. When votes are unanimous, something devilishly tricky has almost certainly escaped notice. Such was true of the Budget Act.

The idea behind the legislation was to reorganize and (as was said) to "rationalize" the "budget process." Whatever that might mean, it seemed like a good idea at the time. The budget then was increasingly going into the red, although by far smaller amounts than would later be the case; and it was argued that the problem was as follows: hitherto, legislators had appropriated money in the different spending categories (defense, health, transportation, et cetera) separately There was no one controlling hand, no preliminary overview, whereby the Congressmen and Senators could determine exactly how much money they had at their disposal to spend; and so, in their individual enthusiasms for different spending programs, they would be found collectively to have spent more than they had taken in. The result was always attributed to inadvertence, an excess of enthusiasm, or compassion.

With the "budget process" reorganized in 1974, this would not happen again, it was said. The word *reform* appeared in a *New York Times* headline. Hosannas filled the air, *Fortune* magazine saw a "Noble Experiment" in budgeting. The new Budget Act involved the creation of two new committees on Capitol Hill, a Senate Budget Committee and a House Budget Committee, and a brand new organization called the Congressional Budget Office, which would provide "analyses of alternative fiscal, budgetary, and programmatic policies." In other words, the CBO would advise the Budget Committees that spending so much on defense would decrease unemployment by X percent, increase inflation by Y percent. The CBO, once it was launched in 1975, would provide employment for 219 people, mostly economists, a good many of them fresh out of college and eager to put the world right.

In light of the CBO's analyses, the budget committees would then set the overall totals in the various budget categories, fully aware of how much these totals would add up to, and, on the other side of the equation, of how much tax revenues were expected to amount to.

For example, the Senate Budget Committee might decide that $10 billion would be spent next year on natural resources and environment. Then, later on, the Appropriations Committee would meet and agree that, say, $30 million of this would be spent on a dam in Montana. (Incidentally, that explains why it is politically desirable to be on the Appropriations Committee; the Budget Committee by contrast has very little political appeal. One cannot "deliver" an aerospace contract or reclamation project to one's district; one merely delivers to the nation as a whole.)

One of the main reasons the CBO and the two Budget Committees were established was to transfer power away from the Executive branch, just one element in the great shift of power away from the White House that has gone on all through the 1970s. Congress could now do its own budgets without relying on the figures furnished by the Executive. President Nixon provided the main impetus for this when he appointed a man to head the Office of Economic Opportunity and told him explicitly not to spend the moneys appropriated by Congress for its poverty programs. This attempt at "impoundment," a direct challenge to Congress, provoked many a howl and assured the new Budget Act easy passage through Congress.

Both conservatives and liberals were eager to vote for the act because, in the first place, conservatives believed that the liberals were going to feel uncomfortable voting for explicit budget deficits, as they now would have to do for the first time, with the Budget Committees and the CBO in situ. They thought this would embarrass the liberals.

But the liberals thought differently. They knew that they indeed would go on voting for budget deficits, and that hardly any of their constituents would object. As they foresaw it, correctly, the CBO would come to their rescue by developing "scientific" rationales for spending just as much money as they wanted to spend; and this in turn would be more money than last year, no matter what phase the economy might be in. In a recent issue of Policy Report, Paul Craig Roberts explained the kind of thinking that could be expected from the CBO as follows:

"Recessions justify deficits to get the economy moving again; recoveries justify deficits to keep the recoveries going; good times justify deficits to ward off the downturn that is predicted to be around the corner. Signs can be found upon which to predict a recession."

And that is the way it has turned out, five years later. Almost the only one who saw it coming was Rep. Joe Waggonner (D-La), who said during the debate on the bill on December 5, 1973:

"I am constrained to say that this is not going to do anything to make this body responsible, in my personal opinion, because we are not controlling expenditures. We will be using all the devices we use now to keep spending. I hope I am wrong, and that there will be some restraint in the Congress . . . but I cannot help believing . . . that we are going to do anything but go ahead and just keep increasing spending and the debt ceiling. . . . This Congress does not have the courage to balance expenditures with revenues. That is our problem now."

Waggoner was dismissed as one of those country bumpkins, but he was correct.

THE KEYNESIAN MODEL

The director of the Congressional Budget Office is Alice Rivlin—who was appointed to the post in February, 1975, with the backing of such members of Congress as Sen. Edmund Muskie (D.-Maine). By this time Muskie was the chairman of the newly created Senate Budget Committee. He had lobbied hard and given up his seat on the Foreign Relations Committee to get the job.

The New York Times, at the time of her appointment, noted that Alice Rivlin's "intellectual credentials are outstanding." Be that as it may, income redistribution was her political and economic philosophy in a nutshell, picked up somewhere along the line between Bryn Mawr, Radcliffe (Ph.D. in economics), the Department of Health, Education, and Welfare (where she was an Assistant Secretary in the Johnson years), and the Brookings Institution, where she became a senior fellow.

As the new Congressional budget procedure came closer to enactment in 1974 and it became apparent that Congress would soon be looking for someone to direct the CBO, Rivlin was fortunately able to promote her cause in that expedient Washington way, by writing several quite lengthy articles for the Washington Post op-ed page. In this forum she could keep her name before Congressional leaders and, at the same time, establish her credentials as a reliable proponent of spending.

In October, 1974, for example, following a speech by President Ford on economic policy, Rivlin sadly noted that:

"All strong measures were rejected. The President called for neither gasoline rationing nor a stiffer gasoline tax. . . . He condemned wage and price controls, even asserting, contrary to evidence, that controls were ineffective in World War II."

She recommended that the tax burden be further shifted "from lower to higher income groups."

In short, she made no bones about her political philosophy. But when she was appointed to head the CBO not long after this (she consulted with John W. Gardner, the founder of Common Cause, before taking the job), she was asked by a New York Times reporter what she thought of President Ford's budget.

"I can't think of a worse question to start off with," she replied. The CBO, she added, was meant to be "nonpartisan. . . . My personal reactions to the President's budget are therefore irrelevant."

Then she went underground, in a manner of speaking, in her new and important job, even though her office was on the fourth floor of the House Office Building Annex No. 2. On the sixth floor they had the computers where the figures could be "massaged" (that's what the man on the sixth floor said they did to the figures). It wouldn't take her long to work out how to dress up her personal reactions as differential equations, feed them into the computers, and triumphantly display them to any doubting Senators or Congressmen on Capitol Hill. ("You are against full employment, Senator? See what the latest technology has to show us.") That's what econometric modeling is for, after all.

The economic "model" (favorite word of up-to-date economists) within which the CBO, and Congress itself, operates is essentially Keynesian in character. This may sound complicated, but it is really simple. John Maynard Keynes, Cambridge economist and Bloomsbury figure, published *The General Theory of Employment, Interest and Money* in 1936, and his basic idea was that it is perfectly all right to stimulate the economy by government spending on public-works programs. This might result in a budget deficit, but it would put people back to work, put money in their pockets, and thus create a demand for goods that would then be met by supply. In short, demand creates supply.

Keynes's theory was well attuned to an economy recently plunged into depression. His theory worked, and did not lead to inflation, because the money supply had previously been held down tight. Second, there was considerable "excess capacity" in the economy. That is, there were unemployed resources that could be put to work without having to pay higher prices to bid them away from other uses. In addition, taxes were low (because nominal incomes were low) and Washington's regulatory police force barely existed. All the conditions for a renewed burst of productivity existed.

Under these circumstances, the prescription "Stimulate demand!" was a sensible one. Moreover, Keynes, who was himself a fiscal conservative by today's standards, recommended that the budget deficits incurred by public-works spending should be balanced by budget surpluses once the economy was on the move again.

In retrospect, however, we can see that this theory led directly to today's problem. A government that finds it can spend its way out of economic depression has tasted a potent drug indeed, and one that suits only too well the tastes of politicians. As a result the remedy has proven impossible to discard, even though we now live in a very different time.

Now the factories are at full capacity (which means that in order to build new ones money must be invested, and, before that, saved), unemployment is relatively low, regulators are marching about the land in search of people who might be making things without their permission, taxes are getting higher and higher, and the prestige of businessmen is dismal.

In short, the supply side of the economy, and of economic theory, has fallen into terrible disrepair. If you think about inflation for a moment ("too much money chasing too few goods"), you see that there are two obvious ways of fighting it: reduce the amount of money, or increase the number of goods. The obvious remedy for the current "stagflation" is for a government policy that will stimulate supply. Economic conditions are not merely different from those of Keynes's day: the two are practically the reciprocals of each other. Therefore a new theory is needed, as bold as Keynes's seemed at the time.

Such a theory is at hand, and it assumes that tax cuts, by encouraging people to work harder, would stimulate the economy, create new jobs, and paradoxically, broaden rather than shrink the tax base. Therefore, inflationary budget deficits would not result any more than they did when government spending was increased in the 1930s.

Keynes wanted to stimulate demand by allowing the government to spend money it didn't yet have; Roth, Kemp, and others now recommend that we stimulate supply by giving people the incentive to make more things. Although this initially entails keeping money out of the reach of politicians, the politicians would end up with more money at their disposal.

Despite the likely outcome, the idea of tax cuts tends to be very unpopular in Official Washington, which pouts at the very mention of the words. Did someone say "tax cuts"? There are several hundred people in Washington whose job it is to rush forth with explanations why this is not a good idea. Inflation will balloon, employment drop, deficits soar, the economy stagnate, and so on.

When tax cuts were enacted in 1964 and 1965 (see Table 2), the Treasury Department estimated that they would result in a revenue loss of $89 billion over six years. In fact, there was a $54-billion revenue increase.

The main reason tax cuts are not considered to be particularly stimulative, in the reigning economic dogma of Washington, is that the incentive effects of allowing people to keep more of the money they earn are deemed not to exist. They are therefore not "factored in" to the models; that is, they are not included among the assumptions that are computed by the government's computers. Alice Rivlin has even suggested that people are likely to work less hard after a tax cut, because they will be able to earn the same amount of money in a shorter time. The contrary assumptions ought to be tested.

However, even if an incentive effect were conceded, heresy though that would be, no one would quite know what the exact "coefficients" for the variables would be, and so they would remain beyond reach of mathematics and therefore not allowed for in the CBO's economic forecasting. None of the econometric models used by the CBO takes into account the incentive effect of tax cuts. This again reflects Keynesian thinking, which considers only the demand side of the economy; supply factors are neglected as a matter of course.

Tax cuts are, in any event, less appealing politically than spending increases, because government spending promises quick symptomatic relief to economic problems, comparable to a junkie's fix. By contrast, giving people the incentive to work harder and thus ultimately stimulating supply is the equivalent of withdrawal from addiction. It takes time and is painful. The new factories don't get built for a while. Also, politicians lose influence.

In the all-encompassing environment of government, with high taxes, controls, regulations, and so on, the politician becomes an important figure. A politicized economy, such as we increasingly have, does much for the politician. He is empowered—and needed—to allocate, ration, administrate, to hand out coupons to this group, permits to that, federal dollars to the other.

In a politically controlled economy, Paul Craig Roberts has written, "a person's re-

lations with government become more important to his success than his market performance. . . . As people find it more difficult to save, they become more dependent on transfer payments, and they lose their financial independence.

"In short," Roberts concluded, in a somber note that at first sounds vaguely paranoid but plausible, "government hasn't much to gain from a stable, growing economy. In such an economy, there is no need for all the government programs and controls that inflation and unemployment justify. When people are enjoying widespread individual success they don't need the government."

ECONOMIC ASSUMPTIONS

In a politicized economy, the Congressional Budget Office under Alice Rivlin's command has played its intended role, reliably providing the House and Senate Budget Committees with good excuses for spending.

The CBO issues reports and analyses, which "usually take the form of published studies comparing present policies and programs with alternative approaches," according to a CBO brochure. Everywhere you turn in the CBO literature, you will see it affirmed that "the office does not make recommendations in matters of policy." Its job is to "present the Congress with options for consideration." A White House aide does not make recommendations when he presents, as three options to the President: 1) Bomb Moscow; 2) Surrender; 3) Spend $98.5 billion on defense.

In a less extreme form, that is how the CBO presents options to Congress. In addition, the dollar amounts they present for consideration are skewed in the direction of greater spending. "They might present four options," says an aide who has worked on the staff of the Senate Budget Committee. "One will analyze the effects of a $10-billion cut, one considers 'current policy,' the remaining two a $10-billion and a $20-billion increase in spending respectively. The two extremes—the tax cut and the $20-billion increase—are presented as highly inflationary, 'current policy' as bad for the employment picture. That leaves the $10-billion increase as the path to heaven."

Let us look at these CBO projections in a little more detail, because they are really at the heart of the matter. In comparing, for example, the effects of a $10-billion tax cut with its alternative, government spending of $10 million, the CBO argues that it is better for government than for citizens to spend the money, on the whole, because when government spends, the money "multiplies" faster in the economy than when private citizens do.

The analysis comes right out of Paul Samuelson's *Economics*, by the way: "Dollars of tax reduction are almost as powerful a weapon against mass unemployment as are increases in dollars of government expenditure." The key word is "almost."

In a CBO publication it is put this way: "Generally speaking, [government] purchases of goods and services have more impact per budget dollar on output and employment than broadly based tax changes or changes in income-support programs."

In another background paper, the CBO explicitly argues (with charts and figures) that $10 billion spent on public-service employment stimulates both employment and the growth of the economy more than a $10-billion tax cut.

This seems implausible, especially when one considers the make-believe nature of many public-service jobs (paying people wages to do things for which there is no apparent need or demand).

What, then, is the precise reasoning behind the bias in favor of government spending? How are the figures arrived at? The answer really does disclose the fundamental bacterium growing at the heart of the culture of Washington. Government spending is more stimlative than private spending, the government analysts say, because the government will spend all of that $10 billion. Private citizens, on the other hand, will save part of it. Savings—such is the state of the economic art in Washington—are thought of as money withdrawn from the economy and stuffed in a paper bag underneath the mattress.

It seems hard to believe. A meritorious impulse of the hard-working man is actually impugned, presented as a disservice to the nation. The man who forgoes consumption, thriftily putting money aside for hard times or retirement, is told that he is really doing more harm than good. (Current tax policy reflects this bias, as in the low ceiling on savings interest rates, the reporting of interest to the IRS, and the Social Security system itself, which in effect tells people that they don't have to save for retirement.)

Government policy today is such as to dissuade all but the most tenacious saver. This is so despite a high correlation between countries with high savings rates and high economic growth. (In ignoring this correlation, does Washington not betray that it really is not—despite its rehetoric—pursuing policies of economic growth?)

The CBO's economic assumptions and philosophy have not escaped unscathed within the economics profession. Mike Evans, while he was president of Chase Econometrics last year, told the Joint Economic Committee on Capitol Hill that "the CBO study is actually a landmark in incompetency."

Rep. John Rousselot (R.-Calif.) replied: "But in our budget process we base a lot of our great decisions on that."

Later on, at a Budget Committee hearing, Sen. S. I. Hayakawa (R.-Calif.) asked Mike Evans: "If the CBO logic is accurate, why is it that countries like Japan, with a savings rate of 25 percent, grow more rapidly than we?"

"That CBO report received a certain amount of notoriety since it came out," Evans replied. "It has been widely discredited."

"It has been discredited?" Senator Hayakawa asked.

"Yes," Evans said. "There is an almost perfect correlation between the rate of growth and productivity and GNP and the proportion of national resources devoted to savings. As you mentioned, Japan has a 25 percent savings rate, and they have a rate of growth of 10 percent a year, compared to our growth of 4 percent. It is not only Japan. If you ranked the eleven major industralized countries in the world, there is a perfect correlation between the amount of savings and the amount of growth. The United States comes in dead last in both of those."

"Why do most other countries have a greater savings rate than we?" Hayakawa asked.

"The tax policies of those countries are different than ours," Evans replied, "and they encourage more savings."

Sen. Henry Bellmon of Oklahoma then asked: "Is the fact that we spend $120 billion in defense and Japan spends only very little—does that have anything to do with this?"

"I don't think it has much to do with it," Evans said. "The defense spending represents only about 6 percent of the total GNP now, and we are talking about a difference in savings rates between the U.S. and Japan which is far greater than 6 percent."

Notice that it was Henry Bellmon, Republican, who tried to come to the defense of the reigning Keynesian orthodoxy.

The single most valued adjective in the CBO's thesaurus is "nonpartisan." The CBO is nonpartisan in its brochures and nonpartisan on the front page of the Washington Post. How can such an ideological institution make this claim and get away with it? The answer has a horrible simplicity. An institution, program, or idea that wins bipartisan support can justly claim to be nonpartisan in nature. Therefore, the most valuable supporters of the CBO's analyses have not been Democrats but Republicans. If they were ever to withdraw their support—even if they still lost all key committee votes—they would be in a good position to accuse the CBO of promulgating partisan economic theories.

Republican Henry Bellmon's support of the "budget process" has therefore been of great value, not just to the CBO but to Edmund Muskie and his majority committee staff, to the Carter Administration, and to proponents of big-government spending everywhere. Bellmon is the "ranking" minority member of the Senate Budget Committee (the senior Republican, in other words), and the minority staff of twelve is his staff, just as Muskie's majority staff of forty is appointed by Muskie. Bellmon's support of the budget deliberations has therefore resulted in a united Washington front. Rather than resist the spend-more philosophy, he assented to it, made it unanimous.

Bellmon's willingness to go along here is an indication of the general collapse of Republican morale in Washington. The Republican leadership these days reminds one of the Vatican in the 1960s. It has shown itself ready to throw out the old traditions and sing along with the New Trend just at the moment when people were beginning to doubt whether Liberation was the true path to happiness. If only they had stayed on course, most of their former congregation would in the end have returned to the fold. But in the GOP leadership position up popped Sen. Howard Baker of Tennessee, and he spotted a trend going over the horizon, Keynesianism, and he ran after it. So did Henry Bellmon.

In return for his "cooperation," Bellmon somehow received glowing press notices. The Tulsa World wrote that Bellmon had made "commonsense compromises" on the Budget Committee. The Daily Oklahoman praised him for performing a "thankless task" as a member of a "largely unappreciated committee," one that "puts a lid on spending."

In addition, Muskie did a great job of sharing the laurels with Bellmon. At every budget deliberation he would congratulate his "friend and partner in this budget process." On one occasion he applauded his "courageous votes for fiscal responsibility." By claiming that the budget process itself was of overriding importance Muskie distracted attention from the budget deficits, which were larger than they had been before the process began.

As far as the Budget Committee staffs are concerned, it is not surprising that Muskie's merry majority likes to devote its day to arguing for more government spending. The course of fiscal appeasement is appealing to the minority staff not because they are big spenders at heart, necessarily, but because it is the path of least effort. If the minority staff accepts the recommendations of the majority staff, the Republican staffers have most of their work done for them. On the other hand, to resist is to visit upon oneself the mighty task of coming up with different forecasts, alternative five-year projections, different "modeling"—a paper blizzard of one's own. It takes a lot of time and effort, involving staying on late at night—and keeping the Senators at their desks for longer hours, too. Only the zealous are prepared to do that, and the Republicans have largely had the zeal knocked out of them.

Besides, the Republican who goes along is more likely to find that the money is spent in his district and to his advantage with

grateful constituents. The diehard fighter might find the money drying up. So it is fairly easy to postpone worrying about America, the nation as a whole, until after the next election.

There are, of course, a few zealots on the Republican side, mostly relative newcomers. One such who went onto the Senate Budget Committee this year is Sen. Orrin Hatch of Utah. Another is Sen. William Armstrong of Colorado. Most of the GOP members of the Budget Committee are relatively junior, because the Republicans have a "mutually exclusive" rule, preventing Senators from serving on two of the five most important committees. (The other four are Finance, Appropriations, Armed Services, and Foreign Relations.) The effect of this rule is to prevent Republicans from accumulating much seniority on the Budget Committee. This also makes it difficult for them to resist the expertise, or become familiar with the ways, of the opposition, because the Democrats have no such rule.

At one point this year, Senator Hatch proposed a cut in one of the budget categories, and he was asked if he had "five-year projections" of the effect of such a cut on inflation, employment, and so on. Five-year projections! Congress in its budgetary aspects is gradually being transformed into a Central Planning Bureau by such tactics. The CBO, of course, does five-year projections. How can Hatch, trying to work independently of the huge bureaucratic professoriate at the disposal of Senator Muskie and his majority staff predict the effect of a specified budget cut on inflation in 1984? (How can anyone, for that matter?)

But if he so desires, Hatch can have all the expertise he wants. "Bring your proposals to use and we'll cost them out for you," a friendly majority staffer will say to Hatch before the budget deliberations begin. Come into my parlor. . . . Of course, the costing-out will probably look bad for the employment picture, and for economic growth if it involves anything but a cut in defense spending.

At the beginning of this year's budget deliberations, Sen. William Armstrong proposed that revenues be considered before spending. In other words, he suggested, let us find out how much money we have to spend before we allocate it. This was not a popular idea. Sen. Daniel P. Moynihan (D.-N.Y.) said: "It seems to me that the better argument is to decide society's needs and find out what the costs and then decide whether or not it is feasible to raise that much. . . . You don't decide in advance how much you are going to spend and fit your defense budget into it. You find out how much you need for defense." This, of course was precisely the form of budgeting that the 1974 Budget Act was supposed to prevent. But Senator Armstrong's proposal was defeated, 11-1. Armstrong's fellow freshmen Republicans on the Budget Committee, Sens. Nancy Landon Kassebaum of Kansas, Rudy Boschwitz of Minnesota, and Larry Pressler of South Dakota, in addition to Senator Bellmon, all voted against Armstrong's sensible proposal.

An analogous maneuver took place in the House of Representatives. In 1978, Rep. Marjorie Holt of Maryland very nearly succeeded with an amendment that would have forced across-the-board spending cuts and simultaneous tax cuts. After the 1978 elections, the Democratic leadership became convinced that Holt's amendment, if offered again, would pass. So they changed the rules on her. Now you cannot propose amendments that cut aggregate spending figures without specifying exactly where spending will be cut. This gives an opportunity for those who would be affected by such cuts to come up and lobby on Capitol Hill against the proposal. Such a rule change, of course, blatantly disregards the spirit and letter of the Budget Act.

THE JIGSAW PUZZLE

By the time the budget debate began on the Senate floor this year, the Senate Budget Committee had successfully fought off virtually all budget cuts. On the other hand, many spending categories had been increased (by law, in some cases) to allow for inflation. As a result, the nation is faced with a budget of which an increasing percentage is said to be "uncontrollable." Of course, this percentage (currently about 76 percent) is not really uncontrollable, because Congress could always change the law. The appeal of the concept from the point of view of the spender is that it gives the impression that a shrinking proportion of the budget is at the mercy of the budget cutter and that the only changes that can be made are spending increases, since there is no law against that. In this way, then, the "income security" category went up this year to $183.3 billion (last year it was $159.3 billion). Defense spending was up; international affairs spending was up; so was spending on natural resources and environment; transportation; education, training, employment, and social services; health, justice; and general government. And there was a big increase in the Federal interest payment (up from $48 billion to $56 billion) because of the rapidly mounting national debt.

Overall, when the Senators began their deliberations, the budget outlays under discussion (now fattened up to accommodate inflation, and more) were about $45 billion higher than in the previous fiscal year. Meanwhile—and it is important to bear this in mind—federal revenues were moving ever upward thanks to inflation. Whenever there was a new estimate of revenue, it was higher than the earlier one. At the time of the Second Concurrent Budget Resolution, in October, 1978, federal revenues were estimated at $449 billion. But by the time the books were closed on fiscal 1979, the figure had jumped to $461 billion. By the time of President Carter's budget message in January, 1979, Federal revenues for fiscal 1980 were estimated to be $503 billion. Then, by the time of the First Concurrent Resolution for fiscal 1980, in May of 1979, revenues were estimated to be up again, to $509 billion. (A year later, with no tax cut, they will have soared to $583 billion.)

In any event, at the time of the budget debate in April, the Senators could see that they were facing a deficit of $29 billion. (Spending: $532 billion; revenues then estimated at $503 billion.) And people all across the country were beginning to speak up for a balanced budget. The more canny Senators could see that as long as they didn't vote for any tax cuts, the budget would balance itself before too long. It wouldn't be necessary to cut spending either. (In fact, down the road—as long as inflation didn't let up—there looked to be some nice possibilities for spending increases.)

The Senate then declared its good intentions by voting that the Budget Committee should "report" a balanced budget in fiscal 1981. But "report" did not mean "compel," or even "recommend." Then they voted to increase the debt ceiling, up to now to $830 billion. (They have to vote this increase every year, to prevent the government from being legally "in default" on its debts.)

Senator Muskie read his own speech about the budget, a real tearjerker it was, too, full of such phrases as "fiscal discipline," "take the heat," "tolerate the pain." And he quoted President Carter's phrase to describe the fat, profligate budget: "lean and austere." Muskie sent his annual bouquet to Bellmon ("my good friend and longtime and indispensable associate on the Budget Committee"). And Bellmon praised Muskie ("coolheaded, evenhanded. . . . He was able to bring about a consensus").

Enter Senator Proxmire, amendment in hand. It had a beautiful simplicity: "On page 2, line 24, strike out '$532,400,000,000' and insert in lieu thereof '$503,600,000,000'. On page 3, line 5, strike out '$28,800,000,000' [the deficit], and insert '$0'." Well, for some time the Senators had been shedding tears about how terrible it was that the budget wasn't in balance, and here was their chance to balance it with an across-the-board spending cut of about 5 percent. Proxmire had worked out where the cuts could be made, including such items as a $6.8 billion reduction in revenue sharing ("the federal government has no revenue to share," Proxmire said) and a $1.3 billion cut in foreign aid ("mostly an extension of the public works and highway lobby abroad").

"Any Senator who says we cannot cut even 5 percent of the bloated more than half-trillion federal budget . . . is not even trying," Proxmire said. "Five percent. That is all we need to achieve a balanced budget in 1980. Mr. President, this is a democracy. Does anyone seriously doubt that this amendment is what an overwhelming majority of Americans want us to do?"

He went on to say that *now* was the time to balance the budget, when the economy was growing and more people than ever had jobs. "If we cannot move to a balanced budget now we are not ever likely to do so without the kind of constitutionally mandated restraint that most of us deplore."

"I want a balanced budget," said the Senate majority leader, Robert C. Byrd of West Virginia. "Everyone wants a balanced budget." But this was not true, as the vote against the Proxmire amendment, 67-23, showed.

All subsequent attempts to cut the budget on the floor of the Senate were defeated, with the exception of a small cut of $400 million at the end of the debate (after several increases larger than that had been added on). The Senate couldn't even bring itself to vote for an amendment by Senator Hatch, cutting $1.1 billion from federal travel, payroll, and film-making expenses. The vote on this was close, 44-41. Opposing the proposal were not merely the Senators one might expect, such as John Culver of Iowa, Donald Riegle of Michigan, and Edward Kennedy of Massachusetts, but, surprisingly, a small but crucial constellation of members from southern states who give every appearance of having caught Potomac Fever (Donald Stewart of Alabama, Bennett Johnston of Louisiana, and both David Pryor and Dale Bumpers of Arkansas—the latter's voting record somewhat resembling Senator Kennedy's).

Incidentally, Kennedy's role in the budget debate amounted to advocating widespread tax increases at one point. This might not be worth mentioning, except to draw attention to the extraordinarily devious language in which he addressed the Senate. Kennedy said that although the budget resolution contained "reductions in some forms of federal spending, it requries no reductions at all in tax spending. . . . For fiscal year 1980, federal spending through tax laws will reach the record total of $168 billion."

The man is devious! What does "tax spending" mean? It means "tax loopholes" (sometimes called "tax expenditures" in the jargon he prefers). Kennedy is really saying: If we are going to cut spending, let us also consider closing tax loopholes, i.e., raising taxes. Kennedy betrays himself as believing that when the government grants you permission to keep a little bit more of your money, through a specified tax reduction, it is really the government's money you are spending. It is as though he believes that all money belongs to the government in the first place.

That is what sometimes happens to people who have been in government as long as Kennedy. They get so used to spending other people's money that they end up thinking

it's their own. And that also is surely the key to the problem when you think about the vote on the Proxmire amendment. Those sixty-seven Senators who voted against it weren't voting against a balanced budget because they thought it would be politically unpopular to do so. Proxmire is a politician, too—very much so. He was quite right when he said that "an overwhelming majority of Americans" would be in favor of his proposal, and it was no doubt perfectly safe, politically, to vote for it.

Why, then, did sixty-seven Senators take the politically unpopular course? Some of the conservatives who opposed it didn't like the fact that the amendment included defense cuts of about $6 billion. A few of the others may even genuinely have believed the fantastic claim by the CBO that government spending is more stimulative than private-sector spending, that savings are a drag on the economy, and so on.

But surely the underlying reason is that it is very hard indeed for a lawmaker to vote for diminishing his own power. And that is what a spending cut ultimately entails: a reduced level of dependence on government for all citizens. Our dependence is their power, and that is what most politicians don't want to reduce.

The press delivered an ovation after it was all over. After the First Concurrent Resolution passed by a vote of 64–20 in the Senate, the Budget Committee put out a press release headlined: Senate Adopts Stringent Budget Resolution.

The truth was that the budget had grown by nearly 10 percent over the year before, and 18 percent over the past two years. Revenues had grown much faster—up by 26 percent in two years. And so the budget was indeed coming into balance—on a swiftly rising tide of taxes.

On June 1, 1979, the Washington Post, which earlier had termed the proposal to balance the budget in 1981 "draconian," commended the "responsible budgeting that Congress is now learning to do." The next day the New York Times published an editorial applauding the "sweeping reform of the Congressional budgetary process."

We may surmise that, reading the papers, the wily old Muskie put his arm around the Budget Committee's press secretary, Jim Conroy, and congratulated him on a job well done.

Meanwhile there was the Second Concurrent Resolution to be thinking about, the one in September with the binding budget totals. The spending totals would no doubt be adjusted upward by then—especially if there was any indication of a recession coming. Any signs of that? Ah, here we are: on the front page of the Washington Post, June 10, 1979:

MAJOR RECESSION NOW FORECAST BY HILL BUDGET OFFICE

(By Art Pine)

The nonpartisan Congressional Budget Office has privately warned Congress to expect a full-fledged recession this year and through most of 1980, with inflation continuing at a double-digit pace and the jobless rate rising to 7.5 percent.

One read on expectantly until one discovered that the final piece of the jigsaw puzzle had fallen into place:

If the CBO forecast proves accurate, it could add at least $6 billion, and potentially a good deal more, to the budget deficit next year and dash plans by Congress and the administration to balance the federal budget in fiscal 1981.

PAY RAISE LEGISLATION

Mr. STONE. Mr. President, sometime during the next 2 weeks, Congress once again will have to decide the controversial question of pay raises for itself. Unless we take action before the September 30 expiration date of the current pay ceiling, we will see our annual salaries mushroom from $57,500 to $64,900—a 12.5 percent increase based upon the 5.5 percent that we gave up last year plus the 7 percent that most Federal employees will receive this year. That is because Congress, in 1975, voted to tie its pay to that of general schedule Federal employees for the simple reason it wanted to receive automatic, annual cost-of-living increases. With taxpayers reeling from the effects of the recession at the time, the timing and method could not have been worse. People back home felt we had pulled a fast one on them.

They are going to think the same thing again if we vote ourselves a pay hike this year. During the past several months, Members on both sides of the aisle have been doing a lot of talking about the need to make sacrifices in the fight against inflation. The voters I talked to back home during August made it quite clear they already are making sacrifices and complained that Members of Congress did not seem to be making any at all. I think it is time we went on record, and I cannot think of a better way to do it than to deny ourselves a pay increase.

Legislation introduced by Senator HATCH on Monday—S. 1735—gives us that opportunity. It would deny pay raises to Members this year, and I urge my colleagues to support it. The time is long past due for us to face the reality that people back home expect us to make the same kind of personal sacrifices that we have asked them to make. And there is no better place to start than right here in this Chamber.

But whatever we decide to do this year, this problem is going to keep recurring. There is no question that our salaries need periodic adjustment, just like everybody else's. But voters are convinced that we forget they are the ones picking up our tab, and for that reason we need to give them an opportunity to express themselves before an approved pay hike takes effect. I have reintroduced in every Congress since the 94th legislation that would accomplish this goal. My bill—S. 725—would amend the Legislative Reorganization Act of 1946 to prevent Members of Congress from receiving salary increases during the Congress in which the increase is enacted. In other words, the bill provides that a general election must fall between the time when a congressional pay increase is voted upon and the time when it takes effect.

I have stuck to this principle for my own Senate raises. I have returned to the U.S. Treasury the amount of our 1975 and 1977 pay raises—a total of $15,000.

As a tie-in to this bill, I also have reintroduced a joint resolution—Senate Joint Resolution 50—to amend the Consitution to include similar language. The accompanying bill will allow us to take immediate action and will carry us over until the States have ratified the amendment. I have written the chairmen of the Judiciary and Governmental Affairs Committees requesting that they hold hearings on my proposals. I also am circulating a "Dear Colleague" letter urging cosponsorship of my legislation.

I cannot take credit for this sound measure. James Madison first introduced the proposal in the form of an amendment to the newly adopted Constitution almost 200 years ago. Unfortunately, the States failed to approve ratification because they did not regard it as a fundamental individual right and, therefore, did not consider it proper for the "bill of rights." In addition, some States thought there should not be any amendments to the Constitution because they feared they would endanger the new Government's stability.

Obviously, these are no longer concerns, and last year, in response to public sentiment about this issue, the Wyoming Legislature ratified Mr. Madison's original amendment. And I understand that at least one other Western State is considering ratification. There naturally is a question as to the validity of ratification at this late date, which is why I am reintroducing the amendment. Should the ratification eventually be found to be valid, then I would urge other States to follow suit.

In the meantime, I urge my colleagues to join in the support of this legislation, which I am convinced will help restore some of the people's confidence in Congress as well as address this problem in a permanent manner, thereby avoiding this recurring confrontation.

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 COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT—PM 104

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 Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the eighteenth quarterly report of the Council on Wage and Price Stability. The report contains a description of the Council's activities during the first quarter of 1979 in monitoring both prices

and wages in the private sector and various Federal government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies. It also describes the Council's activities of monitoring wages and prices as part of the anti-inflation program.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *September 17, 1979.*

REPORT ON THE STATUS OF HEALTH INFORMATION AND HEALTH PROMOTION—MESSAGE FROM THE PRESIDENT—PM 105

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 Labor and Human Resources:

To the Congress of the United States:

In accordance with Title XVII, Section 1705(a) of the Public Health Service Act (Title I of P.L. 94-317), I am transmitting the Second Annual Report to Congress on the Status of Health Information and Health Promotion.

This Report has been prepared by the Department of Health, Education, and Welfare and submitted to me as required by law. The Report describes HEW's health information and health promotion activities in 1979 through August 2, and those proposed for 1980.

JIMMY CARTER.

THE WHITE HOUSE, *September 17, 1979.*

REPORT OF THE RAILROAD RETIREMENT BOARD—MESSAGE FROM THE PRESIDENT—PM 106

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 Labor and Human Resources:

To the Congress of the United States:

I hereby transmit the Annual Report of the Railroad Retirement Board for fiscal year 1978.

The report summarizes the Board's operations to assist the railroad sector during the year. Under the Railroad Retirement Act, 1,100,000 recipients were paid $4 billion in retirement and survivor benefits, and under the Railroad Unemployment Insurance Act 175,000 beneficiaries were paid almost $200 million in unemployment and sickness benefits.

I note with concern that the Board has advised me that the balance in the Railroad Retirement Account continues to decline as benefit payments exceed income for the eighth consecutive year.

The Board's most recent actuarial valuation indicates a serious and growing actuarial deficit which requires short term remedial action, a judgment also concurred in by the General Accounting Office. This Administration's budget for fiscal year 1980 includes even-handed legislative proposals to restore to solvency the railroad industry pension fund which will assure the interests of current and future railroad retirement beneficiaries. We also invite the view of railroad labor and management on our proposal to provide sound financing of the industry pension component by the railroad industry without added Federal subsidies.

The Board is currently preparing its 14th Triennial Actuarial Valuation of the industry pension, which should provide a more accurate, up-to-date analysis of the financial condition of the fund. The forthcoming actuarial valuation will project the condition of the fund based on strict current law basis as well as under the normal requirements of the Employee Retirement Income Security Act (ERISA). Both estimates will use the economic assumptions in the most recent Social Security Trustee's Report. These additional perspectives will help assure that changes to restore the solvency of the industry pension are based on information under a variety of economic and legislative assumptions.

JIMMY CARTER.

THE WHITE HOUSE, *September 17, 1979.*

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on September 14, 1979, he had approved and signed the following act:

S. 1646. An Act to amend the International Banking Act of 1978 (Public Law 95-369) to extend the time for foreign banks to obtain required deposit insurance with respect to existing branches in the United States.

MESSAGES FROM THE HOUSE

At 11:36 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 4393, an act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1980, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STEED, Mr. ADDABBO, Mr. ROYBAL, Mr. PATTEN, Mr. GIAIMO, Mr. WHITTEN, Mr. MILLER of Ohio, Mr. MCEWEN, and Mr. CONTE, were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5010. An act to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such Act, and for other purposes.

At 3:17 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 428) to authorize appropriations for fiscal year 1980 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, with amendments; that the House insists upon its amendments to the bill and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. BENNETT, Mr. STRATTON, Mr. ICHORD, Mr. NEDZI, Mr. CHARLES H. WILSON of California, Mr. WHITE, Mr. NICHOLS, Mr. BOB WILSON, Mr. DICKINSON, Mr. WHITEHURST, Mr. SPENCE, and Mr. BEARD were appointed as managers of the conference on the part of the House; and as additional conferees from the Permanent Select Committee on Intelligence, only when differences regarding intelligence-related activities are under consideration, Mr. BURLISON, Mr. ZABLOCKI, Mr. MINETA, Mr. BOLAND, Mr. ROBINSON, and Mr. WHITEHURST.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 5010. An act to amend the Federal Election Campaign Act of 1971 to make certain changes in the reporting and disclosure requirements of such act, 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-2158. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting, pursuant to law, a report on proposed construction projects of the Army Reserve; to the Committee on Armed Services.

EC-2159. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the Stockpile Report to the Congress for October 1978 through March 1979; referred to the Committee on Armed Services.

EC-2160. A communication from the First Vice President and Vice Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on activities taken by the Bank under the Export Expansion Facility Program from April 1 through June 30, 1979; to the Committee on Banking, Housing, and Urban Affairs.

EC-2161. A communication from the President of the United States, transmitting, pursuant to law, his determination that the extension for 1-year of the authorities currently exercised under section 5(b) of

the Trading With the Enemy Act with respect to the countries indicated is in the national interest; to the Committee on Banking, Housing, and Urban Affairs.

EC-2162. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers per day and the on-time performance at the final destination of each train operated by the Corporation for the month of May 1979; to the Committee on Commerce, Science, and Transportation.

EC-2163. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Enforcement Problems Hinder Effective Implementation of New Fishery Management Activities"; to the Committee on Commerce, Science, and Transportation.

EC-2164. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on outsized vehicles for operation on the highways constructed in a manner which exceeds the standardized industry configuration; to the Committee on Commerce, Science, and Transportation.

EC-2165. A communication from the Under Secretary of the Interior, transmitting, pursuant to law, a report on the fiscal condition of the Trust Territory of the Pacific Islands for the fiscal year ending September 30, 1978; to the Committee on Energy and Natural Resources.

EC-2166. A communication from the Secretary of the Interior, transmitting, pursuant to law, the initial report on cost estimates and time schedules for the components of a continuing investigation of the availability of oil and natural gas from the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

EC-2167. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2168. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Iranian Oil Cutoff: Reduced Petroleum Supplies and Inadequate U.S. Government Response"; to the Committee on Energy and Natural Resources.

EC-2169. A communication from the Assistant Legal Adviser for Treaty Affairs of the Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to September 12, 1979; to the Committee on Foreign Relations.

EC-2170. A communication from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, reporting, pursuant to law, justification of an increase in the funding level of the proposed fiscal year 1979 program in Lesotho; to the Committee on Foreign Relations.

EC-2171. A communication from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, reporting, pursuant to law, justification of an increase in the funding level of the proposed fiscal year 1979 program in Swaziland; to the Committee on Foreign Relations.

EC-2172. A communication from the Acting Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, reporting, pursuant to law, on an increase in the funding level of the proposed fiscal year 1979 program in the Dominican Republic; to the Committee on Foreign Relations.

EC-2173. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "UNESCO Programing and Budgeting Need Greater U.S. Attention," September 14, 1979; to the Committee on Foreign Relations.

EC-2174. A communication from the Executive Secretary of the Administrative Conference of the United States, submitting a proposal for the adoption of a new system of records in accordance with the Privacy Act of 1974; to the Committee on Government Affairs.

EC-2175. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a followup report on recommendations of the National Advisory Council on the Education of Disadvantaged Children to the President in 1977; to the Committee on Governmental Affairs.

EC-2176. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a followup report on recommendations of the National Advisory Council on Vocational Education to the President, 1976 and 1977; to the Committee on Governmental Affairs.

EC-2177. A communication from the Assistant Attorney General, transmitting a draft of proposed legislation to provide Drug Enforcement Administration executive personnel the same compensation and benefit entitlements now extended to like positions covered by the Senior Executive Service; to the Committee on Governmental Affairs.

EC-2178. A communication from the Attorney General of the United States, transmitting, pursuant to law, the Annual Report of the Attorney General for fiscal year 1978; to the Committee on the Judiciary.

EC-2179. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Urban Mass Transportation Act of 1964; title 23, United States Code; and the Motor Vehicle Information and Cost Savings Act; to provide for authorizations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science and Transportation, and the Committee on Environment and Public Works jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Transportation, submitting a draft of proposed legislation relative to transportation energy efficiency, be referred jointly to the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Environment and Public Works.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. 1757. An original bill to amend the Federal Election Campaign Act of 1971, and for other purposes (Rept. No. 96-319).

AUTHORIZATION FOR CHANGE IN CONFEREES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senator PROXMIRE be included as a conferee and Senator EAGLETON be excluded as a conferee on the House-Senate conference on the Treasury, Postal Service, and general Government appropriations bill, H.R. 4393.

This meets with the approval of the two aforementioned Senators and is unanimous.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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. RIBICOFF (by request):

S. 1755. A bill to amend paragraph 5924(4)(B) of title 5, United States Code; to the Committee on Governmental Affairs.

By Mr. TSONGAS (for himself and Mr. GRAVEL).

S. 1756. A bill to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to receive share draft accounts, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL:

S. 1757. An original bill to amend the Federal Election Campaign Act of 1971, and for other purposes; from the Committee on Rules and Administration.

By Mr. LEVIN (for himself, Mr. STEVENS and Mr. BURDICK):

S. 1758. A bill to amend title 39, United States Code, to restore to Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE:

S. 1759. A bill for the relief of Eduardo Velesco Barlan, M.D.; to the Committee on the Judiciary.

By Mr. PACKWOOD (for himself, Mr. MATSUNAGA, Mr. RIBICOFF, Mr. BAUCUS, Mr. BOREN, Mr. BRADLEY, Mr. CHAFEE, Mr. DANFORTH, Mr. DOLE, Mr. DURENBERGER, Mr. GRAVEL, Mr. HEINZ, Mr. MOYNIHAN, Mr. NELSON, Mr. WALLOP, Mr. PELL, Mr. ROTH, and Mr. TSONGAS):

S. 1760. A bill to amend the Internal Revenue Code of 1954 and the energy Tax Act of 1978 to provide increased incentives for the utilization of energy sources other than oil and gas; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. RIBICOFF (by request):

S. 1755. A bill to amend paragraph 5924(4)(B) of title 5, United States Code; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the Director of the Central Intelligence Agency, I am introducing legislation which would extend to dependents of CIA employees serving overseas the same educational travel benefits which are now provided by law for dependents of the Department of State and the International Communication Agency.

The Director of the Central Intelligence Agency advises that existing law

authorizes payments for one annual round trip for each child of employees of the Department of State and the International Communication Agency to enable their children to continue their education at secondary and college levels in the United States, and to have annual reunions with their families. Current law limits most student dependents of CIA employees to only one such visit.

I ask unanimous consent that the text of the bill and the accompanying letter and explanatory material be printed in the RECORD.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SEC. 01. The first sentence of paragraph 5924(4)(B) of Title 5, United States Code, is amended by striking out "or the United States Information Agency," and inserting in lieu thereof the following: ", the International Communication Agency, or the Central Intelligence Agency,".

HON. WALTER F. MONDALE,
President of the United States Senate,
Washington, D.C.

DEAR MR. PRESIDENT: This letter transmits for the consideration of the Congress a draft bill regarding educational travel benefits for dependents of Central Intelligence Agency employees serving overseas. The bill would amend section 5924(4)(B) of Title 5, United States Code, to extend to dependents of CIA employees serving overseas the same educational travel benefits which current 5924(4)(B) provides for dependents of Department of State and USIA (now ICA) employees serving overseas.

Higher educational facilities in many of the countries in which CIA employees serve are often unavailable or inadequate, forcing families to separate so that children can continue their education at the secondary and college level in the United States. A 1974 Amendment to section 5924(4)(B) of title 5, United States Code, recognized the importance of regular family reunifications to morale, and provided for Government funding of an annual round trip for student dependents of Department of State or United States Information Agency (now International Communication Agency) employees stationed overseas. Under current law, however, most student dependents of CIA employees can make only one such visit to their parents stationed overseas while in high school or college. The draft bill seeks to remedy this inequitable situation by amending section 5924 so as to make CIA families stationed overseas eligible for the same benefit already enjoyed by their State Department and ICA colleagues. The cost of this proposal would be approximately $202,500 per year.

Early and favorable consideration of the draft bill would be greatly appreciated. The Office of Management and Budget has advised that there is no objection to presentation of this proposed legislation to the Congress from the standpoint of the Administration's program.

Yours sincerely,

STANSFIELD TURNER.

EDUCATIONAL TRAVEL BENEFITS FOR DEPENDENTS OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES SERVING OVERSEAS

SECTIONAL ANALYSIS AND EXPLANATION

The draft bill amends section 5924(4)(B) of Title 5, United States Code, to extend to dependents of CIA employees serving overseas the same educational travel benefits which current 5924(4)(B) provides for dependents of Department of State and U.S.I.A. (now I.C.A.) employees serving overseas. The title would authorize one annual trip each way for dependents from a school in the United States to the employees' place of assignment.

Higher educational facilities in many of the countries in which CIA employees serve are often unavailable or inadequate, forcing families to separate so that children can continue their education at the secondary and college level in the United States. This proposal seeks to remedy an inequitable situation by amending section 5924 so as to make CIA families stationed overseas eligible for the same benefit already enjoyed by their State Department and I.C.A. colleagues.●

By Mr. TSONGAS (for himself and Mr. GRAVEL):

S. 1756. A bill to amend the Federal Reserve Act to authorize the automatic transfer of funds, to authorize negotiable order-of-withdrawal accounts at depository institutions, to authorize federally chartered savings and loan associations to establish remote service units, and to authorize federally insured credit unions to receive share draft accounts, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CONSUMER CHECKING ACCOUNT EQUITY ACT OF 1979

● Mr. TSONGAS. Mr. President, on Tuesday the House of Representatives gave overwhelming approval to legislation which authorizes interest producing checking accounts nationwide. The bill also legalizes share drafts for credit unions, automatic transfers from savings to checking for commercial banks, and remote service units for savings and loan institutions. The House vote, 369 to 37, is a response to widespread consumer support for these accounts where they have been implemented.

Massachusetts and New Hampshire pioneered the interest-bearing, negotiable order of withdrawal accounts—known as NOW accounts—in 1972 for State chartered institutions. They were authorized by Congress for all financial institutions within those States in 1974. Subsequent congressional action legalized the accounts throughout New England and in New York. Today there are more than 80 NOW accounts per 100 households in my State, Massachusetts. The President's Inter-Agency Task Force on Regulation Q just issued a report showing New England has nearly 2.3 million NOW accounts with deposits of $3.8 billion. New York—which was given NOW account authority less than a year ago—had over 290,000 accounts with deposits of $1.3 billion in the first 6 months.

NOW accounts offer financial manageability coupled with a profitable return on consumers' deposits. In the current era of uncontrolled inflation, we in Congress must allow Americans to protect their dollars through this mechanism. That is why I am introducing, together with Senator GRAVEL, legislation identical to the House-passed bill, the Consumer Checking Account Equity Act of 1979.

This legislation is particularly timely because a court decision last April declared that transaction accounts outside of New York and New England were not legal and gave Congress until the end of the year to enact authority for them. There now are nearly 2 million people using share draft and automatic transfer accounts, who will have to give them up if we do not counteract the court ruling.

It is vital that we give permanent authority to these financial instruments. To give a temporary extension would continue the chaos created by the court of appeals. It would mean uncertainty to financial institutions that want to establish such accounts, and a standstill period for those that have begun them. Start-up costs normally diminish as account numbers grow. Without permanent authority, these costs would make existing accounts economically inefficient for the institutions that began them in good faith.

Mr. President, the experience in New England and New York shows overwhelming consumer support for NOW accounts. Credit union and commerical and savings bank customers have also endorsed share drafts and automatic transfers enthusiastically. The Senate Banking Committee will begin marking up this and related legislation later this week. I hope the committee members will authorize permanently this variety of transaction accounts which have already won widespread public acceptance.●

By Mr. LEVIN (for himself, Mr. STEVENS, and Mr. BURDICK):

S. 1758. A bill to amend title 39, United States Code, to restore to Postal Service employees their rights to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Governmental Affairs.

POSTAL SERVICE EMPLOYEES' POLITICAL ACTIVITIES ACT OF 1979

● Mr. LEVIN. Mr. President, today, I am introducing a bill, together with Senators STEVENS and BURDICK, to reform the Hatch Act as it applies to postal employees. This bill protects the merit system which has governed postal employment for numerous years but it also frees postal employees to engage in voluntary political activities. This reform is long overdue and particularly vital considering the growing apathy which exists in today's electorate.

The Hatch Act was originally passed in 1939 in response to widely recognized abuses during the 1938 elections. Most of the abuses involved employees of the various work relief programs, particularly the Works Progress Administration. Those employees were in a real sense political appointees who owed their jobs—in an era when jobs were very scarce—to the influence of some political figure. There were many who argued during the debate on the Hatch Act that the sweeping prohibitions were not necessary to cure the abuses that had occurred in the 1938 election. Many raised the point that we may well be effectively stripping Federal employees of some basic political rights. While those voices

were not heeded in 1939, we do well to listen to their wisdom today.

Instead of the army of civil servants welded together to serve the political interests of the party in power, we have an even more frightening army of apathetic voters who have lost interest in the political process and no longer choose even to vote. Some are predicting that less than 50 percent of the eligible voters will cast their ballots in the 1980 election. Our claim to be a "representative democracy" fades with the fading of the interest of the electorate. We must take reasonable steps to reverse this most alarming trend.

This legislation is one such step. While there is little justification for restricting the full voluntary participation of Federal employees in the political process, there is no basis for continuing the Hatch Act prohibition on voluntary political activity for postal employees.

The Postal Service is a quasi-independent Government corporation and its employees are treated differently than Federal civilian employees who work directly for the Government. The postal employees are governed by different labor-management arrangement which more closely resembles the private sector than the rest of Federal Civil Service. Further, there is a significant difference in the type of work done by the postal service and that done by other Government agencies. The Postal Service delivers the mail. The Postal Service does not, except in rare instances, make what others would consider to be national policy nor does it seek to influence national policy decisions. The employees of the Postal Service are likewise divorced from policy decisions.

Further, because of the nature of the quasi-independent corporation created by the 1970 Reorganization Act, the Postal Service is far more removed from the political arena now than it was in 1939 when Jim Farley, the Postmaster General, was also the patronage chief for then President Roosevelt. Postal employees should be freed from the restrictions of the Hatch Act which no longer have meaning in 1979.

It is reasonable to continue some prohibitions on political activities. This bill retains those sensible restrictions by: First, prohibiting political activity while on the job or while wearing the official uniform or insignia of office; second, by forbidding the solicitation of political contributions by supervisory officials or in Government owned facilities, third, prohibits the use of official authority or influence to coerce another postal employee to vote, not to vote or to otherwise engage in or refrain from any voluntary political activity, and fourth, by requiring that an employee who seeks elective office to do so on their on time and requires that they be granted a leave of absence to pursue such elective office upon written request.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1758

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 "Postal Service Employees' Political Activities Act of 1979".

SEC. 2. (a) Part II of title 39, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 14.—POLITICAL ACTIVITIES

"Sec.
"1401. Political participation.
"1402. Definitions.
"1403. Use of official influence or official information; prohibition.
"1404. Solicitation; prohibition.
"1405. Political activities on duty, etc.; prohibition.
"1406. Candidates for elective office; leave, notification by employees.
"1407. Penalties.
"1408. Regulations.

"§ 1401. Political participation

"It is the policy of the Congress that employees should be encouraged to fully exercise, freely and without fear of penalty or reprisal, and to the extent not expressly prohibited by law—

"(1) their rights to participate or to refrain from participating in the political processes of our Nation, and

"(2) their rights to form, join, or assist, or to refrain from forming, joining, or assisting, any organization, political party, committee, association, or other group which advocates or encourages political activities, and that employees should be protected in the exercise of these rights.

"§ 1402. Definitions

"For the purpose of this chapter—

"(1) 'employee' means any officer or employee of the United States Postal Service or the Postal Rate Commission;

"(2) 'candidate' means any individual who seeks nomination for election or election, to any elective office, whether or not the individual is elected, and, for the purpose of this paragraph, an individual shall be considered to seek nomination for election, or election, to an elective office, if the individual has—

"(A) taken the action required to qualify for nomination for election, or election; or

"(B) received any political contribution or made any expenditure, or has given consent for any other person to receive any political contribution or make any expenditure, with a view to bringing about the individual's nomination for election, or election, to that office;

"(3) 'political contribution'—

"(A) means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a political contribution for any political purpose;

"(C) includes the payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal services for any political purpose;

"(4) 'superior' means an employee who exercises supervision of, or control or administrative direction over, another employee;

"(5) 'elective office' means any elective public office and any elective office of any political party or affiliated organization;

"(6) 'State' means each of the several States and the District of Columbia;

"(7) 'person' means any individual, corporation, trust, association, any State, local, or foreign government, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing.

§ 1403. Use of official influence or official information; prohibition

"(a) An employee may not directly or indirectly use or attempt to use the official authority or influence of the employee for the purpose of—

"(1) interfering with or affecting the result of any election; or

"(2) intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence—

"(A) any individual for the purpose of interfering with the right of any individual to vote as the individual may choose, or of causing any individual to vote, or not to vote, for any candidate or measure in any election;

"(B) any person to give or withhold any political contribution; or

"(C) any person to engage, or not to engage, in any form of political activity whether or not the activity is prohibited by law.

"(b) An employee may not directly or indirectly use or attempt to use, or permit the use of, any official information obtained through or in connection with his employment for any political purpose, unless the official information is available to the general public.

"(c) For the purpose of subsection (a) of this section, 'use of official authority or influence' includes—

"(1) promising to confer or conferring any benefit (such as any compensation, grant, contract, license, or ruling) or effecting or threatening to effect any reprisal (such as deprivation of any compensation, grant, contract, license, or ruling); or

"(2) taking, directing others to take, recommending, processing, or approving any personnel action (such as any appointment, promotion, transfer, assignment, reassignment, reinstatement, restoration, reemployment, performance evaluation or any removal, suspension, or other disciplinary action).

"§ 1404. Solicitation; prohibition

"(a) An employee may not—

"(1) give or offer to give a political contribution to any individual either to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(2) solicit, accept, or receive a political contribution to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(3) knowingly give or hand over a political contribution to a superior of the employee; or

"(4) knowingly solicit, accept, or receive, or be in any manner concerned with soliciting, accepting, or receiving, a political contribution—

"(A) from another employee (or a member of another employee's immediate family) with respect to whom the employee is a superior; or

"(B) in any room or building occupied in the discharge of official duties by—

"(i) an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(ii) an individual receiving any salary or compensation for services from money derived from the Treasury of the United States.

"(b)(1) In addition to the prohibitions of subsection (a) of this section, an employee may not solicit, accept, or receive a political contribution from, or give a political contribution to, any person who—

"(A) has, or is seeking to obtain, contractual or other business or financial relations with the agency in which the employee is employed;

"(B) conducts operations or activities which are regulated by that agency; or

"(C) has interests which may be substantially affected by the performance or nonperformance of the employee's official duties.

"(2) The Postal Service and the Postal Rate Commission, in the case of their respective employees, shall prescribe—

"(A) regulations which exempt an employee from the application of paragraph (1) of this subsection with respect to any political contribution to or from an individual who has a family or personal relationship with the employee if the employee complies with such requirements as shall be so prescribed which relate to the disqualification of the employee from engaging in any official activity involving the individual; and

"(B) regulations which exempt the application of paragraph (1) of this subsection with respect to any political contribution from a person in situations in which the facts and circumstances indicate there would not be any adverse effect on the integrity of the Government or the public's confidence in the integrity of the Government.

"§ 1405. Political activites on duty, etc.; prohibition

"An employee may not engage in political activity—

"(1) while the employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(3) while wearing a uniform or official insignia identifying the office or position of the employee.

"§ 1406. Candidates for elective office; leave, notification by employees

"(a) An employee shall promptly notify the Postal Service (or the Postal Rate Commission in the case of any employee of the Commission) upon becoming a candidate for elective office and upon the termination of that candidacy.

"(b) An employee who is a candidate for elective office shall, upon the request of the employee, be granted leave without pay for the purpose of allowing the employee to engage in activities relating to that candidacy.

"(c) Any employee who is a candidate for elective office shall, upon the request of the employee, be granted accrued annual leave for the purpose of allowing the employee to engage in activites relating to that candidacy. Leave under this subsection shall be in addition to leave without pay to which the employee may be entitled under subsection (b) of this section.

"§ 1407. Penalties

"(a) An employee who is found by the Merit Systems Protection Board under section 1207 of title 5 to have violated any provision of—

"(1) section 1403 of this title shall, upon a final order of the Board, be suspended without pay from the employee's position for a period of not less than 30 days, or shall be removed in which event that employee may not thereafter hold any position in the Postal Service or the Postal Rate Commission;

"(2) section 1404 or 1405 of this title shall, upon a final order of the Board, be—

"(A) removed from the employee's position, in which event that employee may not thereafter hold any position in the Postal Service or the Postal Rate Commission for such period as the Board may prescribe;

"(B) suspended without pay from the employee's position for such period as the Board may prescribe; or

"(C) disciplined in such other manner as the Board shall deem appropriate.

"(b) The Merit Systems Protection Board shall notify the Special Counsel of the Merit Systems Protection Board, the employee, and the Postal Service (or the Postal Rate Commission, in the case of any employee of the Commission) of any penalty imposed under this section. The Postal Service or the Postal Rate Commission, as the case may be, shall certify to the Board the measures undertaken to implement the penalty.

"§ 1408. Regulations

"The Postal Service, the Postal Rate Commission, and the Merit Systems Protection Board shall prescribe rules and regulations to carry out their respective responsibilities under this chapter.".

(b)(1) Section 410(b)(1) of title 39, United States Code, is amended by striking out "chapters 71 (employee policies) and 73 (suitability, security, and conduct of employees)," and inserting in lieu thereof "chapter 71 (employee policies) and subchapters I, II, IV, and V of chapter 73 (regulation of conduct, employment limitations, foreign gifts and decorations, and misconduct),".

(2) The chapter analysis for part II of title 39, United States Code, is amended by adding at the end thereof the following:

"14. Political Activities..... 1401".

(3) Sections 602 and 607 of title 18, United States Code, relating to solicitations and making of political contributions, are each amended by adding at the end thereof the following new sentence: "This section does not apply to any activity of an employee, as defined in section 1402(1) of title 39, United States Code, unless that activity is prohibited by section 1404 of that title.".

(c) Sections 8332(k)(1), 8706(e), and 8906(e)(2) of title 5, United States Code, are each amended by inserting immediately after "who enters on" the following: "leave without pay granted under section 1406(b) of title 39, or who enters on".

(d) Section 1206 of title 5, United States Code, is amended—

(1) in subsection (e)(1)(A), by striking out "title" and inserting in lieu thereof "title or chapter 14 of title 39"; and

(2) in subsection (l), by striking out "title" and inserting in lieu thereof "title, or chapter 14 of title 39".

EFFECTIVE DATE

SEC. 3. (a) The amendments made by this Act shall take effect 120 days after the date of the enactment of this Act, except that the authority to prescribe regulations granted under section 1408 of title 39, United States Code (as added by section 2 of this Act), shall take effect on the date of the enactment of this Act.

(b) Any repeal or amendment made by this Act of any provision of law shall not release or extinguish any penalty or liability incurred under that provision, and that provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of that penalty or liability.

(c) No provision of this Act shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this Act. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this Act had not been enacted.

STUDY CONCERNING POLITICAL PARTICIPATION BY POSTAL SERVICE EMPLOYEES

SEC. 4. The United States Postal Service shall study and review the effects of the amendments made by this Act on—

(1) the level of participation by Postal Service employees in activities relating to Federal, State, and local elections;

(2) the merit system, particularly the hiring, termination, or advancement of Postal Service employees; and

(3) matters generally affecting and contributing to the improper use of official influence or official information by Postal Service employees as prohibited under chapter 14 of title 39, United States Code (as added by this Act).

The Postal Service shall report to the Congress not later than March 31, 1981, and March 31, 1983, the results of that study under this section and review any findings therefrom together with such legislative or administrative recommendations as the Postal Service considers appropriate.●

By Mr. PACKWOOD (for himself, Mr. MATSUNAGA, Mr. RIBICOFF, Mr. BAUCUS, Mr. BOREN, Mr. BRADLEY, Mr. CHAFEE, Mr. DANFORTH, Mr. DOLE, Mr. DURENBERGER, Mr. GRAVEL, Mr. HEINZ, Mr. MOYNIHAN, Mr. NELSON, Mr. ROTH, Mr. WALLOP, Mr. PELL, and Mr. TSONGAS):

S. 1760. A bill to amend the Internal Revenue Code of 1954 and the Energy Tax Act of 1978 to provide increased incentives for the utilization of energy sources other than oil and gas; to the Committee on Finance.

ALTERNATIVE ENERGY SOURCE AND CONSERVATION TAX INCENTIVE ACT OF 1979

● Mr. PACKWOOD. Mr. President, today 15 of the members of the Senate Finance Committee are joining together in reintroducing a liberalized and strengthened version of legislation first introduced July 25 (S. 1571) by Senators RIBICOFF, MATSUNAGA, and myself. The bill provides tax incentives to encourage increased utilization of solar, wind, geothermal, hydroelectric, and biomass energy; industrial cogeneration; residential conservation; alcohol fuel; and van pooling.

These technologies can have an important impact on our efforts to reduce our unacceptably high use of imported oil. The technologies affected are generally currently available for wide scale use. However, tax incentives can importantly increase the rate at which our society makes these energy investments. Although loan and grant programs can also enhance use of new energy technology, we believe that meaningful tax incentives are an important way to encourage families and businesses all over the country to invest in America's energy future.

In summary, the bill provides:

Fifty percent tax credits available more promptly than currently, for expenditures by individuals for solar, wind, geothermal and conservation expenses;

Fifty percent tax credits for expenditures by business for solar, wind, geothermal, hydroelectric, biomass and ocean thermal energy conversion energy equipment. This consists of the 10-percent investment tax credit and a 40-percent refundable energy tax credit;

Revision and improvement of the provisions of the Energy Tax Act of 1978 relating to individual and business conservation, solar, wind and geothermal energy; tax credits for cogeneration, and for individual and business use of heat pumps;

More flexible Federal tax exemptions and credits for use of alcohol fuels; and

Extension of termination of related provisions of the Energy Tax Act of 1978

from the early- and mid-1980's to the year 2000.

I will now describe the provisions of the bill in more detail.

INCREASED USE OF SOLAR, WIND AND GEOTHERMAL ENERGY BY INDIVIDUALS

First. Level of credit. Present law provides a tax credit of 30 percent for the first $2,000 of expenditures on solar, wind and geothermal equipment, and 20 percent for the next $8,000. This produces maximum tax savings of $2,200 per household. This bill would simplify and increase this credit. The bill provides a tax credit of 50 percent for costs up to $10,000. This produces a maximum tax savings of $5,000.

S. 1571 had raised the tax credit to 30 percent. This bill raises it further to 50 percent because of estimates by Prof. Robert Stobaugh of the Harvard Business School (Energy Future) and others that greater incentives are needed to hasten increased utilization of these new technologies.

Studies of solar heating commercialization by GAO and HUD found that tax credits below a threshold of 30 to 40 percent would have little effect on the number of new installations. The Harvard Business School energy project recommends a credit of 50 to 60 percent. After studying the potential impacts of tax credits, California raised their credit from 10 to 55 percent.

The wind energy mission analysis prepared by General Electric in 1977 for ERDA projects the potential energy contribution of small residential windmills. These are units with about a 10-kilowatt capacity. Under a scenario where a 50-percent tax credit induced rapid implementation of these small wind systems, the study predicts installation of 4.6 million residential windmills by the year 2000. The annual energy output would be 103 kilowatt hours which would displace 192 million barrels a year.

Second. Principal residence. Current law limits the tax for solar, wind, geothermal, and conservation property to property used in connection with the taxpayer's principal residence. This limits the effectiveness of the credit by denying it in several situations. For example, the tax credit would not normally be available for short-term residences (if this home is not the "principal residence"), for vacation or second homes; or for dwellings which the taxpayer rents to someone else. Substantial energy savings could result if taxpayers were given an incentive to use solar, wind, or geothermal property in these situations. In the case of rental property this could also lead to lower fuel bills for tenants. Therefore, the bill eliminates the "principal residence" rule.

This is simpler than the approach used in S. 1571, which retained the need to make "principal residence" determinations in a number of different situations.

Current law also denies the residential solar and conservation credits for residential uses other than the dwelling itself. This discourages use of new energy technologies and conservation property for residential, related uses, such as garages, greenhouses, and swimming pools. This differs from the California solar tax credit, and can impede solar investment. For example, a California Department of Revenue study of 1977 California tax returns, released August 1979, shows that 47 percent of the individual solar tax credits claimed in California in 1977 involved use of active solar systems for heating swimming pools. To help encourage use of solar and conservation property in these areas, this bill extends the solar and conservation tax credits to garages, greenhouses, and swimming pools.

Third. Photovoltaics. Photovoltaic systems use sunlight to generate electricity. The U.S. Department of Energy projects that photovoltaics could displace up to 2.5 million barrels of oil per day by the year 2000.

Under the Finance Committee version of the Energy Tax Act of 1978, photovoltaic equipment would have been eligible for the solar energy credit for individuals. However, this provision was deleted in conference. In contrast, photovoltaic equipment used by businesses is eligible for the solar tax credit for businesses. This bill (like S. 1571), would extend the solar tax credit for individuals for photovoltaic equipment.

Fourth. Lease payments. Under current law, the solar, wind, and geothermal credits are available for outright purchase of qualifying equipment, but not for lease payments for use of the equipment.

Many individuals are hesitant to commit relatively large sums of money to new energy technologies. This bill, like S. 1571, would encourage those individuals to lease energy-saving equipment by applying the energy tax credit to lease payments. This will also discourage installation of equipment which would not perform as promised, because the lessee could refuse to extend the lease if deficiencies occurred. To avoid a "double dip," the lessor must certify to the lessee that he has not taken the energy tax credit on the equipment.

Fifth. Credit for the builder. Under current law, the first purchaser of a house is allowed to take the energy tax credit for equipment installed by the builder. This bill would also permit the builder to claim the tax credit himself. He would retain the option of passing the credit through to the first purchaser. Last year, California enacted a similar law. It has been partially responsible for the dramatic increase in sales of solar equipment in California. With this provision, we hope to extend that growth throughout the country. S. 1571 contained an identical provision.

In Energy Future, Robert Stobaugh points out at page 168 that:

> Traditionally, the purchase price of a house, rather than that price plus operating cost, has been the chief concern of builder, buyer, and financing institution. Two-thirds of all the new single-family homes in 1971, for instance, were built for speculative sale. The builder was therefore interested in keeping the selling price down, and worried much less about longer term energy costs.

California's boom in new residential solar installations is due in part to the enthusiastic response of builders to the 55-percent credit, according to a recent California Energy Commission analysis. It has helped lead to the fact that 5,000 new solar subdivision homes were begun or completed by builders between January and mid-1979. Some builders take the credit themselves, and others chose to pass it through to the customer as a selling point.

For these reasons, I believe that extension of the solar, wind, and geothermal credits to builders will help increase its use.

Sixth. Joint purchasers. Several types of alternative energy equipment are well suited for use by several adjoining households. This could apply to duplexes, townhouse communities, or other small communities. A proposed Internal Revenue Service regulation permits owners of various residences to take the energy tax credit for a prorated share of the cost of jointly acquired equipment. This bill would put this rule into the statute. S. 1571 contained an identical provision.

Seventh. Prompt refund. Another provision of this bill (as well as S. 1571) would help low- and middle-income persons finance alternative energy equipment and improvements. Currently, the taxpayer receives this energy tax credit when he files his annual return. Thus, he may have to finance the full purchase and installation cost for as long as 16 months. We want to reduce this burden by allowing the homeowner to receive the credit as soon as possible. This bill would make the energy credit available against taxes paid the previous year. The taxpayer would file an amended return for the prior year, with the addition of his energy-saving expenditures. A similar procedure is available for disaster victims under section 167(k) of the Internal Revenue Code. The same concept was reported favorably by the Senate Finance Committee in 1978 as a part of H.R. 3340, legislation to allow taxpayers to receive a prompt tax credit for political contributions (S. Rept. 95-342).

Eighth. Allocations. Current law is silent on the question of availability of the tax credit for geothermal, wind, and solar property which is also a structural component of a dwelling. Proposed IRS Regulation 1.44C-2 would deny the tax credit entirely for such equipment. This bill would provide the credit for the cost of solar, wind, and geothermal property which is also a structural component to the extent it exceeds the cost of the structural component without the solar, wind, or geothermal source feature.

INCREASED USE OF CONSERVATION PROPERTY BY INDIVIDUALS

First. Level of credit. Current law provides a tax credit of 15 percent up to $2,000 for investment by individuals and conservation property such as insulation, storm windows, and clock thermostats. This provides a maximum tax savings of $300 per household. This bill would increase the tax credit to 50 percent of costs up to $2,000. This would produce maximum tax savings of $1,000 per residence. This provision was not contained in S. 1571. It is added here because of the enormous energy savings potential in residential conservation, and estimates by Prof. Robert Stobaugh and others that higher incentives are needed to encourage fuller realization of potential energy savings in this area.

After presenting evidence from various energy conservation studies showing that a properly insulated house could cut its energy consumption from 25 to 67 percent, the authors of Energy Future state:

The 1978 National Energy Act provides for a 15 percent tax credit on investments in residential conservation, but not to exceed $300. Although better than what has happened so far, the proposals are still rather modest, and still do not do enough to give conservation the chance it needs and deserves. . . . It is nothing short of ridiculous that now, almost six years after the embargo, the United States does not yet have a broad-ranging national program of incentives to encourage retrofit. The speed with which retrofit can deliver substantial savings argues for a much more stimulative public policy, with tax credits up to 50 percent. Such a policy would signal the importance of retrofit and would encourage homeowners, entrepreneurs, and manufacturers. It would make retrofit economically attractive for some homeowners, and not only attractive but possible for others." Stobaugh, et al., p. 173

Second. Heat pumps. The Senate version of the Energy Tax Act of 1978 provided tax credits for purchase of heat pumps by individuals, provided that the heat pump replaces an electric resistance heating system. That bill also provided tax credits for purchase of industrial heat pumps by business. Both of those provisions were deleted by the Conference Committee. This bill (as well as S. 1571) adds heat pumps to the energy conservation property category for individuals, entitled to a 50 percent tax credit under the provisions of this bill. The bill (and S. 1571) also creates a 10-percent energy tax credit for purchases of industrial heat pumps. This bill also clarifies that water well heat pumps, in addition to air heat pumps, would qualify for the tax credit.

Two recent studies have established that water-well heat pumps are far more energy efficient than conventional electric space heating systems. In March of this year, the University of Alabama, under contract to the DOE, concluded that a water-well heat pump system saves two-thirds of the energy required for electrical resistance heating. The Tennessee Valley Authority has also confirmed the energy efficiency of water-well heat pumps. According to the TVA, each residential water-well heat pump saves 11,610 kWh each year it replaces a central electric furnace home.

INCREASE USE OF NEW ENERGY TECHNOLOGIES BY BUSINESS

First. Energy equipment which is treated as a part of the structure for purposes of the investment tax credit. It is widely believed that last year's Energy Tax Act made solar and wind equipment (as well as several other categories of energy property) eligible for a 20 percent tax credit. This consisted of the 10-percent investment tax credit plus a new 10-percent energy tax credit. However, in many situations, the 10-percent investment tax credit is not available for solar and wind property. This is because the investment tax credit is not available for structural modifications or components, such as buildingwide heating and cooling systems or generators. That is particularly unfortunate since these are a primary use of solar and wind energy at this time.

This bill eliminates this problem by amending the investment tax credit to provide that the "structures" rule will be disregarded for solar, wind, geothermal, hydroelectric, biomass, and cogeneration equipment.

Second. Solar and wind energy. Current law provides a refundable 10-percent energy tax credit for qualifying solar and wind property. S. 1571 would have raised the credit to 20 percent. This additional increase is proposed because most experts believe that 20 percent is inadequate to fully encourage increased use of solar and wind energy property, as well as many other types of new energy technology. This bill would raise the refundable credit to 40 percent.

This bill (like S. 1571) also extends the tax credit to process applications of solar (as well as geothermal, wind, hydroelectric, and biomass) energy.

Wind-powered mechanical energy is not available for either the business or individual energy tax credits. This bill (as well as S. 1571) would make mechanical energy derived from wind (or solar, geothermal, biomass or hydroelectric energy) eligible for the 40-percent energy tax credit.

Wind-powered mechanical energy can be used to pump water for irrigation. New Mexico has included this excellent wind utilization among those applications eligible for its State energy tax credit. This bill will encourage farmers and others in all States to take advantage of wind-powered mechanical energy.

Third. Geothermal energy. Current law provides a 10-percent energy tax credit for geothermal property. This bill raises this to 40 percent. S. 1571 had proposed raising it only to 20 percent.

Under current law, the credit for geothermal equipment (unlike wind and solar) is not refundable. This proposal (like S. 1571, and the Senate version of the Energy Tax Act of 1978) would also make the credit refundable for geothermal equipment.

It is unclear under current law whether the tax credit for business and individual use of geothermal equipment covers the cost of drilling the well necessary to utilize the geothermal resources. This bill (like S. 1571) would expressly include such costs as eligible for the energy credit. However, to avoid a "double dip," a taxpayer would not be permitted to take the intangible drilling cost deduction if he elected the tax credit for drilling costs. The bill includes a similar provision for both business and individual use of geothermal energy. The President's Interagency Geothermal Coordinating Council has projected the potential contribution of geothermal to be the equivalent of 2.5 to 4 million barrels of oil per day by the year 2000.

Fourth. Hydroelectric energy. Both the House and Senate versions of the Energy Tax Act of 1978 provided tax incentives to increase hydroelectric generating capability on existing dams. The need to encourage this abundant, clean inexhaustible energy source was well recognized. However, partly to reduce the revenue loss of the bill, these provisions were deleted by the conference committee.

This bill would add hydroelectric to the list of "alternative energy property" categories for the proposed 40 percent refundable energy tax credit. Eligibility for this new credit would be based on language adopted by the Senate 2 years ago. However, the bill would not extend the credit to the dam structure. The credit would be available to encourage retrofitting of existing structures, for low-head hydroelectric power, and for hydroelectric equipment which does not rely on a structure to impound water.

While most dams during the past 40 years have incorporated electrical production, this was not true for older dams built primarily for flood control or to power small mills. In a study released July 1979, the Army Corps of Engineers has estimated total unused hydroelectric potential at existing dams to be up to 94,000 megawatts annually, equivalent to the electrical output of 94 modern nuclear reactors. This includes the upgrading of generating capacity at existing hydropowered dams. New England is most often mentioned as benefiting from such conversion. But examples of wasted hydropower exist throughout the country, such as in the Pacific Northwest.

Fifth. Biomass. The energy tax credit of 1978 provided a nonrefundable 10 percent "alternative energy property" credit for a wide range of equipment included in making or utilizing biomass fuels. This bill treats this important energy source like wind, solar, geothermal, and hydroelectric equipment by raising the credit from 10 percent to 40 percent, and by making it refundable.

Senator TALMADGE has proposed (S. 848) a $3 per barrel of oil equivalent production subsidy for biomass energy. The Senate adopted this in 1977, and President Carter has offered a similar proposal as a part of his 1979 energy package. If this proposal is enacted, we expect that, for a particular biomass production facility, the taxpayer would be required to choose between the 40 percent energy tax credit or the $3 per barrel oil production subsidy.

Sixth. Ocean thermal energy conversion ("OTEC"). The Senate version of the Energy Tax Act of 1978 provided a refundable energy tax credit for ocean thermal energy conversion property. This provision was deleted by the Conference Committee. This bill would reinstate this provision by making OTEC property eligible for the 40 percent refundable tax credits available for solar, wind, geothermal, hydroelectric, and biomass equipment.

Seventh. Cogeneration. "Cogeneration" is an old and proven practice. Cogeneration denotes any form of simultaneous production of electrical or mechanical energy and useful thermal energy such as heat, steam, or gas. A conventional industrial system produces either electricity or thermal energy; a cogeneration system produces both. For example, at a

factory cogeneration might involve running high temperature gases through an electrical turbine before they are used for process heating.

In his national energy plan of 1977, President Carter cited cogeneration as an important technique for conserving domestic energy resources. Robert Stobaugh, in his recent book, Energy Future, called cogeneration "industry's North Slope." A 1975 study, done for National Science Foundation by Dow Chemical Co., concludes that by 1985 U.S. industry could meet approximately half of its own electricity needs through cogeneration. The study says this would amount to a savings of 2 to 3 million barrels of oil per day.

Cogeneration equipment is currently available. However, it is expensive and is not being purchased and used sufficiently. Our bill would make utilities and industry eligible for a 10 percent energy tax credit for purchase and installation of cogeneration equipment. This would be in addition to the existing 10 percent investment credit.

Last year both the Senate and House passed legislation calling for cogeneration tax incentives. These were deleted in conference in an effort to reduce the overall cost of the Energy Tax Act of 1978. We believe that incentives to encourage investment in cogeneration equipment are now more necessary than ever before.

Eighth. Utilities. The Energy Tax Act of 1978 makes utilities ineligible for tax credits for equipment utilizing wind, solar, geothermal, hydroelectric, biomass, or cogeneration equipment. This bill (as well as S. 1571) would make utilities eligible for the 40-percent refundable tax credit applicable to these types of energy property. This will encourage use of these new energy technologies in the important utilities sector.

A recent study prepared in 1977 by General Electric under contract to the Energy Research and Development Administration (ERDA), now part of DOE, projected a major wind contribution to the electric utility sector. Wind systems would significantly reduce the dependence on nuclear, coal, and oil for electrical generation, if given the proper incentives for rapid implementation. In the utility sector alone, G.E. projects wind systems would save the equivalent of 852 million barrels of oil in 2000, or 2.3 million barrels a day. The study concludes that "the utility market offers the greatest chance of significant oil, coal, and nuclear offset and is the lowest cost approach."

In addition, the National Energy Strategies Project of Resources for the Future has said, in "Energy in America's Future, the Choices Before Us" (1979), that some barriers to cogeneration would be less formidable if ownership and management of cogeneration facilities were vested in the utility rather than the industrial firm involved.

For these reasons, we believe that it is important for utilities to be encouraged to use solar, wind, geothermal, hydroelectric, biomass, and cogeneration property.

VAN POOLS

The Congressional Budget Office has concluded that of all types of urban transportation "van pooling can probably make the greatest contribution to energy savings on a per-passenger-mile basis." According to the Department of Transportation, each van pool saves 4,000 gallons of gasoline per year, in addition to reducing pollution and traffic congestion.

Last year, with the support of Senators RIBICOFF, BENTSEN, and others, Congress adopted my proposal for a tax incentive to encourage employer-provided van pools. As a result, an employer is now allowed to take the full 10-percent investment tax credit for the purchase of a van for use by his employees, instead of only a 3⅓-percent investment tax credit under prior law. However, there is a large potential for van pools owned and operated by employees and third parties. This bill would encourage their use of van pools by allowing them to take the same 10-percent investment tax credit available to employers.

REFORMING EXISTING ALCOHOL FUELS INCENTIVES

Gasohol is a mixture of 10 percent alcohol and 90 percent gasoline. It is currently exempt from the 4-cent-per-gallon Federal gasoline tax. As a result, the retailer is encouraged to sell gasohol, but there is no incentive to increase the proportion of alcohol above 10 percent. We propose that the amount of tax incentives be matched to the amount of alcohol in the alcohol-gasoline mixture. An increased proportion of alcohol should earn increased tax benefits.

Our bill would do this by repealing the present 4-cent-per-gallon exemption. In its place, it provides a 40-cent exemption for each gallon of alcohol sold in the alcohol-gasoline mixture.

Under the present 4 cents/gallon formula, 10 gallons of gasohol—containing 1 gallon alcohol, 9 gallons gasoline—earn a 40-cent tax exemption. Under our proposal, the 10 gallons gasohol—containing 1 gallon alcohol—would receive a 40-cent credit. However, if the alcohol content increases to 2 gallons alcohol and 8 gallons gasoline, the present formula still allows only a 40-cent exemption, while our proposed formula would provide an 80-cent credit. In sum, this bill would create an incentive to increase the alcohol content in gasohol, while present law does not.

The 40-cent credit would apply against either the dealer's Federal gasoline or diesel tax payments, or against his income tax payments. This would guarantee that the alcohol incentive will be fully available to small, independent retailers who sell relatively little gasoline.

ASSURING A LONG TERM MARKET

Under the 1978 Energy Tax Act, the gasoline tax exemption expires October 1, 1984. We believe that to induce this type of investment, we must assure marketing incentives throughout the useful life of the alcohol production facility. This bill would extend the termination date of the tax exemption to the year 2000.

PHASEOUT OF THE INCENTIVE

Gasohol incentives are necessary because the price of alcohol-gasohol mixtures is higher than that of pure gasoline. However, with the increasing price of petroleum, alcohol-gasoline mixtures may eventually not need the tax exemption to be price competitive.

We propose that Treasury's annual gasohol report to Congress be expanded to include a calculation of the need for continued alcohol fuels incentives, and their appropriate level. The bill would also require that the report compare the cost of alcohols produced from corn, wheat, wood and other substances.

The Joint Committee on Taxation has preliminarily estimated that the revenue loss of this bill is as follows:

[In millions of dollars]

Provision	1980	1985	1990
Residential:			
Residential solar, wind, and geothermal	100	300	490
Residential conservation	1,345	1,780	(1)
Residential heat pumps	155	485	755
Delete primary residence test	240	380	(1)
Residential total	1,850	2,945	
Business:			
Cogeneration (excluding utilities)	60	190	300
Increment attributable to mechanical power	70	230	360
Hydroelectric property (excluding utilities)	180	450	570
Ocean thermal energy conservation property		60	190
Solar and wind property	60	600	970
Geothermal property	50	80	110
Biomass property	640	830	1,110
Industrial heat pumps	50	100	200
Revision of structures rate for investment tax credit			
Provision affecting utilities	210	540	880
Business total	1,320	3,080	
Alcohol fuels: Revision of current tax exemption	10	230	550
Total	3,180	6,255	

[1] Not available.

Source: Joint Committee on Taxation, preliminary estimates, Sept. 17, 1979.

TERMINATION DATES

Most of the provisions of the Energy Tax Act of 1978 expire in the early or middle 1980's. This is true of tax credits for business and residential use of solar, wind, and geothermal equipment; residential conservation equipment; and the gasohol tax exemption.

This bill (like S. 1571) extends these termination dates until the year 2000. This helps insure that manufacturers will make investments required to increase production in needed energy-related equipment and property. The energy problem will not be solved by a 2- or 4-year "quick fix." Therefore, long term incentives such as these are required.

EFFECTIVE DATE

Experience has shown that when Congress is considering alterations to existing energy tax credits, sales of energy-saving equipment drop. Businesses and homeowners are reluctant to purchase now, when they anticipate a larger tax credit for purchasing the same equipment later. In anticipation of this dilemma, this bill retains the effective date used in S. 1571, July 24, 1979.

Mr. President, I believe that through judicious use of tax incentives we can promote alternatives to continued dependence on oil imports. Enactment of the Energy Tax Act of 1978 was a positive step forward. This bill will continue and expand upon that initiative.

I am hopeful that our colleagues on the Finance Committee will give support and favorable consideration to this legislation. We welcome suggestions for strengthening this bill.

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. 1760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Alternative Energy Source and Conservation Tax Incentive Act of 1979".

(b) AMENDMENT OF 1954 CODE.—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 the Internal Revenue Code of 1954.

SEC. 2. RESIDENTIAL ENERGY CREDIT.

(a) INCREASE IN AMOUNT OF CREDIT.—

(1) ENERGY CONSERVATION.—Paragraph (1) of section 44C(b) (relating to qualified expenditures) is amended by striking out "15 percent" and inserting in lieu thereof "50 percent".

(2) RENEWABLE ENERGY SOURCE EXPENDITURES.—Paragraph (2) of section 44C(b) (relating to qualified renewable energy source expenditures) is amended to read as follows:

"(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are 50 percent of so much of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $10,000.".

(b) ENERGY CONSERVATION EXPENDITURES NOT LIMITED TO PRINCIPAL RESIDENCE.—

(1) IN GENERAL.—

(A) Subsection (c)(1) of section 44C (relating to definitions and special rules) is amended—

(i) by striking out subparagraph (B) and redesignating subparagraph (C) as (B), and

(ii) by inserting "and" at the end of subparagraph (A).

(B) Subparagraph (A) of section 44G(c)(2) is amended by striking out all after "dwelling unit" and inserting "which is located in the United States.".

(2)) DEFINITION OF DWELLING UNIT.—Paragraph (8) of subsection (c) of such section is amended to read as follows:

"(8) DWELLING UNIT.—The term 'dwelling unit' includes any appurtenant structures or facilities.".

(3) CONFORMING CHANGES.—

(A) Paragraph (2) of subsection (c) of such section is amended by striking out subparagraph (C).

(B) Subparagraph (D) of paragraph (7) of subsection (c) of such section is amended by striking out the last sentence.

(C)(i) So much of paragraph (1) of section 44C (d) (relating to dollar amounts in case of joint occupany) as precedes subparagraph (A) is amended to read as follows:

"(1) JOINT EXPENDITURES.—In the case of any dwelling unit or units with respect to which during any calendar year 2 or more individuals have made energy conservation or renewable energy source expenditures—".

(ii) Paragraph (1) (A) of such section 44C (d) is amended by inserting "(or dwelling units)" after "dwelling unit".

(c) COSTS OF DRILLING GEOTHERMAL WELL.—Subparagraph (B) of section 44C(2) is amended to read as follows:

"(B) CERTAIN LABOR AND OTHER COSTS INCLUDED.—The term 'renewable energy source expenditure' includes—

"(i) expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property, and

"(ii) expenditures for the drilling of an onsite well drilled for any geothermal deposit (as defined in section 613(e)(3)), but only if the taxpayer has not elected under section 263(c) to deduct any portion of such expenditures.".

(d) DIFFERENTIAL COST OF STRUCTURAL COMPONENTS TREATED AS RENEWABLE ENERGY SOURCE EXPENDITURE.—Paragraph (2) of section 44C (c) (relating to renewable energy source expenditure) is amended by adding at the end thereof the following new subparagraph:

"(D) STRUCTURAL COMPONENTS.—In the case of an expenditure for renewable energy source property which is a structural component of a building, the amount by which the expenditure for that property exceeds the amount of the expenditure necessary for similar property which would not be renewable energy source property shall be treated as a renewable energy source expenditure.".

(e) MECHANICAL AND ELECTRICAL ENERGY.—Subparagraph (A) of section 44C(c)(5) (relating to definition of renewable energy source property) is amended—

(1) by inserting "mechanical energy, or electricity (through photovoltaics or otherwise)" after "hot water" in subclause (i), and

(2) by inserting "including, but not limited to wind energy for the purpose of heating and cooling, providing hot water, mechanical energy or electricity" after "purposes," in subclause (ii).

(f) CREDIT ALLOWABLE TO LESSOR AND BUILDER AND FOR LEASED PROPERTY.—Subsection (d) of section 44C (relating to special rules) is amended by redesignating paragraph (4) as paragraph (6) and by inserting after paragraph (3) the following new paragraphs:

"(4) RENEWABLE ENERGY SOURCE EXPENDITURES BY LESSORS AND BUILDERS.—

"(A) LESSORS AND BUILDERS.—Notwithstanding any provision of this section requiring the taxpayer to use a dwelling unit as a residence or to be the original user of any item—

"(i) LESSOR.—If an individual who is the lessor of a dwelling unit which constitutes the residence of the lessee makes expenditures which, but for such provisions, constitute energy conservation or renewable energy source expenditures, then, for purposes of this section, the lessor shall be treated as having made energy conservation or renewable energy source expenditures in connection with such dwelling unit.

"(ii) BUILDERS.—If, in connection with the construction or reconstruction of a dwelling unit which is to be originally used as a residence by an individual, a person (other than such individual) makes expenditures which, but for such provisions, constitute renewable energy source expenditures, then, for purposes of this section, such person shall be treated as having made renewable energy source expenditures in connection with such dwelling unit.

"(B) WHEN EXPENDITURE MADE.—An expenditure with respect to an item shall be treated as made when the original installation of such item is completed.

"(C) ORIGINAL USER AND LESSEE.—For purposes of subsection (b)(3), the lessee or the individual with respect to whom the original use of the constructed or reconstructed dwelling unit begins shall be treated as having been allowed a credit under this section with respect to such dwelling unit for a prior taxable year in an amount equal to the amount of the credit allowed to the lessor or the person described in subparagraph (A)(ii) for any taxable year with respect to such dwelling unit.

"(D) NOTICE TO ORIGINAL USER.—A person allowed a credit under subparagraph (A) shall provide a written notice to the lessee or individual described in subparagraph (C) containing information with respect to—

"(i) the nature and amount of the expenditures for which a credit was allowed, and

"(ii) the amount of the credit allowed such person by reason of subparagraph (A).

"(5) LEASED RENEWABLE ENERGY SOURCE PROPERTY.—

"(A) IN GENERAL.—If a taxpayer leases renewable energy source property in connection with a dwelling unit which he uses as a residence, expenditures in connection with such leasing shall be treated as renewable energy source expenditures.

"(B) APPLICATION WITH ENERGY INVESTMENT CREDIT.—Subparagraph (A) shall not apply unless the lessor certifies to the taxpayer, in such form and manner as the Secretary may prescribe, that the lessor has not applied the energy percentage to such property in determining the amount of the credit under section 46(a)(2).".

(g) IMMEDIATE CREDIT.—

(1) IN GENERAL.—Section 44C (relating to residential energy credit) is amended by redesignating subsection (f) as (g) and by inserting after subsection (e) the following new subsection:

"(f) IMMEDIATE CREDIT.—

"(1) IN GENERAL.—Notwithstanding the provisions of subsection (a), the credit allowed by subsection (a) shall, upon application by the taxpayer, be allowed against the tax imposed by this chapter for the taxable year immediately preceding the taxable year in which the qualified energy conservation or renewable energy source expenditures were made.

"(2) AMOUNT OF CREDIT AND DETERMINATION OF QUALIFIED EXPENDITURES.—

"(A) AMOUNT OF CREDIT.—Except as provided in subparagraph (B), the determination of the amount of any credit allowed under paragraph (1) for the immediately preceding taxable year shall be made as if such expenditures were made in such preceding taxable year.

"(B) DETERMINATION OF QUALIFIED EXPENDITURE.—Any determination as to whether any expenditure with respect to which a taxpayer is claiming the credit allowed under paragraph (1) is a qualified energy conservation or renewable energy source expenditure shall be made on the basis of the taxable year in which the expenditure was made.

"(3) TIME FOR MAKING APPLICATION.—

"(A) EARLIEST DATE.—A taxpayer may not file an application under paragraph (1) before the day on which the taxpayer filed his return of tax for the immediately preceding taxable year.

"(B) LATEST DATE.—A taxpayer may not file an application under paragraph (1) on or after the earlier of—

"(i) the due date for the filling of the return of tax for the taxable year in which the expenditure was made (determined without regard to any extension of time for filing the return), or

"(ii) the day on which the taxpayer filed his return of tax for such taxable year.

"(4) INCLUSION IN EARLIER RETURN.—In lieu

of making an application under paragraph (1), a taxpayer may elect to claim the credit allowed under paragraph (1) for the immediately preceding taxable year on his return of tax for that year if the expenditure for which the credit is claimed was made before the filing of that return.

"(5) IN LIEU OF ANY OTHER CREDIT.—Except as provided in subsection (b)(6), no credit shall be allowed for any other taxable year for any expenditure for which any credit is allowed under this subsection.

"(6) TREATMENT AS CLAIM FOR REFUND.—For purposes of this title, any application filed under paragraph (1) shall be treated as a claim for refund except to the extent that such treatment is inconsistent with the provisions of this subsection.".

(2) FORMS.—The Secretary of the Treasury shall publish and make generally available a form specifically designed to enable a taxpayer to apply under section 44C(f) of the Internal Revenue Code of 1954 to have the credit allowed by section 44C of such Code applied to a preceding taxable year.

(3) INTEREST ON IMMEDIATE CREDIT.—Section 6611(b) (relating to interest on overpayments) is amended by adding at the end thereof the following new paragraph:

"(3) SECTION 44C(F) CREDIT.—In the case of a credit allowed under section 44C(f) for which an application has been filed under section 44C(f)(1), from the 61st day after the receipt of such application by the Secretary to the date of the refund check, whether or not such refund check is accepted by the taxpayer after the tender of the check to him. The acceptance of the check shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.".

(h) HEAT PUMPS.—

(1) IN GENERAL.—Subsection (c)(4)(A) of section 44C (relating to definition of other energy conserving component) is amended—

(A) by striking out "or" at the end of clause (vii),

(B) by redesignating clause (viii) as clause (ix), and

(C) by inserting after clause (vii) the following new clause:

"(viii) a heat pump (including a water well heat pump) which replaces an electric resistance heating system, or".

(2) TECHNICAL AMENDMENT.—Section 44C (c)(6) (A)(i) (relating to regulations) is amended by striking out "(4)(A)(viii)" and inserting "(4)(A)(ix)".

(i) EXTENSION OF CREDIT.—

(1) IN GENERAL.—Section 44C(g) (relating to termination), as redesignated by subsection (g), is amended by striking out "1985" and inserting "2000".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 44C(b)(6) is amended by striking out "1987" in the heading and text thereof and inserting "2001".

(k) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures made after July 25, 1979.

SEC. 3. ENERGY INVESTMENT CREDIT.

(a) REGULAR INVESTMENT CREDIT FOR CERTAIN ENERGY PROPERTY.—Subsection (a) of section 48 (relating to definition of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(11) CERTAIN ENERGY PROPERTY.—Notwithstanding the words '(other than a building and its structural components)' in paragraph (1)(B), solar or wind energy property (within the meaning of subsection (1)(4)) and alternative energy property described in subsection (1)(3)(A) (viii), (ix), or (x) which constitutes a structural component of a building shall, for purposes of applying the regular percentage to the qualified investment in determining the amount of the credit under section 46(a)(2), be treated as section 38 property.".

(b) HYDROELECTRIC AND COGENERATION ENERGY PROPERTY.—Paragraph (3)(A) of section 48(1) (relating to definition of alternative energy property) is amended—

(1) by striking out "and" at the end of clause (vii),

(2) by striking out the period at the end of clause (viii) and inserting a comma, and

(3) by adding at the end thereof the following:

"(ix) equipment (other than the dam structure) used in the production of energy by hydroelectric power, including (I) the turbine and equipment up to (but not including) the electrical transmission stage, and (II) subject to the limitations of subclause (I) equipment which does not use a dam structure or impoundment to produce such energy,

"(x) cogeneration equipment, but only to the extent that the cogeneration energy capacity of such facility is expanded, which—

"(I) produces steam, heat, or other forms of useful energy (other than electric energy) to be used for industrial (including water purification or desalinization), agricultural, commercial, or space heating purposes, and

"(II) also produces electrical or mechanical energy,

"(xi) equipment which converts ocean thermal energy to usable energy, and

"(xii) equipment which converts biomass (including, but not limited to, animal and timber waste, municipal and industrial waste, sewage, sludge, and oceanic and terrestrial crops) into a fuel or into useful energy such as steam, electricity, or hot water.

If property described in clause (xii) is also described in any other clause, it shall be treated as property described in clause (xii) and not such other clause.".

(c) REFUNDABILITY OF CREDIT FOR GEOTHERMAL, AND HYDROELECTRIC PROPERTY.—

(1) IN GENERAL.—Paragraph (10) of section 46(a) (relating to special rules in the case of energy property) is amended—

(A) in subparagraphs (a) (ii) and (iii), by inserting "or alternative energy property described in section 48(1)(3) (viii), (ix), (xi), or (xii)" after "solar or wind energy property" each place it appears, and

(B) in the headings of subparagraphs (B) and (C), by striking out "solar or wind" and inserting "certain".

(2) CONFORMING AMENDMENT.—Subsection (d) of section 6401 (relating to amounts treated as overpayments) is amended by striking out "solar or wind" and inserting "certain".

(d) CREDIT TO PUBLIC UTILITIES.—Section 48(1)(3)(B) (relating to exclusion for public utility property) is amended by striking out "alternative energy property', 'solar or wind energy property'," and inserting "alternative energy property' (other than alternative energy property described in clause (viii), (ix), (x), or (xii)),".

(e) INDUSTRIAL HEAT PUMPS.—Section 48 (1)(5) (relating to specially defined energy property) is amended—

(1) by striking out "or" at the end of subparagraph (K),

(2) by redesignating subparagraph (L) as (M), and

(3) by inserting after clause (K) the following:

"(L) an industrial heat pump, or".

(f) INCREASE IN AMOUNT AND EXTENSION OF CREDIT.—

(1) IN GENERAL.—Section 46(a)(2)(C) (relating to amount of energy percentage) is amended to read as follows:

"(C) ENERGY PERCENTAGE.—For purposes of this paragraph, the energy percentage is—

"(i) 10 percent with respect to the period beginning on October 1, 1978, and ending on July 24, 1979,

"(ii) with respect to the period beginning on July 24, 1979, and ending on December 31, 1982—

"(I) 40 percent in the case of solar or wind energy property (within the meaning of section 48(1)(4)) or alternative energy property described in clause (viii), (ix), (xi), or (xii) of section 48(1)(3)(A), and

"(ii) 10 percent in the case of any energy property not described in subclause (I),

"(iii) with respect to the period beginning January 1, 1983, and ending on December 31, 2000—

"(I) 40 percent in the case of property described in clause (ii)(I), and

"(ii) 10 percent in the case of property described in section 48(1)(3)(A)(x) or (5)(L), and

"(iv) zero with respect to any other period.".

(2) TECHNICAL AMENDMENT.—Section 48 (1)(1) is amended by striking out "1982" and inserting "2000".

(g) EFFECTIVE DATES.—The amendments made by this section shall apply with respect to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is begun or completed by the taxpayer after July 24, 1979, but only to the extent of the basis thereof attributable to construction, reconstruction, or erection during such period,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after such date, and

(3) property to which section 46(d) of such Code applies, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) attributable to qualified progress expenditures made after such date.

SEC. 4. VAN POOLING VEHICLES.

(a) NOT LIMITED TO EMPLOYERS.—Section 46 (c)(6)(ii) (relating to special rule for commuter highway vehicles) is amended by striking out "the taxpayer's" in subclause (I).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to vehicles purchased after July 24, 1979.

SEC. 5. GASOHOL.

(a) CREDIT FOR ALCOHOL FUELS.—

(1) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6429. ALCOHOL USED IN FUELS.

"(a) GENERAL RULE.—In the case of a taxpayer with respect to whom a tax is imposed under section 4041 or 4081(a), there shall be allowed as a credit against such tax for the taxable period for which the tax is imposed an amount equal to the product of—

"(1) 40 cents, multiplied by

"(2) the number of gallons of alcohol mixed with the special fuel or gasoline with respect to which the tax was imposed under such sections.

"(b) CREDIT FOR PERSON MIXING ALCOHOL FUELS.—If the taxpayer elects not to claim the credit under subsection (a) and a person other than the taxpayer has mixed the alcohol with the special fuel or gasoline and such mixture is held for sale in the trade or business of such person, there shall be allowed as a credit against the tax imposed under section 4041 or 4081(a), an amount equal to the product of—

"(1) 40 cents, multiplied by

"(2) the number of gallons of alcohol mixed with such fuels by such person.

"(c) LIMITATION.—The amount of the credit under this section shall not exceed the amount of the tax imposed under section 4041 or 4081(a) for such taxable period.

"(d) DEFINITION OF ALCOHOL.—For pur-

poses of this section, the term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum, natural gas, or coal.

"(e) CROSS REFERENCE.—

"For credit against income tax for alcohol fuels, see section 39.".

(2) CREDIT AGAINST INCOME TAX.—

(A) IN GENERAL.—Section 39 (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) is amended by adding at the end thereof the following new subsection:

"(c) ALCOHOL FUELS CREDIT.—For purposes of subsection (a), the amount determined under this subsection is equal to the amount of the credit allowable under section 6429 for any taxable period ending in such taxable year which is in excess of the limitation provided under section 6429(c) for such taxable period.".

(B) CONFORMING AMENDMENT.—Subsection (a) of section 39 is amended by inserting "the amount determined under subsection (c) and" after "the sum of".

(3) CREDIT TO BE INCLUDED IN INCOME.—

(A) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 86. ALCOHOL FUELS CREDIT.

"Gross income includes an amount equal to amount of the credit allowable to the taxpayer under section 39 for the taxable year to the extent such amount is determined under subsection (c) of section 39.".

(B) CONFORMING AMENDMENT.—The table of sections for such part II is amended by inserting at the end thereof the following new item:

"SEC. 86. ALCOHOL FUELS CREDIT.".

(4) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subsection (k) of section 4041 and subsection (c) of section 4081 are repealed.

(B) The table of sections for subchapter B of chapter 65 is amended by inserting at the end thereof the following new item:

"6429. Alcohol used in fuels.".

(5) IMPLEMENTATION.—Within 30 days after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate such technical and conforming amendments as may be necessary to carry out the provisions of this subsection.

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 221(c) of the Energy Tax Act of 1978 is amended—

(1) by amending subparagraph (C) to read as follows:

"(C) amount of revenue loss under section 6429,",

(2) by striking out the period at the end of subparagraph (D) and inserting a comma, and

(3) by adding at the end thereof the following:

"(E) a comparison of the costs of alcohol produced from different sources and added to fuels,

"(F) an analysis of the effect on the alcohol fuels industry of a termination or reduction of such credit, and

"(G) recommendations as to the appropriate level of subsidy to the alcohol fuels industry.".

(C) TERMINATION DATE.—

(1) Sections 221(c) (1) and (2) of the Energy Tax Act of 1978 are each amended by striking out "1984" and inserting "2000".

(2) Section 221(c)(2) of such Act is amended by striking all after "termination" and inserting "of the credit under section 6429 and 39 for alcohol fuels.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 25, 1979, and shall apply to alcohol fuels sold on or after such date.

SEC. 6. NO INFERENCE AS TO PRIOR ELIGIBILITY FOR CREDITS.

Nothing in this Act shall be construed to infer that any property with respect to which sections 2 and 3 of this Act apply was not eligible for the credit allowable under section 44C or 38, respectively, before the effective date of sections 2 and 3 of this Act.●

● Mr. MATSUNAGA. Mr. President, I am pleased to join Senator PACKWOOD and Senator RIBICOFF in the introduction of a strengthened bill intended to help resolve the national energy dilemma. This measure has the cosponsorship of 12 other Finance Committee members as well as Senators PELL and TSONGAS. Senator PACKWOOD is to be commended for assuming the leadership in preparing this amended bill.

The bill's chief provisions are drawn from S. 1571, the measure Senator PACKWOOD, Senator RIBICOFF, and I introduced on July 25, 1979. These provisions had their genesis in the Finance Committee's version of the Energy Tax Act of 1978.

During the Finance Committee's work on the tax portion of the National Energy Act in 1977, certain principles became evident. Those principles shaped the provisions included in the initial bill S. 1571 and bear repeating in view of present developments.

Our long festering energy problem erupted to public consciousness with the political situation in Iran and the dramatic increase in OPEC oil prices in the last 8 months. But these events only underscored our serious, unhealthy dependence on foreign supplies of oil. We as a nation cannot continue to enjoy the freedom we boast about if the health of our economy is subject to the decisions of foreign powers. We must, as President Carter has suggested, cut our imports of foreign produced oil.

It is a very sad fact that today, as during the Arab oil embargo of 1973, the American public does not believe that the oil shortage is real. According to opinion surveys, most Americans believe that the oil companies and the Government conspired to hold back supplies. The effective gasoline rationing systems recently instituted by a number of States have only increased public suspicion that, since gasoline prices have gone up, gasoline lines are now much shorter, and, in fact there was no real gasoline shortage.

This public distrust makes it difficult for the Congress to convince the American people that there is a need to conserve petroleum products and to turn to alternative sources of energy. The increases in the price of gasoline did not result in any substantial decrease in demand. In the past 30 years, Americans have become happy to the point of consuming 30 percent of the world's energy supply, with never a thought that the supply would run short. But oil supplies have in fact run short, and it is the task of Congress, as much as it is that of the President, to convince the American public of this fact and to face it resolutely.

To win the energy war, major action must be taken to promote conservation and American energy self-sufficiency. This bill provides for a congressional commitment to achieving those goals.

The least expensive and most immediate means of cutting imports is through domestic conservation. The inadequate supply of oil is our major energy problem today, but the lack of cheap, efficient alternatives presently contributes much to the problem. Encouraging the development and use of these alternatives will without a doubt lessen our dependence on oil and reduce our need to import foreign oil. One of the most effective and proven ways to do this is to provide taxpayers with major incentives to seek out and use these alternatives.

Alternative, inexhaustible sources of energy, such as solar, wind, oceanthermal, and geothermal energy, and easily produced fuel such as ethanol and methane, are possible answers to our energy crisis. As it is inevitable, we must face the problem of changing American habits and ways of living, in order to convert to these other sources.

A sure and tested way of meeting this problem is to offer tax incentives for alternative energy production and concurrent petroleum conservation. Significant tax credits as we propose today will effectively stimulate the development and use of solar, wind, biomass and geothermal energy. Such tax incentives also have the added important benefit of fighting another major problem, the recession, by stimulating the economy. No other program which I can think of can as effectively address two of the major problems facing the country at this time.

President Carter on July 15, 1979, committed the United States to cutting our foreign oil dependence through conserving the oil resources we have, and developing alternative energy sources. By acting on this legislation quickly, Congress will show that it is willing to meet our Nation's gravest problem.

Mr. President, the passage of this bill will establish Congress serious commitment to meeting and solving our country's energy problems. I urge its early consideration and enactment.●

● Mr. CHAFEE. Mr. President, one of the most important tasks facing our Nation today is to reduce our energy consumption, especially our consumption of imported oil. The bill we are introducing today, the Alternative Energy Tax Act of 1979, will help lessen our dependence on oil and other nonrenewable resources by providing tax credits to individuals and corporations for development and production of alternative energy sources.

The Energy Tax Act of 1978 recognized the need for using the tax system to encourage alternative energy development. It provided, for the first time, tax credits to individuals for installation of conservation measures, such as insulation and weather stripping as well as solar and wind power equipment. Changes were made in the investment tax credit to encourage businesses to conserve energy or convert from oil and gas to alternative sources. In addition, the bill addressed the growing potential for conservation in transportation by ex-

empting gasohol—with 10 percent alcohol—from the Federal gasoline excise tax and imposing a graduated excise tax on cars that fall substantially below federally mandated mileage standards for each year.

Statistics released in August by the Internal Revenue Service indicated that the residential credits are being used, but not as much as possible. Seven percent of taxpayers, or 6 million of the 88 million who filed 1978 returns, claimed their residential or alternative energy credits. A total of $600 million was claimed—an average of $100 per return. Taxpayers spent $2.2 billion on conservation measures, but only $131 million as alternative energy source equipment. This is a good beginning but more can and should be done to encourage taxpayers to make their homes energy efficient and make full use of our renewable energy sources.

The Alternative Energy Act of 1979 is designed to make conservation and alternative energy development so attractive that taxpayers will have every incentive to conserve and convert. The bill we are introducing today picks up where the Energy Act of 1978 left off. It provides the maximum incentive for development of alternative energy resources. Enactment of this bill will tell our Nation and the rest of the world that the time to change our energy consumption habits is now—and that we are terribly serious about reducing our dependence on imported oil.

Briefly, the bill increases and expands the energy tax credits as follows:

First. Increases the residential conservation credit from 15 percent to 50 percent, thereby raising the maximum available credit from $300 to $1,000.

Second. Increases the residential tax credit for solar, wind, and other renewable energy equipment to 50 percent, thus raising the maximum credit from $2,200 to $5,000. Taxpayers would be allowed to take the credit for rental properties or properties being built for sale. For the first time, photovoltaics and the costs of drilling a geothermal well would be eligible for the credit. All residential conservation credits would be available until the year 2000.

Third. Increases the total available tax credit for all solar, wind, biomass, and geothermal expenditures by businesses to 50 percent—by making all expenditures eligible for the basic 10-percent investment tax credit and increasing the energy tax credit from 10 percent to 40 percent. Hydroelectric equipment added to existing dams along with solar and wind utility property would be eligible for the energy tax credit;

Fourth. Makes cogeneration eligible for the 10-percent energy tax credit in addition to the 10-percent investment tax credit. Heat pumps would be eligible for residential and industrial credits.

Fifth. Increases the tax benefits for increased proportion of alcohol in gasohol. As alcohol content increases, so will the tax credit. The alcohol fuels incentive would phase out when gasohol becomes cost effective with gasoline; and

Sixth. Allows the full 10 percent investment tax credit for all operators of vanpools—not only those vanpools operated by employers.

Mr. President, the provisions of this bill follow the recommendations found in "Energy Future," the report of the energy project at the Harvard Business School. It has the backing of the Solar Lobby, American Wind Energy Association, and National Society of Professional Engineers.

Most importantly of all, enactment of our proposal will indicate that as a nation, we are committed to kicking our petroleum habit by making the necessary investment in conservation and renewable energy sources. There is no better time than now to reaffirm our commitment to energy security for the future. I urge my colleagues to join as cosponsors of our bill designed to do just that.●

ADDITIONAL COSPONSORS

S. 43

At the request of Mr. HATCH, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 43, the National Ski Patrol Recognition Act.

S. 91

At the request of Mr. THURMOND, the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of S. 91, a bill to amend title 10, United States Code, to remove certain inequities in the survivor benefit plan provided for under chapter 73 of such title, and for other purposes.

S. 115

At the request of Mr. MATHIAS, the Senator from Florida (Mr. STONE) was added as a cosponsor of S. 115, a bill to establish procedures for the issuance and enforcement of search warrants and other legal processes, to provide a remedy for persons injured by a failure to comply with such procedures, and for other purposes.

S. 825

At the request of Mr. JAVITS, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 825, a bill to provide for equalizing the costs of unemployment compensation, revising the extended benefits program, and for other purposes.

S. 1193

At the request of Mr. HUDDLESTON, the Senators from Michigan (Mr. RIEGLE and Mr. LEVIN) were added as cosponsors of S. 1193, a bill to assure fair practices in agricultural bargaining.

S. 1287

At the request of Mr. GOLDWATER, the Senator from New Hampshire (Mr. DURKIN) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1287, a bill to repeal the earnings ceiling of the Social Security Act for all beneficiaries age 65 or older.

S. 1332

At the request of Mr. GRAVEL, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 1332, a bill to authorize federally chartered credit unions to utilize share draft accounts.

S. 1465

At the request of Mr. TALMADGE, the Senator from Alabama (Mr. STEWART) was added as a cosponsor of S. 1465, a bill to amend the Farm Credit Act of 1971 to permit farm credit system institutions to improve their services to borrowers, and for other purposes.

S. 1735

At the request of Mr. HATCH, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1735, the Congressional Pay Cap Act of 1979.

SENATE JOINT RESOLUTION 34

At the request of Mr. JOHNSTON, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Joint Resolution 34, a joint resolution proposing an amendment to the Constitution of the United States providing that the term of office of Members of the U.S. House of Representatives shall be 4 years.

SENATE JOINT RESOLUTION 66

At the request of Mr. RIBICOFF, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of Senate Joint Resolution 66, a joint resolution to declare the week of January 21–27, 1979, as "National Junior Achievement Week."

AMENDMENT NO. 420

At the request of Mr. JAVITS, the Senator from Rhode Island (Mr. PELL), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of amendment No. 420 intended to be proposed to Senate Concurrent Resolution 36, the second congressional budget resolution.

SENATE RESOLUTION 235—SUBMISSION OF A RESOLUTION RELATING TO THE VOTE ON THE SALT II TREATY

Mr. BELLMON submitted the following resolution, which was referred to the Committee on Foreign Relations:

SENATE RESOLUTION 235

Whereas, the stability of the strategic and conventional military balance between the United States of America and the Union of Soviet Socialist Republics is essential to the preservation of peace and the long-term viability of the arms control process;

Whereas, the strategic interests of the United States throughout the world are being challenged by an increasingly capable and adventuristic Soviet military posture;

Whereas, the United States is required to upgrade and maintain a competent military posture, strategic and conventional, in order to guard its national and global interests adequately;

Whereas, the effective deployment and maintenance of such military capability requires a clear understanding and enunciation of the present and long-term defense policy objectives of the United States;

Whereas, the question of the correct level of defense spending by the United States likewise requires such an understanding and enunciation of defense policy objectives;

Whereas, the United States Senate cannot adequately determine whether the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, done at Vienna on June 18, 1979, best serves the

national security interests of the United States, and consequently advise and consent to its ratification, until such an enunciation of the present and long-term defense policy objectives of the United States exists. Now, therefore, be it

Resolved, that it shall not be in order in the Senate to consider the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms, or the resolution of ratification with respect thereto, until

(1) The Majority and Minority leadership of the Senate appoint a Select Committee on Foreign and Defense Policy, consisting of members of appropriate committees of the Senate, empowered and provided with necessary funds and staff to assess the United States foreign and defense policy and objectives and develop recommendations regarding the level of conventional and strategic military capability the United States will require to guard its global and national security interests to the year 2000, and

(2) This Committee reports its findings and recommendations to the Senate on or before March 1, 1980.

The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. BELLMON. Mr. President, peace, when defined as the absence of world war, may be close at hand or very, very far away.

For the first time in world history, the ability to conduct sustained, extended, aggressive military operations is limited to only two countries: the United States and the Soviet Union. These countries alone have the resources, combined with manufacturing technology, and the capability to build and support a major war machine.

Therefore, the decision which determines whether or not the world slides into another world war or continues on the course toward peace, however uncertain, depends greatly on the decisions made over time by the leaders of these two countries.

Never have the leaders of any nations had greater cause to find an intelligent, peaceful, humanitarian, and workable means of resolving differences which divide them. Some of these differences cannot be resolved in the short term by negotiation; only changes wrought by time will decide some political and economic issues.

In some areas considerable progress has already been made. A mutually beneficial trade and commercial relationship between the United States and U.S.S.R. is rapidly developing. Some human rights issues are less explosive than at earlier times. More frequent cultural and scientific exchanges are occurring. There seems to be less paranoia in each country's attitude toward the other, and a small but growing feeling exists that armed conflict and nuclear exchanges can be avoided to the inestimable advantage of both nations and to humankind.

Consideration of the SALT II treaty is a part, but only a part, of that ongoing decisionmaking process.

On three previous occasions this year I have expressed to the Senate my strong convictions that we need to address ourselves to the broad range of issues which have an important bearing on the future security of our country and of the nations of the free world. Last April I reminded the Senate that its interparliamentary delegation to the Soviet Union, of which I was cochairman, was well aware that SALT was interrelated to other arms control, foreign policy, and international issues. Subsequently I joined 11 of my colleagues in a letter setting forth some specific concerns and stressing that SALT must be assessed within the total strategic and international framework. Following submittal of the SALT treaty to the Senate in June, I advocated broadening our vision to determine what the role of the United States is now and what it should become in the world, and what our responsibilities are in a changing world.

In the light of more recent developments, I am even more strongly convinced that in conjunction with the decision on SALT, there are other questions to be answered and other decisions to be made.

Of vital importance is the question of what is to be done as a result of the revelation of the presence of Russian combat troops in Cuba. Much of the support of the SALT II treaty has come from those who feel that failure to ratify would provide an excuse for the Soviets to accuse the United States of warmongering. The stationing of Russian combat troops in Cuba has virtually eliminated that argument.

As a Member of the Senate, I am curious to know what purpose can the U.S.S.R. have for stationing a combat brigade in Cuba. Purportedly they are there for training purposes. The forces of Fidel Castro have shown little need for training. For what reason are they there on a training mission—an attack of Florida, Mexico, or Panama? Are they in Cuba to train guerrilla forces to destabilize and topple other governments in both the Eastern and Western Hemispheres? If the Soviets remove their troops now to improve the climate for SALT, how soon will they be returned?

Another major factor is the level of defense spending which is necessary. I share the opinion that our security position in the world has eroded. However, I am not sure that the solution is simply to spend more money on our current military posture. It would be a mistake to allocate more defense spending until we are ready for it, until we have a clear understanding of what our defense requirements are. To increase the defense budget before we know how additional funds can best be used is to put the cart before the horse.

President Carter's current request for additional billions of defense spending raises a question in my mind as to how well thought out is this request. Is it simply a "quick fix" attempt to counter the setback that Soviet troop presence in Cuba has caused SALT II? How effectively can the funds be used in fiscal year 1980, which begins in 2 weeks? If this is the first lap in a new arms race, what is the ultimate cost? What will be the effect upon the U.S. economy and how effective a military force will the country have when the race has been run?

The military balance in the world has shifted to the point where we cannot afford a knee-jerk approach to defense. We need to know with some certainty what we require in the way of new capabilities and we need to know in time to take appropriate action. As a member of the Senate Budget Committee, I would like to impress upon my colleagues the fact that we no longer possess the economic resources to fund national security in an undirected fashion, and still adequately meet domestic spending priorities and keep inflation under control. We cannot afford unlimited guns and plentiful butter. This does not mean defense should not receive what it needs. It does mean we need to know what defense does responsibly require.

Also of great concern to many Members of the Senate is whether the United States and other free nations will stand by meekly as Soviet-armed surrogates capture the governments of one country after another in this post-Vietnam world.

There are some who say that any proposal to link SALT II with the global security environment is undesirable. I disagree. So far as I am concerned right now, SALT II, considered only on its technical merits as an arms control agreement is unacceptable. It is only supportable if its broader political benefits offset technical imbalances. In this sense, SALT is very much caught up in the so-called code of détente, which I define as a lessening of political-military tension.

Mr. President, I do not consider Soviet actions in Africa, around the Persian Gulf, its conventional land and maritime buildup, and its intrusions into the Western Hemisphere as contributing to such a lessening of tension.

How can we determine whether SALT II contributes to our security when Soviet actions seem to force us to constantly reassess the stability and adequacy of the strategic balance? How can we consider SALT when our own security objectives are so unstable and ill defined?

There are many other aspects to be considered in the evolution of a foreign policy for the 1980's and beyond:

How can the United States best keep the sea lanes open to assure uninhibited movement of essential goods between nations?

Has the time come for a more active role in world military affairs by Japan?

How can China's legitimate needs and aspirations be met without unduly destabilizing the international scene?

Mr. President, I am deeply concerned, as many other Members of the Senate are, by the issues that have come to be more clear in the process of SALT II deliberations. Again, it seems to be that we are dealing with the broader issue of the U.S. security role in the world under vastly changing circumstances.

The situation, as I view it, is that the Senate is faced with several options:

First. We can ratify SALT II after a respectable period of rhetoric and handwringing.

Second. We can reject the SALT treaty using the presence of Soviet troops in Cuba or the numerous imperfections in the treaty as our rationale;

Third. We can use the SALT treaty as a lever to pry defense spending willy-nilly up or down, depending upon the preconceived positions of Senators. "Hawks" can vote for more, "doves" can vote for less; and

Fourth. We can artfully engage ourselves in extended debate, hoping that further international developments or the Presidential elections of 1980 will make a Senate decision on SALT II unnecessary.

Mr. President, I submit that there is another, and I feel wiser, course of action open to the Senate.

How long has it been since the Senate, the executive branch, or any other decisionmaking body in the country thoroughly, methodically, and intelligently reviewed the directions and the objectives of the Nation's foreign and defense policies?

Certainly this has not occurred in the past 11 years during which I have served in the Senate; certainly not in the light of the experiences and lessons of Vietnam; clearly not since United States-China relations have been normalized; plainly not since the United States has become heavily dependent upon costly, insecure foreign oil; obviously not since the U.S.S.R. has reached nuclear parity with the United States; not since the ratification of SALT I. The pronouncement of the Nixon doctrine may be as close as we have come and neither the Congress nor the country participated in nor consciously agreed to that conclusion.

The Senate currently has many "must" legislative matters before it—the budget resolution, the President's energy program, and the defense appropriations bill, to name a few.

Both opponents and proponents of SALT II seem eager to have the treaty disposed of, although I have found very few Members of the Senate who are enthusiastitc about SALT, even those who profess to support it. In my opinion, under present conditions, the environment in which the Senate must consider SALT is intolerable and it would be foolhardy to rush toward a vote.

The treaty was 7 years in the negotiation stage. A change in the leadership of the U.S.S.R. appears imminent. United States-Soviet relations have been strained, if not at least temporarily poisoned, by the disclosure of Russian troops in Cuba. Administration credibility has been wounded by the clumsy cover up efforts made to blame others or to hide this significant development from the Congress and the country. U.S. intelligence is again on the defensive for its failure to discover and disclose in a timely way a military development 90 miles off the Florida coast.

Mr. President, now is not the time for haste. Now is a time for a temperate, well reasoned, factual, thoughtful review of where we are and where we are going in the U.S. foreign and defense policy.

The Senate requires a clear identification of U.S. security goals. The Senate must insist that basic questions regarding the status and requirements of national security be answered before it examines SALT and establishes defense spending priorities.

Members of the Senate should admit that we do not possess a clear picture of our global security situation or our future requirements; certainly not good enough to decide whether a treaty with the military and political implications of SALT II are in the best interests of the United States, and certainly not good enough to judge the correct level of defense spending required to maintain our security.

SALT II should not only be considered in the context of Soviet global activity, but also in the context of U.S. ability to respond to a whole range of challenges. U.S. security requirements are clearly changing. The posture of the last 20 years will clearly not be sufficient for the next 20 years. Our basic force posture will need revision. This cannot occur until we have objectives in view which will serve as a mandate for military planners to secure the necessary capabilities.

We have an opportunity to use our consideration of SALT II and its broader geopolitical implications as the forcing mechanism for such a reexamination of U.S. capabilities. I do not believe that the Senate committees who are examining SALT II have had an opportunity to focus on this broader issue.

Consequently, I am today submitting a resolution expressing the sense of the Senate that it shall not be in order to vote on SALT II until the Senate has been provided with the results of a thorough examination and evaluation of U.S. foreign policy and defense and security needs. This appraisal should include our global military and economic interests, the nature of the Soviet threat as it may evolve, and the level of U.S. military capability required to maintain U.S. interests.

To accomplish this goal, the resolution proposes that the Senate majority and minority leaders appoint a Select Committee on Foreign and Defense Policy, empowered to conduct such an examination and report to the Senate no later than March 1, 1980.

Mr. President, I ask unanimous consent that the text of the resolution be printed at this point in the RECORD.

Mr. President, I believe this proposal goes to the heart of the present quandary the Senate finds itself in regarding SALT II. With a comprehensive explanation of U.S. defense capabilities and requirements in a changing world before it, the Senate will be able to address the question of further arms limitation and the acceptability of SALT II more confidently. Without such a definition, the Senate will flounder in uncertainty and doubt, to the detriment of both the arms control process and U.S. national security. Such a report would also be an invaluable tool when the Senate considers the fiscal year 1981 defense budget.

As things now stand, I see no chance for approval of the SALT II treaty. Through the SALT deliberations, the attention of the Congress, the administration, the American people, and the world has been focused on the United States and its role in foreign affairs, particularly with respect to the Soviet Union. It is an ideal time to initiate a much-needed reappraisal of our defense policy in a foreign policy context.

Through this process, out of all the controversy that has been generated by SALT II can come something constructive, a mechanism by which we can provide ourselves the information we need to set a course for the next 20 years.

Mr. President, I urge the Senate to give favorable consideration to this proposal.

AMENDMENTS SUBMITTED FOR PRINTING

BIRTHDAY OF MARTIN LUTHER KING, JR.—S. 25

AMENDMENT NO. 433

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to S. 25, a bill to designate the birthday of Martin Luther King, a legal public holiday.

SECOND CONGRESSIONAL BUDGET RESOLUTION (S. CON. RES. 36)

AMENDMENT NO. 434

(Ordered to be printed.)

Mr. MUSKIE (for himself, Mr. BELLMON, Mr. HOLLINGS, Mr. CHILES, Mr. BIDEN, Mr. JOHNSTON, Mr. SASSER, Mr. HART, and Mr. EXON) proposed an amendment to Senate Concurrent Resolution 36, a concurrent resolution revising the congressional budget for the U.S. Government for the fiscal years 1980, 1981, and 1982.

AMENDMENT NO. 435

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. PACKWOOD, Mr. NUNN, Mr. TOWER, Mr. JACKSON, Mr. HATCH, Mr. WARNER, Mr. THURMOND, Mr. ARMSTRONG, Mr. HEFLIN, and Mr. HAYAKAWA) submitted an amendment intended to be proposed by them, jointly, to Senate Concurrent Resolution 36, supra.

AMENDMENT NO. 436

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. PACKWOOD, Mr. NUNN, Mr. TOWER, Mr. JACKSON, Mr. HATCH, Mr. WARNER, Mr. THURMOND, and Mr. ARMSTRONG) submitted an amendment intended to be proposed by them, jointly, to Senate Concurrent Resolution 36, supra.

AMENDMENT NO. 437

(Ordered to be printed.)

Mr. BELLMON (for himself, Mr. DOMENICI, Mr. ARMSTRONG, Mr. BOSCHWITZ, Mr. HATCH, and Mrs. KASSEBAUM) proposed an amendment to Senate Concurrent Resolution 36, supra.

FEDERAL OIL AND GAS LEASING ACT OF 1979—S. 1637

AMENDMENT NO. 438

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. JACKSON, by request, submitted an amendment intended to be proposed by him to S. 1637, a bill to establish competitive oil and gas leasing in favorable areas within producing geologic provinces.

● Mr. JACKSON. Mr. President, I am submitting an amendment to the Federal Oil and Gas Leasing Act of 1979, S. 1637.

On August 2, 1979, I introduced, at the request of the administration, S. 1637. The text of the bill as received from the Department of the Interior contained certain errors. I have received a letter from Assistant Secretary Martin listing those errors. The amendment would correct those errors.

I ask unanimous consent that the text of the amendment and the letter from Assistant Secretary Martin be printed in the RECORD.

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

AMENDMENT NO. 438

On page 2, line 6: Strike the word "of" the first time it appears and insert "or".

On page 2, line 14, after the period, insert the following sentence:

"Such leases shall be issued with a royalty of not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold from the lease."

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 7, 1979.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy, and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On August 1, 1979, this Department transmitted to the President of the Senate a bill "To Establish Competitive Oil and Gas Leasing in Favorable Areas within Producing Geologic Provinces." The bill was introduced by you as S. 1637 and was referred to the Committee on Energy and Natural Resources. The purpose of this letter is to correct two errors in the bill and one in the transmittal letter.

In the second sentence of section 17(a)(1) of the Act of February 25, 1920 (30 U.S.C. 226(a)(1)), as amended by section 2 of our bill, the phrase "amount or value of the production saved" reads incorrectly as "amount of value of the production saved."

A second sentence was inadvertently omitted from section 17(a)(2) of the Act of February 25, 1920 (30 U.S.C. 226(a)(2)), as amended by section 2 of our bill. The second sentence of section 17(a)(2) should read as follows:

"Such leases shall be issued with a royalty of not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed or sold from the lease."

On page 3 of the transmittal letter, the word "noncompetitive" was omitted from the third sentence of the second full paragraph. This sentence should read as follows:

"The bill also encourages prompt exploration by reducing the primary term of noncompetitive leases to five years, instead of ten years, as is now the case."

We would appreciate your having the bill amended and the transmittal letter corrected to incorporate these changes.

Sincerely,

GUY R. MARTIN,
Assistant Secretary.●

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold a hearing on the nomination of Frankie M. Freeman, of Missouri, to be Inspector General, Community Services Administration (new position) on Thursday, September 20, 1979 at 10 a.m. in room 6226 of the Dirksen Senate Office Building.●

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. GLENN. Mr. President, I wish to announce that the Committee on Governmental Affairs will hold a hearing on the nominations of Richard R. Allen, of the State of North Carolina; George W. Camp of the State of Georgia; and William J. Sullivan, of the State of Maine to the Board of Governors of the U.S. Postal Service.

The hearing will take place at 10 a.m., in room 6202 of the Dirksen Senate Office Building on Thursday, September 20, 1979. If you have any questions regarding the hearing please contact Mr. Eli E. Nobleman of the committee staff at 4-4751.●

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government, Committee on Governmental Affairs, will join with the Small Business Committee in holding a hearing on the continued oversight of the Small Business Administration's 8A program. The hearing will take place on Thursday, September 27, 1979, at 10 a.m. in room 1318, Dirksen Senate Office Building.

Anyone having questions regarding this hearing should contact the subcommittee office in room 44, 128 C Street, NE., telephone 224-0211.●

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

● Mr. LEVIN. Mr. President, I would like to announce that the Governmental Affairs Committee's Subcommittee on Oversight of Government Management, of which I am chairman, will hold hearings on S. 1112, a bill to eliminate the exemption for Congress or for the United States from the application of certain provisions of Federal law relating to employment, privacy, and social security, and for other purposes, on S. 1112, a bill to eliminate the exemption for Congress or for the United States from the application of certain provisions of Federal law relating to employment, privacy, and social security, and for other purposes, on Thursday, September 20, 1979, at 9:30 a.m. in room 357 of the Russell Senate Office Building.●

AUTHORITY FOR COMMITTEES TO MEET

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, September 20, 1979, to hold a hearing on pending judicial nominations.

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

ADDITIONAL STATEMENTS

PRODUCTIVITY: THE ISSUE UNDER NATIONAL ECONOMIC WELL-BEING

● Mr. HEINZ. Mr. President, I would like to bring to the attention of my colleagues an excellent article published in the May-June issue of the Harvard Business Review—"Productivity—the Problem Behind the Headlines" and ask that it be printed in the RECORD. The article, written by Mr. Burton Malkiel, addresses an issue which is vitally related to this country's economic well-being.

Our economy is marked by declining fixed investment and reduced research and development efforts in the private sector as well as by escalating Government regulatory requirements. As a result, productivity growth is stagnating. Continuing low productivity growth is a direct determinant of our high inflation rate and is contributing to poor national economic performance.

Mr. Malkiel asserts that in order to effectively combat these ills, intelligent monetary and fiscal policies, combined with regulatory reforms to stimulate the supply side of the economy, must be pursued. I am in total agreement with this statement and commend Mr. Malkiel's article to all those interested in enhancing the strength, stability, and vitality of the American economy. The article follows:

PRODUCTIVITY—THE PROBLEM BEHIND THE HEADLINES

(By Burton G. Malkiel)

(NOTE.—Although most people fear inflation, at least they understand how it affects them: prices rise and the value of the dollar sinks. But what is behind inflation, why is the economic pie not sufficient anymore to solve our national problems? The author of this article asserts that low productivity growth may be the single most important factor in determining the national economic well-being. Without growth in productivity, struggles over income shares lead directly to inflation. Economists disagree about the causes of the slowdown in productivity; and in any event some of them, such as shifting patterns in the labor force and in occupations, cannot be altered. Some of them, however, we can affect: the level of business investment, the state of research and development efforts in the United States, and the degree to which government regulations help or hinder our economy. The author discusses how these affect productivity growth and then reviews some policy proposals in the light of the productivity problem.

(Mr. Malkiel, chairman of Princeton University's Department of Economics, served on President Ford's Council of Economic Advisers from 1975 to early 1977. He is director of the Vanguard Group of Investment Companies and the Prudential Insurance Company, and is a governor of the American Stock Exchange. This is his second article in HBR, the first one being "Moral Issues in Investment Policy" with Richard E. Quandt (March-April 1971).)

(AUTHOR'S NOTE.—This work was supported by the Weinberg Foundation and the Charles E. Merrill Trust.)

Despite a recovery that has celebrated its fourth birthday, the U.S. economy is not well. Symptoms of the disease are publicized in newspaper headlines. In 1978 inflation fever intensified, with the consumer price index advancing 9 percent and, throughout much of that year, the floating dollar sank in international currency markets, further heightening the fever. Inflation has continued at extremely high rates in early 1979, and many people now express fears that the economy will also soon suffer from anemic growth and recession.

Yet the news media may be focusing an surface symptoms only and ignoring a more fundamental economic problem behind the headlines. The recent decline in U.S. basic productivity may ultimately have the greatest impact on the nation's well-being. Indeed, the present inflation problem may be intimately related to the clash between declining productivity growth and escalating claims on our national product for environmental, safety, and social needs. And our lagging productivity has, in turn, been affected adversely by low levels of long-term business investment and by the apparent decline in Yankee ingenuity, otherwise known as innovation.

What is this measure called productivity, and how can we be sure it is declining? It is an estimate of output per labor hour worked. Let us grant that it is a notoriously poor measure and that short-term swings in productivity estimates may signify little more than the random numbers generated by a lottery.

Over the longer pull, however, the productivity estimates do indicate real trends. As Exhibit I (not printed in RECORD) shows, there can be little doubt that the creative pulse of the country is slowing down. In the exhibit, productivity is measured by dividing the total output of the economy (real gross national product) by total civilian employment. The productivity locomotive of economic growth, which had been pushing ahead at a rate between 2.5 percent and 3.00 per cent per year, has clearly stalled.

The parallel performance of the U.S. economy with that of Great Britain in the early 1970s is chilling. While productivity has slowed in other developed countries as well, our rate of growth is far below that of our major trading partners. The United States, which always prided itself on being the undisputed leader in technological innovation, has seen its lead erode alarmingly. From the boardroom to the research laboratory, the consensus seems to be that U.S. enterprise may have lost its innovative touch.

Why do we care about productivity growth? Because the major problems we want to solve as a nation depend on it. Without increases in output per hour, real standards of living cannot increase, poverty cannot be reduced, and environmental quality cannot be improved. Without improved productivity performance in certain key industries, we may continue to see the value of the dollar erode with attendant inflationary pressures.

Indeed, the slowdown of productivity growth may well have contributed to our current stagflation condition. If labor groups have become accustomed to, and thus insist on, increases in real wages larger than the *present* growth in productivity, their living standards will increase only at the expense of others. Only productivity growth can provide the increases in real output per person that make possible overall gains in real living standards. Without such growth, the resulting struggle over income shares leads directly to inflation.

Any wage settlements larger than productivity gains tend to increase unit labor costs. (Think of a log splitter who gets paid $4.00 per hour and splits 10 logs an hour. The unit labor cost of splitting a log is 40 cents. Now if the log splitter's wage increases 10 percent to $4.40 but her output per hour—productivity—is unchanged, then the unit labor cost of splitting a log increases by 10 percent.) As a general rule, unit labor costs go up by the amount by which compensation per hour exceeds productivity growth. Since labor costs are an important component of total costs, business tends to increase its prices so that profit shares do not shrink.

This struggle over larger income shares in a pie that can only serve so many can also lead to unemployment. The real wage (wages expressed in real purchasing power) may be pushed up to a level inconsistent with full employment.

WHAT IS CAUSING THE SLOWDOWN

Although the fact of stagnating productivity growth is clear, the relative importance of various responsible factors remains something of a mystery. A full quantitative explanation of our productivity slowdown is not yet available, but one can make a partial list of causes—some that we can affect and some that we cannot.

Little can be done about those causes of slower productivity growths arising from broad social trends. For example, the composition of the labor force has changed significantly; it now includes many more young and untried workers with less experience and training. Moreover, changes in the composition of output have probably lowered productivity somewhat. We no longer benefit from an exodus from the farms, and we find ourselves being transformed from a nation of industrial workers to one of lawyers and travel agents, occupations where productivity growth is harder to come by. The quintupling of energy prices since 1973 must also have lowered output per worker as companies have tended to shift from a more energy-intensive to a more labor-intensive method of production.

But we do have a say over some important causes of the productivity slowdown. Three of them deserve special mention: (1) the recent low level of business fixed investment; (2) the apparent malnutrition of our research and development effort; and (3) the effects of escalating government regulation. While they are not unrelated, it will be useful to treat each of them in turn.

According to the 1979 report of the Council of Economic Advisers, one important reason for our poor productivity performance is the weakness of business fixed investment over the past several years. From 1948 to 1973, the amount of capital stock per unit of labor grew at an annual rate of almost 3%. Since 1973, however, lower rates of private investment have led to a decline in that growth rate to 1.75 percent. Moreover, the recent composition of investment, at least until 1978, has been skewed toward equipment and relatively short-term projects and away from sturctures and relatively long-lived investments. Thus our industrial plant has tended to age, and labor has had to work with increases in capital goods that are well below those of past years. The result has been a decline in measured productivity growth.

The slowdown in research and development expenditures also appears to have affected productivity growth. Although it is hard to put a precise quantitative estimate on the relationship between a dollar of R&D expenditures and innovation, all available evidence indicates that R&D makes a positive and significant contribution to technological progress. Total spending for R&D by industry, government, and universities dropped from 3 percent of GNP in the post-Sputnik days of 1964 to an estimated 2.2 percent of GNP in 1978.

This decline is largely explained by a reduction in space-related government research. Research by private industry has remained stable as a percent of GNP. Nevertheless, evidence from individual companies suggests that the R&D that is done by industry has tended to turn from longer-term research studies to short-term development projects, especially ones devoted to regulatory compliance. Indeed, many scientists have suggested that a similar compositional change characterizes much of government R&D as well.

In our search for instant remedies to satisfy regulatory problems in the areas of pollution control and occupational safety, our basic long-term research effort appears to have atrophied. As in the case of investment, one can also see a shortening of horizon periods. The investment and R&D problems are thus two ends of the same mustache. Our willingness to take risks, to commit resources to the future, is declining. We seem now to be motivated by the promise of a quick return rather than long-term growth.

While new investment and R&D expenditures can be called the engines of productivity growth, government regulatory policy serves as the reins. While regulatory activities can stimulate certain categories of technological innovation, the net effect of the Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), and the Occupational Safety and Health Administration (OSHA) appears to throttle the productive energy of the country.

While such a decline is almost impossible to measure precisely, Edward Denison of the Brookings Institute, a man who has spent his life sorting out the various influences on productivity, has suggested that such regulation may have recently lowered productivity growth by one third of 1 percent per year.[1] Since Denison does not count the abandonment of investment and R&D projects that would have been undertaken except for government regulations, his estimates probably understate the full effect. However, since our GNP does not include the benefits of cleaner air and water, the aggregate effect on our well-being may not be quite so devastating.

Nevertheless, Denison and, implicitly, the Council of Economic Advisers in its 1979 report, have wondered if the trade-off between productivity and quality-of-life goals may have tilted too far—so that the costs may far exceed the benefits. Moreover, to the extent that these regulations are administered in a somewhat capricious manner, they create risks and uncertainties that may, in the economist's jargon, create a "dead weight loss" for the economy.

Why have capital investment and R&D fallen?

Now that I have reviewed the important role of new investment and R&D, let us go on to discuss why such investments are so low. Again, the lack of clear consensus among economists reminds us of George Bernard Shaw's crack that if you laid all the economists in the world end to end, they still would not reach a conclusion.

Some analysts have suggested that the poor behavior of business fixed investment during the present expansion in the business cycle to the next peak can be explained fully by the existing unused capacity in manufacturing industries. To be sure, capacity utilization is an important factor in explaining the sluggishness of investment in recent years. The 1974–1975 recession carried utilization rates far lower than in other previous cycles, and the upturn in investment has clearly been associated with increases in capacity utilization.

Nevertheless, my own analysis suggests that, over the whole rise in the business cycle, business investment has been somewhat lower than would be expected on the basis of utilization rates alone.[2] In its 1978

Footnotes at end of article.

report, the Council of Economic Advisers reached a similar conclusion: "It appears, however, that total investment outlays during the expansion have fallen somewhat short of those implied by historical relationships of investment to its determinants." And in 1978, capacity utilization rates have climbed to within 1% of what is considered (reasonably) full utilization.

Other analysts have suggested that lagging investment can more satisfactorily be explained by falling profit rates. Arthur F. Burns and others have argued that an inflation-induced drop in profitability is the major consideration in explaining our poor recent investment (and R&D behavior;[3] It is well known that, other things being equal, inflation does tend to increase effective tax rates on true economic income: tax deductible depreciation charges are based on historical rather than replacement cost, and fictitious realized inventory profits are subject to corporate taxes.

Nevertheless, another important accounting adjustment must be made before one can determine the true effect of inflation on corporate profitability. Inflation—either anticipated or unanticipated—also reduces the real value of corporate indebtedness, and one must consider this gain to the corporation and its shareholders in any assessment of economic profit levels.

Using a method developed with George von Furstenberg, I have related inflation-adjusted profits to the replacement value of equity capital invested in the business.[4] The data are presented in Exhibit II. While profits are undoubtedly lower than they were in the Vietnam War, super-boom years of the mid-1960s, the data for 1977 and the estimates for 1978 stand up quite well compared with historical figures. There is no evidence of a persistent deterioration in the profit picture.

Of course, as an economist I must hedge and say that one must interpret these data with some care. They measure average profit rates on past investments, not the anticipated future rates of profit that are relevant for optimal decision making. Nevertheless, it is comforting to know that properly adjusted profit rates reveal a picture that is far more favorable than has been commonly supposed. Although investment and R&D expenditures may well be hindered by poor expectations of future profitability, evidence that profits have been damaged thus far in the United States does not exist.

UNCERTAIN CLIMATE FOR RISK TAKING

If the sluggishness of investment cannot fully be explained by either low capacity utilization or inadequate current profitability and cash flow, are other promising explanations available? I believe one can make a strong case for a number of economic developments of the early 1970s having raised the risk premium attached to investment decisions. Such increased risk premiums have increased the hurdle rates of return that must be surpassed by new corporate investment projects (or, alternatively they have increased the discount rates used to evaluate net present values). As a result, many investment and R&D projects that otherwise would have been undertaken have been cut off by the increased risk premiums.

In the economic area, we Americans are no longer as confident as we once were. A decade ago, we believed that deep recessions were curious anachronisms and that even mild recessions could be fine-tuned away. Few would have believed that the United States could experience double-digit inflation or that the unemployment rate could climb to 9 percent—let alone that these events could happen simultaneously. While the economy was recovering from the sharp 1974–1975 recession, inflation remained at a high rate despite considerable slack, and later, as we approached fuller capacity utilization in 1978, inflation accelerated.

Inflation, like love, is a fickle thing. High levels of inflation are associated with considerable variability in its rate and with large relative price changes, which make long-run corporate prospects and future planning especially hazardous. Thus, even if total profits increase along with inflation, the dispersion of profits among businesses increases with its rate. And once inflation becomes rampant, mandatory price controls always threaten, creating further instability, especially with respect to corporate profits.

Uncertainty has also increased because of escalating business regulation. Changing environmental regulations have considerably added to the cost, increased the delays, and added to the risks of many major corporate investment projects. One of the "good-news bad-news" jokes very popular among business people responsible for major capital expenditure decisions has God saying to Moses, "I have some good news and some bad news: the good news is that I am going to part the Red Sea so that you can lead the children of Israel to safety on the other side, after which I will cause the sea to close, annihilating your pursuers. The bad news is that first I will have to do an environmental impact study." Many large-scale investment projects have required such studies, albeit less apocalyptic, with the result not only of increased costs but also of significant delays and uncertainties regarding the future rules of the game.

Changing health and safety regulations and uncertainties regarding future energy policies arouse similar concerns. It is not so much the direct cost of regulation that has inhibited investment and R&D but rather the unpredictability of regulatory changes. We have switched environmental and safety standards around like figures on a chessboard, with the result that long-term commitments have become increasingly uncertain.[5]

EVIDENCE OF HIGHER RISK PREMIUMS

I have suggested that an important explanation of the sluggishness of business fixed investment and R&D in the United States is that risk premiums have increased in financial markets during recent years. This has raised the cost of capital for companies and increased the hurdle rate that investment projects must surpass if they are to be undertaken. While the argument may seem reasonable enough, what evidence can be adduced to support this hypothesis and how do we know that these effects have had a substantial impact?

Although it is difficult to measure the precise extent to which risk premiums have increased in financial markets in recent years, one may employ two indirect methods. Both methods use the yields of long-term government bonds as a measure of the rate of interest on the highest quality securities.

The first method calculates the spread between these bonds and the yields of medium quality (BAA) corporate bonds. As the bottom line in Exhibit III shows, this spread narrowed through the mid-1960s and then expanded sharply, reaching a peak in 1974. Although the spread has receded since 1974, it is still considerably higher than its average in the 1960s. While such a yield-spread calculation may not be a pure measure of risk premiums, it is surely suggestive of a movement toward much higher risk premiums during the decade of the 1970s.

The second method for estimating risk premiums in financial markets uses anticipated equity returns rather than bond market returns. It is possible to measure risk premiums in equity markets by calculating the difference between the anticipated rate of return on stocks and the rate of return on riskless long-term treasury securities. One way to find the expected total return from any common stock is to add the expected growth rate—estimated by value and investment survey—of the company to its dividend yield. An illustration will help clarify the procedure:

The dividend yield on AT&T common stock is now about 8 percent. This dividend has been growing over time, however, and, according to many Wall Street estimates, it should be increased in the future at an annual rate of (at least) 5 percent. Under these circumstances, it turns out that a buyer of AT&T common stock today will get a long-term total return made up of the dividend yield plus the growth rate; that is, 8 percent + 5 percent or 13 percent.

The reason for the addition of the dividend growth rate to the dividend yield to obtain the total return may not be immediately clear. Perhaps two examples will provide some clarification:

Suppose that an investor buys AT&T this year on an 8 percent yield basis. Since, by assumption, the dividend grows at 5 percent each year, the price of AT&T must be 5 percent higher next year if the stock's yield is to remain at 8 percent. Thus the investor receives a total return of 13 percent (8 percent from the dividend and 5 percent from capital appreciation).

Now assume the investor buys the stock with the expectation of holding it "for keeps." The investor then buys a stream of dividends that keep growing at 5 percent. The long-term total return that the investor earns will be the discount rate that makes the current value of the stream of dividends equal to the purchase price.[6]

A similar calculation was done each year for the Dow Jones Industrial Average in order to obtain the implied long-term rates of return for stocks in general. The yields on government bonds were then subtracted to obtain the equity risk premiums in the market, which are plotted along the top line of Exhibit III. Other ways of estimating the risk premium yield similar results.

It will be noted that movements in the estimated equity-market risk premiums follow the bond-market risk premiums remarkably closely. Estimated risk premiums fell until the middle of the 1960s and then rose into the early years of the 1970s. Unlike the risk premiums measured in the bond market, however, the risk premium derived from the equity market did not peak in 1974 but rose again in recent years.

Another way to review risk premiums is to look at the "valuation ratio," the relationship between the market value of a company's stocks and bonds and the replacement cost of its assets including plant, equipment, land, and inventories. In the mid-1960s, the [average] valuation ratio in the economy was approximately one and one-quarter—that is, corporate plant and equipment was being valued in the market at one and one-quarter times its replacement cost. As might be expected, the inducement to invest was great since investment in new plant and equipment would tend to create capital gains for a company's security owners. Thus the share of business fixed investment in GNP was high.

By 1978, however, the ratio of corporate market values to asset replacement values had fallen to about three-quarters—that is, corporate investments were on average being valued in the marketplace at less than three-quarters of the cost of replacement. The financial markets reflect the large risk premiums currently existing, and the recent behavior of the valuation ratio is entirely consistent with the risk-premium explanation for low investment and R&D which I have been advancing here (see Exhibit IV). In today's markets, the average corporation that sells new securities to buy new capital goods will be creating capital losses for its security holders. "Why invest in real assets?" the cor-

Footnotes at end of article.

porate treasurer may ask, if he or she can buy claims on those assets in the marketplace at, say, 75 cents on the dollar.

I should note also that the risk-premium explanation is consistent with the structure of investment and R&D in recent periods—that is, the tendency for short-term projects to be favored over long-term investment and for quick-return development projects to be favored over long-term research. The addition of a risk premium to the discount factor, which is typically used by business to appraise any projects whose benefits will be realized some time in the future, will tend to have a much greater effect in reducing the present value of returns expected many years in the future than it does in reducing nearer-term payoffs.

A small final scrap of evidence is a recent McGraw-Hill survey in which about 25 percent of manufacturing companies said they required that all capital expenditures for modernization and replacement pay for themselves within three years. In a similar survey taken in 1969, only 20 percent of the companies surveyed had such a policy. The short pay-back criterion is a crude method used by business people to account for risk and gives us more direct evidence for the influence of risk factors on corporate investment decisions. While the increase is small, the movement is consistent with my argument.

If my analysis is correct, the apparent unwillingness of our country to commit resources to the future is not the result of "diminished animal spirits," to use Lord Keynes's term. Nor is there necessarily some basic failing in Yankee ingenuity. Rather the problem seems to involve sharply increased risk premiums demanded by investors and attendant low equity prices. This increases the cost of capital funds to companies and reduces the amounts committed to long-term projects.

Basic research projects, which provide the foundation of technological progress, have the most uncertain and longest-term payoffs of all and thus can be expected to be particularly hurt. Moreover, these effects are likely to be especially acute for small companies, whose stock prices have performed very poorly. Venture capitalists, except for some brief flurries of activity, have tended to become as inactive as Maytag repairmen, and the new Xeroxes and Digital Equipments of the future are not being formed and capitalized on the stock exchange. The problem is in large part that the climate for risk taking has deteriorated.

HOW TO IMPROVE PRODUCTIVITY

If I have been correct in my diagnosis, the most basic sickness of the U.S. economy is the alarming recent drop in productivity, which in turn puts a ceiling on improvements in living standards and greatly intensifies our inflation problem. While some of the reasons for the productivity slowdown, such as those associated with the age and experience mix of the work force, are unavoidable, the important impediments to productivity growth identified in this article are amenable to change.

Recent low levels of investment and research and development have adversely affected productivity. Moreover, escalating government regulations have affected output both directly, as through required changes in production techniques, and indirectly as through their effect in creating uncertainties and discouraging risk taking.

This analysis suggests the general form of the remedy. We must reorient our economic policies to give high priority to the encouragement of corporate investment and to nurturing of research and development. We must improve the climate for risk taking. While some of the specific prescripitons I offer may seem familiar, they take on even greater urgency in light of our present productivity problem:

1. Policies to spur investment and R&D. Corporate tax relief may be usefully employed to offset the increased risk premiums that appear to have hindered business fixed investment and long-term R&D during recent years. A good start was made in the tax bill of 1978, which reduced corporate tax rates and liberalized and extended the investment tax credit. Fortunately, government policy regarding investment incentives has shifted from ennui to enthusiasm. But more needs to be done.

The interaction of inflation and our current tax system makes effective tax rates rise with high inflation. It is well known, for example, that as inflation increases nominal incomes and pushes us into higher tax brackets, effective personal tax rates tend to increase over time. To help offset these effects, personal tax rate have periodically been lowered.

What is perhaps not as obvious is that effective tax rates on properly measured corporate income and on returns from financial investments are also subject to similar pressures. For example, real corporate tax burdens will tend to rise since tax-deductible depreciation changes are figured on the basis of lower original costs rather than replacement costs. Similarly, effective tax rates on capital gains tend to rise (quite sharply) with inflation.

The problem is that investors may have to pay heavy taxes on the sale of capital assets even when they actually receive less in real value for their assets than they had originally paid. Thus some form of more accelerated amortization and some inflation adjustment in the method of taxing capital gains can be justified as a means of preventing inflation from systematically damaging the climate for risk taking.

Such changes in tax laws need not be the camel's nose under the tent of full indexation. Discrete tax changes are necessary to prevent inflation from diminishing the incentive of Americans from undertaking long-term risks and to shift the investment incentives that do exist away from real estate shelters and municipal bonds and toward capital formation. Nor should we interpret such policies as an attempt to "soak the poor." On the contrary, we should rather appreciate the beneficial effects of tax policy on the supply side of the economy—effects that are intimately connected with the level and growth of real living standards. Capital is a seven-not a four-letter word.

Because the benefits of research and development expenditures often "spill over" onto all participants in the economy and cannot be limited to the company that has done the original work, there is good reason to believe that the market, left to its own devices, will allocate too few resources to R&D. Such underinvestment in R&D is likely to be greatest at the basic end of the R&D spectrum. This consideration (as well as the increased risk premiums I have discussed earlier) suggests that tax incentives, such as an R&D tax credit, may well be appropriate. It also suggests that the government itself should increase its funding of basic research, which has been sorely neglected over the past decade. Technical progress cannot be forced by simply throwing money at the problem, but innovation can easily be strangled without sufficient funding.

2. General thrust of monetary and fiscal policies. I have suggested that a major reason for increased risk premiums at the present time is the increased instability of the economy. We have recently experienced sharp swings in output and sustained high rates of inflation. While some of the blame for our present predicament can be placed on shocks outside our control—such as the quintupling of international oil prices—there is no doubt in retrospect that excessive variability in macroeconomic policies shares a good part of the blame. More stability in monetary and fiscal policies would seem clearly desirable. In giving specific advice for 1979, it seems wise that these policies are now moving toward restraint.

Currently, capacity utilization is not far from the level the Council of Economic Advisers uses as an estimate of "full" capacity utilization; the unemployment rate is close to the range now believed to represent full employment given the present composition of the labor force; and inflation has been accelerating alarmingly. While there is no doubt that the current restraint in our demand management policies run the risk of a mild recession later in 1979, a slowdown in real growth is clearly appropriate and should help cool the inflationary fever.

Conversely, policies geared toward a continuation of rapid rates of real growth would almost certainly lead to an acceleration of inflation and an even sharper recession in 1980. The latter boom-bust course of events is precisely what must be avoided.

3. Mix of monetary and fiscal policies. The preceding recommendation about the durability of restraint in our overall demand management policies is a familiar one—most recently embraced by the Carter administration in the 1979 Economic Report of the President. What has received too little attention, however, is the issue of how macroeconomic policies should be mixed. While I am comfortable with movements in the general thrust of economic policies, I believe the present mix of policies is far from optimal.

Recently, we have relied heavily on fiscal policy to stimulate the economy. A projected budget deficit of even $29 million is much too large considering how close we are to full capacity and how rapidly the state and local surpluses have already shrunk. Given the nature of our long-run productivity problem, we must not assign to monetary policy the major burden of restraint. A policy mix that relies less on consumption-oriented fiscal stimulus and more on monetary stimulus would be more conducive to high rates of private investment.

For 1979, a considerably larger reduction in the budget deficit would permit a more expansionary monetary policy to be carried out with less risk of inflationary pressures. Such a policy mix, given the same overall degree of restraint, would tend to lower interest rates and to shift the composition of output toward investment and R&D.

4. Government policies affecting the inflation rate. Some of the causes of the recent increase in the inflation rate are the direct result of government policy actions. These include the sharp increases in payroll taxes that have raised unit labor costs, large increases in the minimum wage that have promoted both inflation and unemployment, and forms of import restrictions imposed on such products as steel, television sets, and meat that have raised prices directly.

Agricultural policy has also contributed to inflation by turning away from a free market system to one of acreage controls and price supports. Dairy price supports may have cost U.S. consumers a billion dollars annually; sugar price supports another billion. Paraphrasing the late Everett Dirksen, "A billion dollars here, a billion there, sooner or later it adds up to real money."

The Brookings Institute, hardly an organ of the Republican Party, has estimated that these "self-inflicted wounds" have probably added one to two points to the inflation rate. There is insufficient realization of the extent to which the acceleration of inflation was "made in Washington." Reversing these kinds of measures is obviously politically difficult. Indeed, the root causes of our cur-

rent inflation lie in the attempts of different groups to obtain increases in real income out of a pot that is not filling at the same rate.

Nevertheless, it is clear that the government does have the power to take decisive direct actions on inflation that could be quantitatively quite important. As I have suggested earlier, a decline in the rate of inflation would do much to remove the penumbra of uncertainty responsible for the substantial increase in risk premiums that are now discouraging long-term investments and R&D.

This article is not the place for a full discussion of the new program of price and wage guidelines. In my view, their greatest danger lies in the widespread fear the guidelines create that they are a prelude to mandatory controls. Price and wage controls can lead to shortages and severe misallocations of resources. Controls have tended to squeeze profit margins, and undoubtedly their effect in the early 1970s was to discourage many long-term investments that would otherwise have been undertaken by industries that were then operating flat out at full capacity. This lack of investment added to our longer-run inflationary problems by holding back aggregate supply. Moreover, such controls make long-run planning even more uncertain and clearly are the wrong medicine for our current disease.

5. Government regulatory policy. Without doubt, government regulatory policy has had the undesirable side effect of discouraging innovation. While I applaud the objectives that have led to the establishment of such agencies as that for environmental protection, these agencies have not been sufficiently careful in analyzing the impact of their regulations on investment and R&D. I am pleased that the Carter administration has initiated a massive interagency review of government's own impact on faltering U.S. innovation under the direction of Commerce Secretary Juanita Kreps. Public regulatory and antitrust policies must be made much more consistent and must be redirected toward improving the economic climate for private risk taking and for investment in the future.

THE OUTLOOK

The future for business fixed investment and R&D in the 1980s could be exceedingly bright. Our low investment and R&D expenditures for the last several years suggest that many potentially profitable projects exist. Our industrial plant is aging. Sharp swings in relative prices, such as the enormous increase in international oil prices, have created a favorable environment for investment and innovation. The fall in the price of the dollar has created potentially favorable movement in our international competitiveness.

If we can create more consistency in macroeconomic and regulatory policies, if we can tilt the thrust and mix of these policies toward the encouragement of long-term investments, if through tax policies we create an environment more conducive to risk taking, then the next decade could well be one of more real growth in living standards, increased employment, and less inflation.

INDIVIDUAL INITIATIVE

In a way it is again the problem of individual initiative with which we are confronted. Individual initiative was one of the great stimuli both of the economic system and also of personal development under liberal capitalism. But there are two qualifications: it developed only selected qualities of man, his will and rationality, while leaving him otherwise subordinate to economic goals. It was a principle that functioned best in a highly individualized and competitive phase of capitalism which had room for countless independent economic units. Today this space has narrowed down. Only a small number can exercise individual initiative. If we want to realize this principle today and enlarge it so that the whole personality becomes free, it will be possible only on the basis of the rational and concerted effort of a society as a whole, and by an amount of decentralization which can guarantee real, genuine, active cooperation and control by the smallest units of the system.

EXHIBIT II—INFLATION-ADJUSTED PROFITS RELATED TO REPLACEMENT VALUE OF EQUITY CAPITAL

After-tax returns on equity capital

[Percent]

1957	4.8
1958	3.8
1959	5.1
1960	4.7
1961	4.4
1962	6.0
1963	6.3
1964	7.5
1965	8.1
1966	8.7
1967	7.8
1968	7.5
1969	6.2
1970	4.7
1971	5.2
1972	5.9
1973	5.7
1974	3.8
1975	5.5
1976	5.7
1977	5.9
1978	6.4

Note: The after-tax profits of nonfinancial corporations are also adjusted to exclude inventory profits and to put depreciation on a replacement-cost basis. As inflation reduces the real value of corporate debt, this reduction is added back to profits. These adjusted profits are then divided by the nonfinancial corporate capital owned by equity holders (and valued at replacement cost). The latter figure is determined by subtracting from the replacement value of nonfinancial corporate assets the total amount of all debt.

EXHIBIT III—ESTIMATED RISK PREMIUMS IN FINANCING MARKETS

1960	1.22	8.19
1961	1.04	7.38
1962	1.05	5.98
1963	.71	4.11
1964	.67	4.23
1965	.59	3.71
1966	1.53	5.73
1967	1.57	5.01
1968	1.58	5.32
1969	1.84	5.41
1970	3.15	6.42
1971	2.76	6.39
1972	2.30	4.29
1973	2.13	3.04
1974	3.77	5.70
1975	3.18	5.39
1976	2.73	7.52
1977	1.76	7.62
1978	1.67	6.66

EXHIBIT IV—VALUATION RATIO AND BUSINESS FIXED INVESTMENT

1956	9.7	$.932
1957	9.7	.921
1958	8.7	.853
1959	8.7	.874
1960	9.0	1.044
1961	8.7	1.019
1962	8.9	1.147
1963	8.8	1.092
1964	9.3	1.204
1965	10.3	1.295
1966	10.8	1.360
1967	10.3	1.205
1968	10.3	1.217
1969	10.6	1.257
1970	10.2	1.124
1971	9.8	.911
1972	10.0	$1.000
1973	10.6	1.076
1974	10.7	1.016
1975	9.4	.756
1976	9.4	.725
1977	9.7	.825
1978	10.1	.768

FOOTNOTES

[1] Edward F. Denison, *Effects of Selected Changes in the Institutional and Human Environment Upon Output Per Unit of Input* [Washington, D.C.: Brookings Institute, 1978].

[2] See my article, "The Capital Formation Probem in the United States," *Journal of Finance*, to be published.

[3] Arthur F. Burns, "The Need for Better Profits," speech delivered at Gonzaga University, Spokane, Wash., October 26, 1977.

[4] See my article, "Reports of the Death of Common Stocks are Greatly Exaggerated," *Fortune*, November 1977, for an explanation of the procedure.

[5] A recent study concluded that the impact of environmental controls of five pollution-intensive industries was to reduce investment in these industries by 5% to 17%; see M. Cary Leahey, "The Impact of Environmental Controls on Capital Formation," in George M. von Furstenberg, *The Government and Capital Formation*, a study for the American Council of Life Insurance, to be published.

[6] The effects of growth rates on security returns and prices are more fully explained in chapter 4 of my book *A Random Walk Down Wall Street*, rev. ed [New York: W. W. Norton, 1975].●

TRIBUTE TO AMERICAN AGRICULTURE

● Mr. HUDDLESTON. Mr. President, I would like to pay tribute to American agriculture, especially at a time when the country is entering a recession and many sectors of the economy will be hurting badly.

I am glad to say that agriculture is expected to remain relatively strong despite the recession. That is primarily due to the continuing strong export demand. The U.S. agricultural exports are expected to total between $35 and $40 billion for fiscal year 1980, which begins October 1. That is a substantial increase over the estimated $32 billion for this fiscal year.

The weakening economy, however, is expected to result in some slowing of demand for farm and food products, with the major impact on meats and livestock.

But overall, most experts expect American agriculture to remain strong during the current and future economic slump, which is a tribute to agriculture and especially to the role agriculture plays in our foreign exports.

Net farm income is continuing to increase, although not as greatly as once expected, but the American agricultural community continues to shoulder well a major economic load in this country.●

DOES IT PAY TO STAY AHEAD?

● Mr. DOLE. Mr. President, on Saturday the Commerce Department's Bureau of Economic Analysis reported that personal income rose faster than consumer prices in the decade of the 1970's. The BEA figures, covering the period from 1969 to 1978, show per capita income—total personal income divided by total

population—rising 113.7 percent over that period. BEA reports that consumer prices rose 70 percent over the same period, and concludes that real income grew by about 4 percent a year over the decade.

These personal income statistics should not lead us to conclude that the public is getting a free ride with respect to inflation. Average personal income figures do not tell us which people succeed in staying ahead of inflation and which people do not. Nor do average figures tell us what happens to people on fixed incomes, who must often depend on Government to increase entitlement payments so that they can maintain a modest standard of living. The cost to Government of adjusting welfare, social security, and other payments for inflation leads to further deficit spending which adds fuel to inflation. And we should not forget that many of the people who are staying ahead of inflation do so because they have escalated their wage demands in expectation of continued high rates of inflation. It will be interesting to see how personal income holds up through 1979, the year prices took off for the stratosphere, and the third year of escalating inflation rates under the Carter administration.

There is another factor not taken into account by BEA. We all know that, as real income grows, the taxpayer moves into a higher tax bracket. Now American taxpayers are becoming increasingly aware that they are shunted into higher tax brackets even when their real income does not grow at all. This is so because the tax brackets, as well as the zero bracket amount and the personal exemption, are set in fixed dollar terms. When matched against inflated incomes, these fixed dollar figures cause taxpayers to pay a higher rate of tax than before, even though the taxpayer has just kept pace with inflation. The result is a distortion of real income and a revenue windfall for the Government.

The great domestic achievement of postwar America has been steady, stable growth in personal income and a rising standard of living, which encourages a self-confident and industrious attitude on the part of our citizens—an attitude which also helps improve the lot of our least fortunate citizens by increasing job opportunities and generating revenues which pay for Government entitlements. Now inflation is eroding this attitude, and the "taxflation" penalty for trying to get ahead is part of the reason.

Mr. President, it would be a tragic mistake for Government to continue to penalize taxpayers for trying to cope with Government-induced inflation. That is why the Tax Equalization Act, S. 112, should be a matter of urgent concern to this Congress. I have introduced this legislation to eliminate the inflation tax penalty by adjusting the fixed dollar amounts in the Tax Code according to the rise in the Consumer Price Index. The result will be a fair, progressive income tax and an inducement to stable economic growth. The Senator from Kansas believes that now is the time for Congress to undertake truly meaningful tax reform by passing the Tax Equalization Act.●

A BOLD NEW CITIZENSHIP EDUCATION PROGRAM

● Mr. PELL. Mr. President, I am delighted at the launching today of a bold new citizenship education program. The program is designed to utilize the broadcasting resources of C-SPAN in conjunction with the innovative educational activities of the Close Up Foundation. As a result, students, teachers and, the interested public will be able to take part, through television, in seminars where Government representatives and other officials engage in discussions on current issues confronting the American people.

The reason I am especially proud is that I have participated very actively in the development of the Close Up program, and I have seen what a great difference it has made in Government instruction in my home State of Rhode Island. For the last 6 years students and teachers from every high school in my State have taken part in the Washington seminars under the auspices of Close Up. This experience has enriched their lives, and because of the development of many local followup programs, it has enriched their communities as well.

The spiraling costs of educational services have been of great concern to me, especially in the last several years. One of the exciting aspects of this new program is that it has built upon already existing resources and will magnify their impact enormously. Over the last 9 years, Close Up has brought more than 65,000 students and teachers to Washington to participate in a living, learning experience about government. It is now quite likely that an even greater number may be reached in a single telecast. Those who may never get the opportunity to visit their Nation's Capital will now have a chance to observe their Representatives engaging in the kind of candid discussion that young people are particularly adept at fostering.

I know that a great many of my colleagues in the Senate share my enthusiasm for this new concept. I would like to congratulate all those who have worked to make it possible.●

HISPANIC HERITAGE WEEK

● Mr. TOWER. Mr. President, Hispanic Heritage Week affords us an excellent opportunity to salute the incalculable contributions which our Hispanic Americans have provided, not only to the State of Texas, but to our entire Nation as well.

The rich and unique Hispanic culture has been nurtured and preserved over centuries. At present, the American Hispanic community constitutes the fastest growing segment of our populace, representing the fourth largest Spanish-speaking population in the Western Hemisphere. Consequently, its social and cultural influences become increasingly significant.

Internationally, our traditional friendly ties with the Republic of Mexico remain strong. Currently, matters of mutual interest between our two nations are being evaluated and discussed in a manner that seeks to promote the well-being and common good of both our countries.

Overall, the entire Hispanic community of nations has provided insights which have enriched our knowledge of, and appreciation for, Hispanic traditions. Having had the privilege over the years to work with various Hispanic organizations, I am particularly pleased to join in the celebration of Hispanic Heritage Week.●

SALT AND THE SOVIETS

● Mr. JACKSON. Mr. President, I wish to highlight for the attention of my colleagues a wise and aptly written article by Senator WILLIAM S. COHEN which appeared on the editorial page of the Washington Star of September 14, 1979.

Senator COHEN is taking a leading part in the consideration of SALT II by the Senate Armed Services Committee. Speaking in his article of the sobering revelation of Soviet combat troops in Cuba, Senator COHEN makes this basic point:

> The SALT II debate should not turn solely upon this latest Soviet test. The combat brigade should be but one important factor among many that we consider in judging whether the Soviet Union is interested in peace or bent upon provocation and expansion.
>
> There are, in my judgment, inherent deficiencies, dangerous precedents and legal ambiguities that require that the SALT II treaty be amended before it can be ratified. Moreover, there are serious questions whether the SALT process and policies of detente have served to moderate or simply embolden Soviet strategic and global aspirations.

I ask that Senator COHEN's important article be printed in the RECORD.

The article follows:

[From the Washington Star, Sept. 14, 1979]

THE DANGERS WE FACE

(By Senator WILLIAM S. COHEN)

The revelation of Soviet combat troops in Cuba has had a sobering and, it is to be hoped, salutary impact upon many Americans. It has concentrated wonderfully minds that have been wandering around the rarefied halls of quiet diplomacy, blinking benignly at various acts of Soviet adventurism.

Inaction, or mild protest in the face of aggression, however minor, can only encourage more aggression. This verity should not be more of a mystery to diplomats and presidents than it is to parents.

When the Soviet-made MIG-23's first graced Cuban airfields, we were patted on the napes of our necks with the comforting assurance that they were for defensive purposes only. When curious periscopes bearing Soviet decal appeared in Cuban waters, we were told that the submarines were merely being refueled or repaired in the port of an ally. Not to worry. Cuban troops in Africa were of grave concern to us, but then again, some rationalized, the troops did lend a "stabilizing influence" to that troubled continent.

And recall that when our kidnapped ambassador to Afghanistan, Adolph Dubs, was murdered during a clumsy rescue attempt, we lodged a protest to the Soviet Union for its role in the brutal affair. A deafening silence greeted our protest. The precedent of

Soviet action that is inconsistent with our notions of international good behavior was set and suffered long ago.

We need not be so bleak in spirit, to borrow a phrase from Mencken, that we search for coffins whenever we smell flowers. But Soviet troops in Cuba should come as no great surprise to those who have been brushed, even lightly by the wing of experience.

What is surprising, however, is the rush by the United States Senate to the exit door on the SALT II debate. Someone has yelled fire in a crowded theater and prudence seems to be falling under thundering feet.

The most recent "Cuban crisis" should not serve to scuttle the SALT II debate but rather to shape it. We have been conducting our lives and national affairs under the light-headed illusion that our security and national interests are measured by the proximity of our enemies to our coastline. Phrased another way, we need not shout until we see (by satellite) the barrels of their guns.

To be sure, the presence of 2,500 troops 90 miles off the coast of Florida is no mere trifle. Our security, however, is not measured in miles but in minutes. Our potential destruction lies buried in Soviet silos that sheathe missiles carrying as many warheads as Medusa's head had snakes—and they can turn us to stone in less than 30 minutes.

The SALT II debate should not turn solely upon this latest Soviet test. The combat brigade should be but one important factor among many that we consider in judging whether the Soviet Union is interested in peace or bent upon provocation and expansion.

There are, in my judgment, inherent deficiencies, dangerous precedents and legal ambiguities that require that the SALT II treaty be amended before it can be ratified. Moreover, there are serious questions whether the SALT process and policies of detente have served to moderate or simply embolden Soviet strategic and global aspirations. These matters should be addressed vigorously before the full Senate as soon as the Foreign Relations and Armed Services Committees can complete their reports.

The danger in shelving the SALT II treaty until the Soviets eliminate their combat brigade, or more probably reduce it in some superficially concessionary way, is that we predicate the ratification process upon the removal of only the tip of a very large threat. The ratification or rejection of SALT II should be based upon a more profound appreciation of the dangers we face and the safety we seek.●

SUPPORT FOR CLOSE-UP FOUNDATION

● Mr. DOLE. Mr. President, I have learned today that the cable satellite public affairs network (C-SPAN) will begin in December, transmitting seminars on Government conducted by the Close Up Foundation. I believe this experiment linking students around the country to what is actually happening in Washington and being seen through the eyes of their fellow students is exciting and can have a profound impact on their understanding of government.

Mr. President, I have long been a supporter of the close-up program because I believe that the students return home with a much greater appreciation of our political process and an even greater desire to become involved. The opportunity to be exposed to a variety of political philosophies is especially significant in better preparing these students to take an active role in their civic repsonsibilities. One recent participant in close up told me, "the seminar speakers opened up whole new fields of thought for me. so many different points of view."

I believe that this one statement by a young participant is reflective of the overall impact the close-up program makes on all involved. I must add that it is not only the students who gain from these seminars but also those of us in public service. We in government must continue to encourage such active participation in government by America's youth.

I know that sharing these experiences with other students around the country will multiply the impact for our young people—it's a concept with a great deal of potential and one which I welcome with great personal enthusiasm.

Mr. President, I urge all my colleagues to join with me in reaffirming our active support of the close-up program.●

HEALTH CARE

● Mr. HATFIELD. Mr. President, the ongoing debate surrounding ways to control effectively the rising costs of health care is beginning to generate much needed and creative nongovernmental alternatives. One such approach is an effort on the part of the University of Oregon Health Sciences Center to alert medical students to the costs of treatment and services they prescribe. The program, sponsored by a grant from the Oregon Physicians Service/Blue Shield represents an unprecedented initiative on the part of a private insurer to assist medical students in becoming more cost conscious.

Mr. President, the current issue of the American Medical Association News describes the way this program is working in an encouraging and succinct article.

I ask that the full text of this article be printed at this point in the RECORD.

The article follows:

OREGON EDUCATOR EMPHASIZES ETHICS AS BASIS FOR COST-RELATED MEDICAL DECISIONS

Once a week interns at the Veterans' Administration Hospital in Portland, Oreg., receive a "bill" for tests they ordered from the clinical pathology department.

The computer print-out of averaged hospital charges doesn't have to be paid by either the patient or the young physician. It's just a way to let interns know how much their medical decisions can cost.

In another part of the city, seven third- and fourth-year medical students who provide nighttime and weekend emergency care for senior citizens attend seminars on the costs of social ethics involved in health care for the aged. The students receive nine hours of elective credit for participating in the seminars, which are conducted by gerontologists in the state public health department.

The man with the knack for turning medical school programs into object lessons in cost containment is medical ethicist Michael J. Garland, Ph. D., the director of a unique effort at the U. of Oregon Health Sciences Center to curb the rising cost of medical treatment.

"Cost containment cannot be resolved as a dollar problem alone," Garland said in an interview. "It is essentially a question of values."

Oregon Physicians Service/Blue Shield sponsored the program with a $100,000 grant to the medical school. The grant is believed to be the first in the country to provide private funds to educate medical students about costs.

The Medical College of Ohio at Toledo, Jefferson Medical College, and the U. of Wisconsin Medical School in Madison—among other institutions—have similar programs under way, but none of these is privately sponsored by a health insurer.

William C. Scott, M.D., chairman of the OPS/Blue Shield board of trustees, said, "We envision this grant as a full-fledged effort oy OPS/Blue Shield and our colleagues at the medical school to make medical students aware of their responsibilities in controlling medical costs."

The grant enables the school of medicine to respond to a resolution passed in December, 1977, at the interim meeting of the House of Delegates of the American Medical Association, as well as to a statement signed by deans of 114 medical schools, both of which urged medical schools to increase the cost-consciousness of future physicans.

The dean's statement called for corporations, which pay the lion's share of the nation's medical expenditures, to underwrite new methods of teaching medical economics to physicians-in-training.

Dr. Garland, director of the U. of Oregon program, described OPS/Blue Shield's involvement as good business sense on the part of the insurer.

"Third-party payers are under constraints to stay within their budgets as competition between plans is heating up. The business and industrial world, as represented by the Business Roundtable and the National Chamber of Commerce in Washington, is finding that the cost to an employer of providing health insurance is going up, but the increase doesn't contribute to productivity.

"Companies that buy big packages, like group benefit programs, are putting pressure on third-party payers to make sure that premiums aren't creeping up unnecessarily. Some companies are insisting that the insurer must engage in its own quality control system as a condition of getting the group contract," Dr. Garland told *American Medical News*.

Shortly after OPS made the initial grant in January, 1978, Dr. Garland began work on a casebook on health care costs. The casebook is being constructed along the lines suggested by the Harvard School of Business' "case method," which analyzes specific business situations to teach "business wisdom."

The Book, scheduled for publication this year, will present 15–20 clinical cases illustrating how physicians' decisions can significantly cut costs.

In his current position as director, Dr. Garland's emphasis on ethics as the basis of cost-related medical decisions won for the program a $45,000 grant last month from the W. K. Kellogg Foundation of Battle Creek, Mich., and the National Foundation for Medical Education NFME) to provide additional support for the OPS/Blue Shield curriculum.

Apart from working on the casebook, Dr. Garland's job is to get medical educators to teach students about the current cost of common medical procedures, overall costs of medical care in the U.S., comparative figures for other countries, systems for financing medical care in the U.S. and elsewhere, and current concepts for assessing the quality of care.

His strategy is to find places in the required curriculum where cost-related instruction might naturally fit. "I've tried to identify some key courses that are required now, and get involved in those—rather than try to set up a separate course. There is

no required course time available for a new course," Dr. Garland said in an interview.

Sixteen lecture hours in a required first-year course, Public Health and Epidemiology, are devoted to the health care delivery system and its socioeconomic context. One of the sessions is devoted to problems of cost containment, which is also a theme running through the entire course.

Dr. Garland himself lectures on "Cost Containment, Clinical Problem-Solving, and Ethics," in another required course for first-year medical students called Patient Evaluation. The relation of patient evaluation and treatment plans to costs and ethics is discussed in the second year of Patient Evaluation.

For teaching purposes, Dr. Garland has abandoned his training in the Aristotelian tradition for a more Socratic approach—the "case method"—that works better with medical students, who tend to shun the dogmatic language of formal philosophy.

According to Dr. Garland, who received his doctorate in religious studies in the field of ethics from the U. of Strasbourg in France, the case discussion method "seems to be a natural for economics and ethics in the medical school setting."

The case method avoids dogmatism and "creates an occasion in which you can bring to an explicit level of reflection and discussion things that are often not spoken of," he added.

"What we are trying to do is offer something that touches everybody and creates the occasion for reflection. Those who do it, need it, and want it can come to some of the elective courses and workshops, and do it more extensively," he said.

The philosophical approach to cost containment greatly appeals to some students, and leaves others cold. "The ones who like it, like it very much. Some students really enjoy thinking in these terms.

"The biggest indication of this is the existence of a student organization called the Council on Humanism in Medical Education (CHME," he said. Dr. Garland collaborates with student leaders of CHIME to include cost-related presentations in their twice-a-month lecture series.

Other medical students dismiss nonquantifiable value questions as subjective and essentially private. They assume that "as soon as you mention the word 'ethics,' the question enters a world of interiority.

"I have to try to overcome the assumption that ethics occurs only in private world by pointing out that my use of freedom to determine my life has an impact on someone else's dignity and rights. That's public, not private, because there are two of us," he said.

"Some of the students see that right away, and some of them don't."

Among the brown-bag seminars scheduled by CHIME are a report by second-year student Helen Fosmire, who received an OPS fellowship for a research project on hospital cost containment, and a report by third-year student Jeff Wolfe, on his research projects on the comparative cost of dialysis treatments.

Because of OPS grant activities, the Health Sciences Center is field-testing a textbook, Primer on Costs and Quality of Medical Care, being developed under the aegis of the Assn. of American Medical Colleges.

Grant money is also used to send faculty members to meetings and training sessions that will stimulate their interests in the problems of mounting costs, such as a program for chiefs of clinical services at the Harvard School of Public Health.

Like ethics itself, cost containment is less than an exact science. At present, there is no way of predicting which medical graduates will be cost-conscious, and which will be profligate, Dr. Garland said.

While hoping that his intergration of economic and ethical considerations will show students that practicing medicine is a cost-generating behavior as well as a life-saving and disease-preventing behavior, Dr. Garland concedes that educating medical students with the aim of reducing physician-controlled medical expenditures is "a pure gamble."

At the bottom line, however, he is trying to show that cost containment is as "collective value choice."

Said Dr. Garland, "At the end of the economic analysis, ethical problems start to arise because patients have rights and physicians have obligations, such as a societal obligation to contain costs, not just for the patient but also for his insurance pool or his fellow taxpayer." ●

BROAD SUPPORT FOR TRUCKING DEREGULATION

● Mr. KENNEDY. Mr. President, I submit for the RECORD another group of significant editorials which have appeared in recent weeks, in newspapers throughout the country, on the issue of trucking deregulation.

As I noted yesterday in inserting a similar group of editorials, the current volume makes it impossible to include all which have appeared. I think it important, however, for Members of Congress to recognize the importance that most newspapers now attach to enactment of trucking deregulation legislation as a part of our overall effort to fight inflation and to conserve energy.

The editorials I ask to have printed in the RECORD today are from the States of Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Missouri, New York, Ohio, Pennsylvania, and Rhode Island.

The editorials follow:

[From the (Pocatello) Idaho State Journal, July 3, 1979]

DEREGULATING TRUCKING

"A mindless scheme of unnecessary government interference and control," was how President Carter described the present regulatory system of the nation's trucking industry. The description came as the president unveiled his proposal for deregulation of the industry—a timely move, especially in light of the independent truckers' strike.

The Council on Wage and Price Stability estimates that deregulation will save American consumers some $5 billion a year by removing legalized price-fixing and restrictions on competition, routes and cargo. The president's proposals would phase out by 1984 all federal restrictions on the commodities truckers may carry and the routes they must follow. It also will allow rate cuts of up to 20 percent per year, make it easier for truckers to offer new services and increase the kinds of agricultural products that may be hauled without federal regulation.

Most importantly, the proposal will make the trucking market—currently a limited, nearly closed shop—a more vigorous, competitive industry. Which is why Carter's proposal was immediately lambasted by an official with the American Trucking Association—that group of truckers which currently enjoys federal regulations limiting entry of new truckers and fixing prices for its members.

Other regulations which would be removed are those which ban some truckers from hauling freight on return trips (20 percent of all trucks on the roads travel empty because of these regulations, according to the Interstate Commerce Commission); and those which require truckers to follow out-of-the-way routes (Carter cited a case in which an ICC license made one trucker travel from Denver to Albuquerque via Salt Lake City—a 300-mile detour). This move could save an estimated 51 million gallons of fuel a year.

Some opponents of the proposal claim it will drive truckers out of small communities which current regulations force them to serve. But the history of American free enterprise indicates this will not be the case. If there's a buck to be made hauling products from Pocatello to Malad, somebody will step in and make that buck. As Carter pointed out, eggs and fresh fruit are exempt from ICC regulation, yet small towns are still supplied with these goods.

"The legislation I am proposing will restore the competitive spirit to the trucking industry, reduce inflation, minimize government regulation and save energy," Carter said.

And he's right. If there is a demand for the hauling of goods between two points, the job will go to the firm with the best price and schedule, instead of to some pre-designated company at a fixed, high rate.

[From the Chicago Sun Times, July 2, 1979]

FREE THE TRUCKERS

One way to help ease inflation and save fuel is to untie the trucking industry from the bonds of federal regulations. But this particular victim objects to being rescued. The problem is, a lot of the industry prefers protection from competition to freedom.

Yet it's clear after 44 years that most Interstate Commerce Commission trucking rules protect consumers poorly, if at all. Many waste fuel. Congress should heed President Carter's plan for deregulation.

Who is helped (other than the haulers) by ICC "backhaul" restrictions that prevent trucks from carrying loads on return trips? Those empty trips back send prices up and needlessly consume fuel.

Who benefits (other than the industry) from antitrust exemptions that let truckers fix prices in secret rate-setting sessions? And guess who gains from rules that discourage new carriers—especially minorities—from competing with existing companies?

How is the public interest helped by regulations that permit, for instance, one trucker to carry pineapples only if they are mixed with bananas? Or by ICC requirements that some trucks take only fuel-wasting, circuitious routes in making deliveries?

Federal regulation to prevent abuse is responsible; over-regulation is not. It becomes a form of protectionism that Carter administration officials estimate adds $5 billion a year to consumer prices.

With inflation rising and fuel shortages increasing, arguments by truckers and the teamsters union against changing the present setup are as jarring as an engine knock.

But their legitimate concerns are covered in the Carter package. For example, Teamster president Frank E. Fitzsimmons cited a study that said drivers who are exempt from federal rules are the most unsafe on the road. He needn't worry. The deregulation bill would give government even stronger safety-enforcement powers than it has now.

Also, since the legislation would require the transportation secretary to report to Congress on the bill's effects by Jan. 1, 1983, any flaws that turn up in the deregulation process could be remedied.

Today's rules too often symbolize "government regulation gone wild," Carter said, and the evidence supports his charge. Deregulation could restore competition—and sanity—to a multibillion-dollar industry. The right response for Congress is to help achieve that worthy goal.

[From the Indianapolis News, July 11, 1979]

FREEING TRUCKING, TOO

Washington has, in a modest way, begun to self-destruct.

The process is known as deregulation and its latest successful example has been the airline industry.

Now Congress is being asked to consider deregulation for the trucking industry. Its approval could lead to energy savings and lower shipping rates. The issue is important for the 1,438 Indiana towns that depend entirely on trucks for their surface shipping.

Trucking has been under regulatory control of the Interstate Commerce Commission (ICC) since when it was a new industry in 1935. Today there are 17,000 regulated carriers doing more than $30 billion a year in freight business.

The only major exceptions to ICC regulation are trucks serving single, private firms and trucks carrying unprocessed agricultural goods. Through regulation, the ICC controls most other truckers' entry into the industry, routes to be served, commodities to be transported, rates to be charged and mergers. An antitrust exemption allows truck rates to be jointly set.

What hath regulation wrought?

Because of regulations that often restrict cargo hauling on return trips (backhauls), trucking capacity is estimated to be about 20 percent underutilized, not to mention the energy waste. Rates are estimated to be about 20 percent or more above normal market levels, with 1 percent of the companies doing about 50 percent of the business.

Congress has been holding hearings on truck deregulation since 1977. This year it was told by Transportation Secretary Brock Adams, for example, that it took the ICC 51 weeks to decide whether metal lawn sprinklers with plastic housings should be treated as plastic or metal when they are shipped to California.

Inflation fighter Alfred Kahn told Congress that shipping goods by unregulated trucks within the state of Maryland costs 27 to 87 percent less than does interstate (regulated) commerce. He says American consumers would save $5 billion a year in shipping costs with deregulation.

The ICC has undertaken some deregulation on its own. Notably, it has given manufacturers and retailers the right to use their trucks to haul goods for other companies—eliminating some backhauls in which trucks are empty. But the ICC cannot do it all; it cannot, for example, lift the truckers' antitrust exemption. Action by Congress is necessary to achieve true deregulation.

To this end, President Carter and Sen. Edward Kennedy are sponsoring a bill to deregulate the industry.

Their bill would remove all backhaul restrictions, phase out requirements to follow indirect routes, remove bans against hauling certain commodities, allow easier entry into the trucking business and greater freedom in setting prices, while prohibiting the now-legal price fixing.

The trucking industry opposes deregulation but, as a study by the Hoover Institution points out, this at least partly because the present arrangement has been so profitable.

The industry argues, however, that small towns would be the losers in deregulation since the ICC would not regulate routes. But a study done for the Senate concluded that it is the lucrative rates and not the ICC, that attracts truckers to small towns. It predicted no loss of service to such towns with deregulation. Experience shows that although eggs and fresh fruit are shipped to small towns by unregulated truckers, everyone seems to be amply supplied.

Truck deregulation legislation promises consumer and energy savings. Our congressmen should rush to support it.

[From the Paducah, (Ky.) Sun., June 28, 1979]

RIDICULOUS RULES COSTLY TO EVERYONE

Suppose you own a truck, and you make a deal with a meat processor to haul meat products from Virginia to points in Florida.

On the way back, you figure, you'll pick up some extra revenue by hauling something from Florida to Virginia.

No way. The government won't let you.

You have to apply for "backhaul authority" from the Interstate Commerce Commission—and that could take months.

The White House, in a background report on its proposal to deregulate trucking, says that only half the new operating certificates awarded as recently as 1975 contained any backhaul authority.

If you figure that half the trucks on the road at any given moment are on return trips, and that half of that half are not hauling anything, that means that one-fourth of the trucks on the road are empty.

That is, they are not performing any useful work either for their owners or the public. They're just burning fuel, depreciating in value and wasting time.

This is one reason why President Carter wants to deregulate the industry. He would end the restrictions on backhauls immediately.

Do you think the complaints about over-regulation are exaggerated? Look at some other examples of how ridiculous it has become.

There's a trucking firm which the ICC has authorized to serve Denver and Salt Lake City, which are 512 miles apart by the most direct route.

But it can't take that route. It must go by way of Phoenix and Flagstaff, a distance of 1,142 miles.

Another company has authority to haul between Denver and Omaha, a distance of 540 miles by Interstate 80. But it must go by way of Rapid City, Cheyenne and Mule Creek, a distance of 894 miles.

Not that those trucks necessarily can make stops on those side trips. Many certificates, says the White House, don't permit carriers to make intermediate stops along their routes.

The carriers, therefore, "are . . . prevented from maximizing their loads, and this increases costs and keeps many towns—especially smaller towns—from receiving the best possible service," says the White House.

Other ICC regulations permit a carrier to haul crated, but not uncrated, machinery.

He may carry paint in two-gallon cans but not in five-gallon cans.

A recent certificate permitted a carrier to haul bananas. He could also haul pineapples, but only if they were mixed with bananas.

Unprocessed agricultural commodities are exempt from ICC restrictions, but even that exemption can take some weird forms. For example:

An exempt hauler can take milled rice fortified with vitamins but not rice that has been precooked.

Fresh meat is not exempt, but fresh chickens are.

An exempt hauler can take raisins if they are coated with honey, cinnamon or sugar, but not if they are coated with chocolate. He can haul food for parrots but not for hamsters and gerbils.

In view of such ridiculous restrictions—and we haven't even touched on the obstacle course the separate states throw up for every trucker—why is the trucking industry such a bitter foe of deregulation?

The answer is that under regulation it enjoys a privilege allowed to almost no other industry, the privilege of "collective rate-making"—that is, price-fixing.

The regulated trucking industry was granted special immunity from the antitrust laws in 1948. Congress overrode a veto by President Harry Truman to bestow this boon on the trucking industry.

It allows them to get together to decide what rates shall be charged, an action that in any other industry could send the price-fixers to the penitentiary.

Yes, the rates so fixed are subject to ICC review, but in practice the ICC usually rubber-stamps them.

"The combination of immunity to fix prices and the lack of rate flexibility has cost consumers billions of dollars in higher prices."

With Sen. Kennedy now on Mr. Carter's side in calling for deregulation, surely the Congress can end at last this wasteful and costly practice this year.

[From the Shreveport (La.) Journal, June 30, 1979]

TRUCKING DEREGULATION: A BENEFICIAL CHALLENGE

Already shaken by the high price and scarcity of diesel fuel, the trucking industry faces another challenge from Washington. As expected, President Carter has asked Congress to deregulate trucking—a move that could end a long and cozy relationship between the kings of the road and the Interstate Commerce Commission.

Lest anyone fear the administration is picking on truckers, however, deregulation has been in the cards for some time. The conditions that spurred the federal government to regulate the industry in 1935 are largely irrelevent today. A policy originally designed to curb chaotic competition has evolved over the years into one that protects inefficiency. The administration and others simply recognize that time has long since come for the nation's most important movers of freight to be disciplined more by the rules of the free market.

If passed by Congress, Carter's proposals would be:

Remove existing backhaul restrictions, which prevent a truck from carrying cargo on return trips.

Eliminate rules requiring trucks to take a circuitous route.

Lift restrictions on the types of commodities a carrier may haul.

Make it easier for new carriers to enter the market by requiring opponents of a new competition to prove that the proposed service would not serve "public convenience and necessity."

Repeal truckers' exemption from federal antitrust laws that prohibit price-fixing.

Deregulation of the trucking industry is in the best interest of the nation and the truckers.

Back when a burgeoning and ruthlessly competitive trucking industry threatened to undermine its own financial stability and that of the railroads, stiff regulation might have made sense. But in the present era of fuel shortages and inflation, many of these rules merely make matters worse.

Take current restrictions on the types of commodities a carrier may haul. In one case, a carrier may haul bananas. But he may only haul pineapples if mixed with bananas. Other regulations are equally ridiculous and glaringly contrary to efficient operation.

This does not mean the trucking industry should be freed completely from the ICC's guiding hand. Licensing requirements and safety regulations are needed as protection against irresponsible operators and dangerous practices.

But continuation of the present over-regulated status of the industry would benefit neither the nation nor the truckers.

Fewer rules would mean more opportunities for carriers to take advantage of good business practices. If a trucker can deliver freight cheaper and faster on a route other than that prescribed by the ICC, he should be allowed to do so.

It all comes down to common sense. A carrier who is free to operate efficiently will ultimately deliver better service to the public. Deregulation may be a challenge to truckers, but it is a challenge that is clearly worth accepting.

[From the Lawrence (Mass.) Eagle-Tribune, July 1, 1979]

GET THE RED TAPE OUT OF TRUCKING

With the experience of the airlines blooming before us, we think it's time for the Federal government to get out of the trucking business.

The regulation of this $108 billion industry began nearly 45 years ago. Since then we have become awash in rules that waste time and precious fuel, cost shippers more money than necessary, legalize price fixing, hold rates firm while expenses rise and fall, and totally negate the competition that makes for a healthy economy.

It is estimated that about 51 million gallons of fuel would be saved each year by getting rid of silly license rules that often force truckers to take roundabout routes between destinations instead of direct ones.

Millions of gallons of fuel would be put to intelligent use by throwing out insane regulations that forbid many trucks to carry loads on return trips. It is estimated that 20 percent of the trucks on the road at any one time are empty because of these rules.

Deregulating the trucking industry would mean that haulers could adjust their rates as their expenses fluctuate. This has been a sore point with Independent Truckers in their recent strike, because the price of diesel fuel is soaring and they are allowed to pass on only a tiny fraction of that cost.

Most important, deregulation would inject an element missing from the trucking business right now: competition. Anyone who doesn't think business competition is the best economic medicine there is hasn't flown on an airplane recently or read an airline ad. When the airlines were deregulated, competition flourished and the price of tickets dropped drastically. Airline executives, who feared deregulation and competition when it was proposed, now admit that it's been great for their industry.

Their counterparts in the trucking industry should take a lesson and stop their feverish opposition to President Carter's bill that would allow them to operate their businesses in a manner suitable to a free enterprise economy.

[From the Grand Rapids Press, June 27, 1979]

TRUCKING DEREGULATION

"Therefore, be it resolved that the following standards and objectives be adopted:

A maximum reliance on competition.

Reduction of barriers for those individuals and firms wishing to enter the industry.

Expedited regulatory decisions,

Maintenance of fair wages and working conditions,

Improvement of transportation safety,

Improvement of opportunities for service to small towns."

Is it possible that either of this country's major political parties would reject such a manifesto? Indeed, wouldn't this statement correspond neatly with the goals espoused in the most recent partly platforms of both Democrats and Republicans?

In theory the answer to both questions is yes. Yet, these proposed changes for the nation's trucking industry are expected to be fought bitterly in Congress for perhaps two years—and even then one can only guess as to the form in which they finally will be adopted.

President Carter is pressing hard for the regulation overhaul. In an unusual meeting of the minds, so is Sen. Edward Kennedy, D-Mass. Other proponents of change are Sen. Charles Percy, R-Ill., and the American Farm Bureau Federation. From differing perspectives, each has arrived at a common conclusion: rather than protecting the public, excess government regulations over the years have raised trucking costs and created unnecessary inefficiencies.

Bringing competition to the motor freight industry is their goal. But after more than 40 years of exemption from the Sherman Antitrust Act and a way of doing business based on price fixing (collective ratemaking), altering the rules won't be easy. The carriers and their Teamster associates like things as they are. For them it's a profitable, comfortable arrangement.

The case for introducing competition is strong, however. As the White House points out, unnecessary restrictions in the industry result in inefficient uses of equipment, fuel and labor. Thus, Messers. Carter and Kennedy are proposing the following legislation:

Immediate removal of all backhaul restrictions. Whatever commodity can be carried on the fronthaul can also be carried on the backhaul. (No longer would trucks which had been fully loaded return empty from some distant point simply because it lacked an Interstate Commerce Commission certificate providing for backhaul authority.)

Immediate removal of all prohibitions on making stops between authorized points. (Intermediate stops could be made along authorized routes—thus maximizing loads and fuel use while serving smaller towns which otherwise would be bypassed.)

Removal, no later than Dec. 31, 1982, of all restrictions limiting the types of commodities a carrier may haul. (A carrier would be able to haul uncrated as well as crated machinery, paint in five-gallon containers as well as two-gallon containers, bananas as well as pineapples.)

Other proposals are aimed at making it easier for small and minority carriers to enter the industry; repealing a special antitrust immunity that the trucking industry presently enjoys; allowing carriers to decrease rates within an established range free from ICC interference, the broadening the 1935 exemption for unprocessed agricultural commodities to include all edible items as well as farm implements, fertilizers and chemicals while substantially enlarging the authority of agricultural co-ops to fill empty backhauls with regulated goods.

Deregulation in the trucking industry—a $108 billion a year business—could save consumers more than $5 billion annually in higher prices, according to Barry Bosworth of the Council on Wage and Price Stability. With trucks operating empty more than 20 percent of the time because of regulatory restrictions, there would also be savings in gasoline and diesel fuel.

Doubters about these measures should take a look at the impact of deregulation on the airlines in this country. In the year since Congress did away with many of the rules governing that industry, more routes were opened up, more passengers began to fly, more jobs were created and airline fares decreased. Moreover, industry profits went up 54 percent to a new high even as the Civil Aeronautics Board estimated that savings to the public will total $2.5 billion.

For those members of Congress of both parties who have been horror-struck by the deep involvement of government in the life of America, it is time to put their votes where their mouths are by giving free enterprise a chance to operate in the trucking industry.

[From the Detroit Free Press, June 17, 1979]

TRUCKING: THE PRESIDENT AND KENNEDY JOIN FORCES TO GET DEREGULATION IN GEAR

In at least one important area where President Carter and Sen. Edward Kennedy, D-Mass., had been engaged in a bit of competition, they have decided, following a meeting last weekend, to join forces. It is not recorded whether President Carter threatened Sen. Kennedy with harm to some of his body parts if the senator didn't co-operate.

The two, in any case, are now trying to join forces to pass a trucking deregulation bill. This development undoubtedly enhances the chances that some genuine deregulation of trucking will take place. The competition between Sen. Kennedy and the president in this area, as in health care, mainly served to reduce the chances of any sort of real progress on the problem.

The issue of the deregulation of the trucking industry is more difficult than airline deregulation. Demand for seats on aircraft may be more elastic than the demand for cargo space for shipping freight. The trucking industry argues, with some forces, that the danger of discrimination against many smaller cities would be greater under deregulation. And indeed, there were many abuses in the early days of rail and highway shipping that gradually led to the kind of regulation we have today.

Nonetheless, we are persuaded that the country ought to move carefully toward greater reliance on market forces to govern the trucking business, and less reliance on regulation. Even now, many of the independent truckers protesting high diesel fuel prices say that excessive regulation works to make their business unprofitable. We have no doubt they are at least partially right.

The essential point—and the cause served by the agreement by the president and Sen. Kennedy to work together—is that, over time, regulation has come to penalize the public as much as to protect it. Carefully planned and executed deregulation can let market forces begin to work for the public and, if done right, still assure that the trucking business will be profitable for skillful entrepreneurs.

[From the Detroit Free Press, June 25, 1979]

TRUCKERS: FREER COMPETITION COULD BE GOOD FOR THEM AND THE COUNTRY

With an end to the rivalry between President Carter and Sen. Edward Kennedy over whose plan should be the vehicle for deregulating the trucking industry, there is now a realistic chance for action on that most sensible initiative. Sen. Kennedy, in particular, deserves a lot of credit for accepting the concept of a review, rather than automatic total deregulation, at the end of the period of partial deregulation.

Mary M. Schuman, assistant director for regulatory reform of the president's domestic policy staff, puts the case for elimination of much of the regulation colloquially: A close look at the Interstate Commerce Commission's regulations, she says, "would knock your socks off." The regulations cover what cities and towns a trucker can service, what highways, he can travel, what stops, what cargo, what rates he can charge. In some instances, she says, the regulations are so picayune that they permit carlers to haul paint in two-gallon cans, but not in five-gallon cans.

The joint proposal calls for greater latitude for carriers in setting rates, routes, cargoes and entry into markets. In 1983, the secretary of transportation would decide whether to move ahead with total deregulation.

The issue ought to be a politically attractive one. As Ms. Schuman points out, excessive regulation of the trucking industry contributes to three of the nation's most pressing problems:

Inflation. Where there are instances of un-

regulated trucking in areas also served by regulated trucking companies, the rates of the unregulated truckers are often significantly lower than those covered by the ICC.

Bureaucracy. The 2,000 employes of the ICC often serve not the public, but the trucking industry. The ICC receives 5,000 pages a day of proposed rate tariffs and is incapable of reviewing them.

Waste of fuel resources. There are numerous instances when restrictions do not permit haulers to carry goods on a return trip, forcing them to travel empty when in fact there are goods needing to be hauled.

The trucking industry's argument that the change would lead to abandonment of service to many small towns and cities does not seem to wash. The ICC has not been besieged by applications for permission to drop unprofitable routes, essentially because (1) a truck, although expensive, is a small piece of equipment, a small economic unit, compared to an airplane, and it can reasonably serve small communities and (2) the less profitable lines often serve as feeders to the more profitable long-haul lines and are maintained for that reason.

The only reason to doubt that Congress will embrace the trucking deregulation is that the trucking industry is so adamant against it. Just as in the days before airline deregulation, those who are regulated are among the people most vehemently objecting to even partial deregulation. Maybe some of them will at least listen to Frank Borman, the president of Eastern Airlines. During the days before deregulation, Mr. Borman thought it would be bad for his industry.

The other day, Mr. Borman wrote to the White House. He had been wrong, he said, about what deregulation would mean to airlines. And the truckers, he thought, were probably wrong too.

He invited them to try to learn to live with freedom, just as he had.

The parallels are not precise, we know. We have listened to the truckers saying competition would be bad for them and the country. We think they're wrong. And we're struck by a single statistic: Deregulation of the airline industry has meant $2.5 billion savings for consumers.

[From the St. Louis Globe-Democrat, July 9, 1979]

DEREGULATE TRUCKING INDUSTRY

The dramatic success of deregulation of the airline industry should encourage Congress to move quickly to deregulate the trucking industry.

Some of the anti-competitive practices in the regulated trucking business are as unrealistic as they are costly.

Take, for example, the common practice of not permitting many haulers to carry cargo on their return trips. What could be more wasteful in an energy-short economy than to have thousands of trucks going long distances absolutely empty?

In addition to ending this backhaul restriction, the trucking deregulation bill proposed by President Carter and Sen. Edward M. "Teddy" Kennedy would:

End by Dec. 31, 1981, rules requiring a carrier to take a circuitous route.

End by Dec. 31, 1981, all restrictions limiting the types of commodities a carrier may haul.

Make it easier for new carriers to enter the market.

Repeal carriers' exemption from federal antitrust laws that prohibit pricefixing.

Allow carriers the option for two years to lower their rates 20 percent or raise them 5 percent without ICC approval. After that time, they could hike their rates 7 percent annually without ICC approval and lower their charges as they saw fit unless the ICC found them to be "predatory."

Exempt agricultural and horticultural commodities, as well as farm implements, fertilizers and chemicals, from ICC regulation.

Over the years, obtaining a permit to operate from the ICC has grown progressively more difficult, costly and timeconsuming. Rather than go through the long costly procedure of trying to get a new permit from the ICC, trucking companies have elected to buy existing operating rights from other firms at fantastic prices. In 1973 one of these licenses to operate sold for $860,000!

This inability of new firms to gain operating rights from the ICC at a reasonable cost in an acceptable amount of time has had the effect of creating a restricted list of federally-approved trucking firms, which raises the question of why should the government put itself in the position of protecting large trucking firms from competition?

The answer, of course, is that it shouldn't run an exclusive trucking club as it now does.

The official policy of the federal government always has been that it seeks to encourage competition in business and oppose anti-competitive arrangements. But, in regulating the trucking industry, it has created many practices that discourage competition and play into the hands of those who favor anti-competitive practices for their own benefit.

To end this gross wasting of energy and fostering anti-competitive practices that cost consumers a great deal of money, Congress should get Washington out of business of misregulating the trucking industry.

[From the St. Louis Post-Dispatch, July 9, 1979]

TRUCKERS AGAINST FREE ENTERPRISE

It is understandable that the trucking industry should so strongly oppose deregulation, for under the care of the Interstate Commerce Commission rate-cutting is almost impossible, routes are carefully parceled out among the carriers, and new haulers are strenously discouraged. For truckers, then, the ICC functions not so much as an umpire who makes sure everyone plays fair but as a mother who shields them from the bumps and bruises of competition.

Whatever this approach may do for the financial security of the industry, it does little to promote lower rates and better service for shippers and less to uphold one of America's fundamental economic principles—free enterprise. This is not to say that regulation should be abandoned altogether and replaced by unfettered competition; that offers its own kind of undesirable consequences. Instead, what is needed is a regulatory attitude that starts with a presumption on behalf of free enterprise, with the government intervening only to the extent it must in order to safeguard against abuse—predatory pricing, say, or exploitation of captive shippers. But that sensibly cautious reform—contained in a bill sponsored by the Carter administration and supported by Sen. Kennedy—is what the trucking industry and the Teamsters Union so ferociously oppose.

In the wake of the withdrawal of airline service from some small, out-of-the-way communities following deregulation of that industry, senators and representatives are being warned that hundreds, perhaps thousands, of small towns will be similarly affected by trucking degregulation. But in fact the administration proposal does more to assure that small communities are served by trucks than the existing law does.

First of all, it specifically makes the assurance of service to small towns a matter of ICC policy and it makes service to small towns a criterion for allowing new carriers to operate. Moreover, by eliminating restrictions against intermediate stops and the highways truckers may use, the administration bill makes it easier for truckers to serve small towns.

In any case, one is inclined to suspect that concern for shippers in small communities is not so much a reason for the opposition as are such provisions as the one liberalizing entry requirements and another repealing the exemption from antitrust laws that truckers enjoy in setting rates. It is amusing that a bill to assure a wholesome measure of competition should be regarded by the industry as radical and dangerous, but there is nothing funny about the support for keeping the industry on welfare that has developed on Capitol Hill, where trucking interests have contributed to the election campaigns of well over 100 lawmakers.

[From the New York Times, July 14, 1979]

THE TRUCKERS AND THEIR SECURITY BLANKET

Washington is used to the hard sell by lobbyists on behalf of innumerable economic interests. Rarely, though, does it see an effort as big as the trucking industry's current blitz against the deregulation bill that has been offered by the White House and Senator Kennedy.

That should not surprise anyone, since only rarely does proposed legislation mean so much to a major industry. Deregulation would put an end to guaranteed high profits for efficient trucking firms and would mean hard times for the less efficient. It could also, according to the Council on Wage and Price Stability, save the country as much as $5 billion annually on freight costs.

Truck regulation, like the trucking industry, is extremely complicated, but the logic of deregulation is simple. Under the present system, the Interstate Commerce Commission licenses individual firms to serve specific routes and must agree to rates suggested by private associations of trucking companies called "rate bureaus." Over the years that this system has been in force, the industry in effect held its regulators captive—using the commission to keep out unwanted competitors, and keeping rates high enough to protect the inefficient while making the larger, more efficient firms hugely profitable.

The present commissioners have fought back. They have eased restrictions that often force trucks to return home empty, encouraged greater competition for routes, and blocked rate increases. But there is no guarantee that, if the I.C.C.'s powers are left intact, it won't someday be recaptured by the industry. Nor is there any way that even the best-intentioned government can regulate trucking quite as efficiently or as subtly as market forces can. The Carter-Kennedy bill would keep the commission alive, but it would leave to the truckers such question as where trucks go and how much they charge in a competitive industry.

The truckers and their teamster union allies want to keep their security blanket. Last year they contributed $435,000 to Congressional campaigns. The American Trucking Association is now using the services of seven full-time lobbyists to identify its friends and lean on fence-sitters. Prospects for legislation this year are poor, since the truckers managed to maneuver jurisdiction over the bill into the politically sensitive hands of Howard Cannon, chairman of the Senate Commerce Committee.

But if there is one place to take a stand against excessive Government regulation, this is it. The country cannot afford to keep on subsidizing the good life of the people who own and drive America's trucks.

[From the Pittsburgh Post-Gazette, June 22, 1979]

DEREGULATION AND THE TRUCKERS

In their current ill-tempered effort to shut down a large segment of the nation's trans-

port system, independent trucker's may have difficulty recognizing any compatibility between their immediate demands and President Carter's call yesterday for deregulation of the trucking industry. But over the long haul, the deregulation proposal presented by Mr. Carter—like a similar measure sponsored by Sen. Edward Kennedy—would alleviate many of the cramps in interstate commerce now causing so much distress to the independent haulers.

Truckers complain most insistently about the failure of freight rates to keep pace with the esclating price of increasingly scarce fuel. In the deregulated environment sought by the administration, price increases would no longer be restrained by cumbersome regulatory procedures when otherwise justified by skyrocketing costs of operation.

But the fuel problems of truckers would be reduced even more significantly by another feature contained in both the Carter and Kennedy reforms. As soon as deregulation legislation is enacted, truckers will be freed from highly wasteful "backhaul" restrictions which now prevent a truck from carrying cargo while returning to its original destination.

In these energy- and inflation-conscious times, there is no reason for the government to require a truck that has carried goods from Pittsburgh to Los Angeles to make the return trip without cargo. With "backhaul" restrictions removed, the truckers would realize substantial economies. Since empty trucks now account for an estimated 20 percent of the industry's total annual mileage, the elimination of backhaul restrictions should also bring a more abundant supply of gasoline for the truckers.

Those significant benefits alone ought to persuade Congress and the independents of the need for trucking deregulation. But several other portions of the proposed reforms also will introduce a healthier, more competitive atmosphere to an industry which has allowed monopolists to grow fat and lazy while independents twist in the wind and consumers pay an estimated $5 billion each year in surplus costs. With elimination of Interstate Commerce Commission certifications, it would no longer be possible for individual trucking firms to gain lucrative corners on the transport of individual commodities across restricted routes. Under the present system, independent truckers often are forced to pay extortionate secondary fees to lease their services where such certificates hold sway. Under the reforms, all routes and commodities would be open to all truckers.

Because the independent truckers are so ensnarled in regulatory red tape, the reforms may not arrive quickly enough to alleviate their present distress. To deal with those immediate strains, Congress and the administration will have to assure an adequate supply of fuel for the transporters of the nation's commerce. But by acting quickly on the proposed regulatory reforms, Congress can minimize the possibility of such disruptions occuring in the future.

[From the Cleveland Plain Dealer, July 2, 1979]

TRUCK DEREGULATION

The current Senate Commerce Committee hearing on deregulation of the trucking industry comes at a most appropriate time.

The nation's need to conserve fuel and combat inflation is more pressing than ever. In large measure, deregulation of the trucking industry could help reach those goals.

It is an absurd situation that, in time of fuel shortage, federal regulation compels fuel waste. It does this in the trucking industry by placing restrictions on truck routes, cargoes and delivery points. The result is that any given time an estimated 20 percent to 40 percent of all trucks on the highways run empty.

This adds to the cost of all goods. So also does the existing right of trucking companies to form rate bureaus to set prices for their services. In this they are exempt from antitrust laws.

There is another factor that tends to push trucking costs higher: restraint on competition within the industry. Existing regulation has barred new trucking companies from the market even if they have been able to show that they can provide better service or service at a lower price.

All of this, according to various studies, adds anywhere from $2 billion to $5 billion annually to shipping costs which, in the end, must be paid by consumers.

Over several decades the trucking industry has prospered and grown comfortable under a protective cover of regulation administered by the federal government's Interstate Commerce Commission (ICC). The industry's growth has been paralleled in the ICC itself. The agency today is a bureaucratic giant with more than 2,100 employes and an annual budget of about $75 million to watch over not only the trucking industry but the railroad, pipeline, barge and bus industries as well.

It is understandable that trucking associations and unions oppose deregulation of their industry. They want no one to rock their comfortable boat. They want no disruptions of what they perceive as orderly, efficient ways of doing business.

This is reminiscent of opposition to deregulation in the airline industry. But since passage of the Airline Deregulation Act in 1978, airline fares are down and profits and passenger traffic are up. The head of one airline that had opposed deregulation recently advertised: "We are now convinced that it works—not only for the consumer, but for the airlines as well."

It is not unreasonable to think that deregulation could work also for the trucking industry as well as the consumer. The legislation proposed jointly by the Carter administration and Sen. Edward M. Kennedy, D-Mass., deserves favorable consideration in a Congress that should be attuned especially to today's threats of inflation and fuel shortages.

[From the Providence, R.I., Bulletin, June 27, 1979]

DEREGULATING THE TRUCKERS: THE SKY WILL NOT FALL

On one front, at least, President Carter's anti-inflation thrust is right on target, and American consumers can serve their own best interests by sending this message to their representatives in Congress: Vote YES for Mr. Carter's trucking deregulation bill.

Although the recent country-wide trucker strikes have nothing to do with Mr. Carter's proposed legislation, they underscore the key role of the $108 billion industry that carries about 25 percent of all freight and collects 72 percent of the national freight bill.

The premise of Mr. Carter's measure is that the Interstate Commerce Commission, which regulates the trucking industry, ought to base its decisions on the following standards: maximum competition; free entry into the industry by newcomers; fair wages and decent working conditions; improved transportation safety; and better service to small communities.

In fact, however, since Congress set up the ICC in 1935 to regulate trucking, it has become the handmaiden of the industry. Instead of maximizing competition, it has restricted it. Instead of using its rate-setting powers to keep prices down, it has rubber-stamped price increases that the truckers set for themselves (because Congress unwisely exempted them from antitrust laws). Instead of helping the industry improve productivity, it has done the opposite with regulations that would make a Soviet commissar blush.

By eliminating many of these nightmarish regulations, Mr. Carter's reforms would save the consumer a conservatively estimated $5 billion a year. This would strike a meaningful blow against inflation. It would save vast quantities of fuel, at a time when not only motorists but truckers themselves are struggling with a gasoline and diesel fuel shortage.

Among the specific recommendations of the Carter deregulation bill:

Immediate removal of backhaul restrictions. Forcing truckers to "deadhead" back to their point of origin with empty vans is an unconscionable waste of fuel, man-hours and money.

Immediate removal of prohibitions on intermediate stops. Truckers should be able to make any stops they want in order to maximize loads. This would increase their productivity, and give smaller towns the best possible service.

Phase out by December, 1981 route restrictions and circuitous routing. There is no justification for the ICC to specify the exact route over which a truck must travel. Requiring a truck to dog-leg through "gateway cities" hundreds of miles out of the way is bureaucracy gone amok.

End all commodity restrictions by December, 1982. No useful public purpose is served by telling a carrier he may haul crated but not uncrated machinery. Or paint in two-gallon but not five-gallon cans. Or bananas but not pineapples.

These are typical of the reforms sought by Mr. Carter. That they are needed can hardly be in question. What is in question is how the ICC ever strayed from its intended mission of protecting the public to its current ambivalent role of pampering and punishing the trucking industry, while abandoning utterly the public interest.

A good guess has to be that powerful segments of the trucking industry are willing to put up with such insanity because the ICC has been all too willing to lend its powers to give these interests an edge in their particular corner of the market. This might explain the trucking industry's frantic drive to shoot down President Carter's deregulation bill, and to draw up a substitute measure of its own.

Those truckers who bleat that deregulation will do more harm than good should take a look at their sister airline industry, which got a bit hysterical when Congress proposed deregulation. To its credit, Congress ignored the warnings of dire consequences and pulled the regulatory plug. Most of the air carriers now love it, and the public benefits from more choices among flight schedules and fares.

It is high time for the truckers to take the same cold shower—and for the ICC to get back to the basics of what government regulation ought and ought not to be.●

ALF LANDON ON RUSSIANS IN CUBA

● Mr. DOLE. Mr. President, a few days ago I submitted a resolution calling for a deferral of the SALT II Treaty until the situation with respect to Russian combat troops deployed in Cuba is resolved. This was done with no intent to circumvent either the proper legislative procedures of this body, nor to avoid a discussion of the merits of the SALT II Treaty itself. But it just seems to me that we are engaged in a pointless and certainly fruitless exercise in international policymaking with a competing superpower if a challenge to our previous understandings with Russia remains in question.

On the recent occasion of his 92d birthday, one of our greatest elder statesmen had a few typically trenchant

remarks on this crisis. Alf Landon, Governor of Kansas and Republican Presidential nominee, has earned respect—bipartisan respect—for his able leadership in the past and his continuing political observations, noted for his insight and straight to the heart of the matter directness.

Mr. President, I am proud to offer Alf Landon's comments for the RECORD and to congratulate him, as I am sure all of my distinguished colleagues honored to know him do also, on his 92d birthday. I request that two articles marking this event be printed in the RECORD following my remarks.

The article follows:

[From the Independence Reporter, Sept. 9, 1979]

ALF LANDON CELEBRATING 92D

TOPEKA, KANS.—Alf M. Landon is 92 today.

For the first time, Kansas is officially recognizing his birthday, even though he's lived in his adopted state for eight decades and served it as governor in 1933–37.

The 1979 Legislature designated Sept. 9 as "Alf Landon Day" in tribute to the state's most publicized elder statesman and most honored non-native son.

Landon, born in West Middlesex, Pa., in 1887, was described in the legislative resolution as "a source of knowledge to state and national leaders."

Although the declaration seemed overdue to many Kansans, it pleased Landon immensely, especially since it won unanimous support from Republicans and Democrats alike.

The bipartisan endorsement of the resolution proclaiming his day wasn't lost on Landon, who has always proudly called himself a politician.

The fact the resolution passed unanimously persuaded Landon that he should avoid partisan political issues in what has become his annual birthday interview with The Associated Press.

Instead, he preferred to talk about the international situation, a major topic among his wide-ranging interests.

He expressed deep concern about the political and economic state of the world, especially the developing showdown between the U.S. and Russia over the presence of Soviet troops in Cuba. He said he considers the situation as serious as the Berlin blockade and the Cuban missile crisis.

Landon, who ran for president against Franklin D. Roosevelt 43 years ago but never tried for elective office again, will be the first to admit he's slowed down in recent years.

His last major speech was two and a half years ago in Chicago, when he was 89. The trip was so taxing, he conceded, that he can never try that again.

He no longer travels the 60 miles to nearby Manhattan for the addresses in the Landon Lecture Series, named for him when they were initiated 13 years ago at Kansas State University.

He no longer rides Red, his aging horse, up the Kansas River bottom. His frequent rides now are limited to a half hour or an hour around the Landon estate in northwest Topeka.

He also spends less time in the office at his Topeka radio station, WREN, and does more and more of his work—supervising his six radio stations in Kansas and Colorado and his oil business—by telephone.

His doctor has prescribed physical checkups every two months, mainly to keep tabs on an irregular hearbeat which hospitalized him last May. He had his latest checkup last Tuesday. "I'm doing OK," he reported.

In keeping with his reduced schedule, today's birthday observance at the Landon home will be subdued.

Wife Theo is having dinner for a dozen family members, including U.S. Sen. Nancy Landon Kassebaum, who was scheduled to fly in Saturday from Washington.

Son Jack also was due from Fort Collins, Colo., along with a handful of grandchildren and one of Landon's six great-grandchildren.

Other than the family dinner, Landon said his birthday would be routine.

"I'll go down the driveway to get the paper, and I'll go down to the barn to feed Red. I'll pick some apples for him. Then, it'll be just the family dinner and I'll probably listen to the ballgame in the afternoon."

His views on the Cuban situation dominated a recent interview.

Presence of Soviet troops in that island nation and uncertainty over Soviet intentions in the Caribbean pose as serious a crisis for the U.S. as the Berlin blockade and the Cuban missile crisis, he said.

"This is a critical escalation of our problems with Russia. This really supersedes, for the time being at least, ratification of the SALT II treaty and the president's energy program. How it's settled is going to have a profound effect on SALT II, international relations and the policies of all countries," he said.

"Back on the early 1960s, they started to ship their missiles into Cuba and we faced them eyeball to eyeball," he said. "We face a repeat of that situation now.

"It's another example of Russia's expanding its influence, and our apparent reluctance to do anything about it. I consider that very serious."

Asked what the U.S. should do, Landon replied:

"That's a question for the president, who is in possession of all the facts. This is too serious a situation for any partisan political analysis of what should be done.

"For me to venture any position as to what we should do about it is not proper, because the president has all the facts, it is his decision."

Landon said he sees the Russian actions as testing U.S. will power, not as a gambit to win Senate approval of SALT II.

"The president knows all the ramifications involved," Landon said. "I am anxiously awaiting his decision."

[From the Kansas City Times, Sept. 7, 1979]

OLD GAMBIT, NEW PLAYERS—SOVIETS, AS DID GERMANS, ARE TESTING UNITED STATES, ALF LANDON SAYS

TOPEKA.—Alf M. Landon, the Republican Party's foremost elder statesman, who will mark his 92nd birthday Sunday, has likened the presence of Russian combat troops in Cuba to Germany's occupation of France in World Wars I and II.

Landon, the GOP's presidential candidate in 1936, said he believed that Russia was testing U.S. willpower and that the American public did not yet recognize the seriousness of the situation.

He said the Soviet troops posed the same kind of threat to the United States that German troops did twice this century "not only to Great Britain, but also to all democratic governments in the world."

In an interview Thursday, Landon said the Russian troops in Cuba represent a dramatic deterioration in U.S.-Soviet relations.

He said the Soviet troops' presence was an indication that Leonid Brezhnev was making the same mistake that German leaders made in the early stages of both world wars—"overestimating the so-called isolation sentiment in America."

At the outset of both world wars, Landon said, the Germans did not believe the United States would come to the defense of England and Europe. Now, he added, the Soviet Union apparently believes this nation will tolerate Russian troops 90 miles from its shore.

Landon said he supported Secretary of State Cyrus Vance's statement Wednesday that the United States would not allow the status quo in Cuba.

Landon said Germany's Kaiser Wilhelm "had contempt for England's willingness or military ability to effectively resist his occupation" in World War I.

"He also made the tragic mistake for Germany and the rest of the world of not believing that America would come to the support of England and what was left of the French government," Landon said. "We did, and furnished the resources and the troops to win that war."

Adolph Hitler repeated that mistake, Landon added, "in dismissing America's support of England" in World War II.

"Today, we occupy precisely the position that England did early in the world wars, with Russia's combat troops in Cuba," he said.

"Brezhnev has made the same mistake in thinking that America will tolerate the presence of a sizeable force of combat troops in Cuba.

"I've always advocated a policy of maintaining talks with Russia, on the theory that if you're talking you aren't shooting.

"I've also advocated speaking softly but carrying a big stick. I've also said we can't have guns and butter at the same time. Today, we have neither butter nor guns.

"This is no time to be trying to assess the blame for the confusion in our past and present foreign policy. It is time to rally to the support of our government.

"We do have economic resources Russia does not have. We also have world opinion on our side. The only way Russia can enforce its position is through world war. And it does not have the food, strength or knockout power to win that kind of war.

"This ends the SALT II debate. This is not a test by Russia to get SALT II ratified. This is a test to see how we stand up to an overt military act." ●

THE PROBLEM OF ILLITERACY

● Mr. McGOVERN. Mr. President, as schools across the country are reopening their doors, national attention is once again focused on the classrooms of the Nation. As two recent articles from the New York Times point out, we should not only attend to the quality of education from kindergarten to 12th grade, but also the level of education attained and maintained by our adult population.

On September 8 of last year, I delivered a speech on illiteracy in which I outlined the extent of illiteracy in and out of our schools, and reviewed the scope of current Federal programs to combat the incidence of illiteracy. I reported the results of Federal studies that found 13 percent of white, 42 percent of black, and 56 percent of Hispanic 17-year-olds functionally illiterate. As a result of that initial investigation I urged the establishment of a National Commission on Literacy to investigate the causes, the extent, and the effect of current and past, public and private programs and policies related to improving the quality of education in the United States. In addition, that commission was charged with formulating recommenda-

tions for the Congress, the President, and the American people.

At that time, I stated that America was behind the Soviet Union, that we have three times as many illiterates. I am sorry to say that since that speech no major action has been taken to recognize or to remedy this unconscionable situation, and that in fact, the situation has steadily worsened. I just wonder how long it will take before we get this problem in hand. How many more years, how many more drops in SAT scores, how many more percentage points added to our adult illiteracy rate before we finally wake up to the fact that we have a serious problem that is eroding our ability to cope successfully with events that threaten the social, economic, and political security of this Nation.

As the country becomes increasingly absorbed with solving inflation and the energy crisis, we should not continue to neglect the most important weapon we have in fighting to keep America strong—the intelligence and the competence of every American. When our President calls on each and every American to help in a fight, the outcome of which affects every American family, how quick and sure will our victory be when 23 million adult Americans cannot even read the title page of the latest Government handbook on energy conservation? How will 86 million be able to conserve gasoline when they cannot even compute their car's mileage per gallon, or how will 78 million stretch their dollars when they cannot compute the unit price of an item? When people are not equipped to confront these problems effectively, they certainly will not be part of the solution.

Mr. President, I urge my colleagues to read these two articles which address the declining achievement of our recent high school graduates, and the magnitude of our indifference to their equally miseducated parents. I ask that these two articles be printed in the RECORD.

The articles follow:

SCHOLASTIC APTITUDE TEST SCORES DROP AS 10-YEAR TREND GOES ON

WASHINGTON, Sept. 8.—The Scholastic Aptitude Test scores of America's high school seniors fell slightly this year, continuing a downward trend that began a decade ago, the College Board said today.

The average S.A.T. verbal score dropped two points to 427, and the mathematics score dropped one point to 467.

The multiple-choice test taken by a million college-bound seniors is scored on a scale of 200 to 800. Ten years ago the average verbal score was 463 and math score, 493. Originally 500 was supposed to be average.

Although the test was designed to rate students, not schools, the national decline in scores has been viewed in many quarters as evidence that something is amiss in American education.

Robert G. Cameron, a College Board official, said that the latest decline was "disappointing in light of what many schools have been doing to improve education."

But he added, "Since there are many causes for the decline, schools cannot expect to reverse the trend quickly or single-handedly."

CONTRIBUTING FACTORS CITED

A 1977 College Board study concluded that a variety of factors, including television, changes in the family, relaxed standards and the tubulence surrounding the Vietnam War and Watergate, were responsible for the drop in test scores since 1970. The increasing numbers of minority students taking the test figured in a drop before 1970, but since the the decline has affected students across the board, the study said.

Members of minorities and low-income youths of all races were generally found to score 100 points below average.

The test has been involved in a controversy recently over whether coaching increases students' scores.

The College Board maintains that drills and cramming are not likely to raise students' scores very much because the test measures skills developed over a long time. But a recent Federal Trade Commission study indicated that coaching schools might help some students.

The College Board also disclosed the following from a questionnaire given to test takers:

Seventeen percent were members of minorities, a record.

Test takers chose business as their most popular field of study in college, dropping health and medicine to second place for the first time. 'This switch is primarily due to women, whose interest in business has more than doubled since 1973," the board said.

The college-bound seniors reported a median family income of $20,800.

Their parents were expected to pay a median of $1,190 toward college costs, according to the board's College Scholarship Service. The amount for black and Puerto Rican families was $110; Mexican-Americans, $470; American Indians, $590; Asians, $720, and whites $1,570.

FIGHT ON ILLITERACY FOUND TO LAG BADLY—REPORT CALLS FOR PROGRAMS TO TRAIN ADULTS IN POOR AREAS OF U.S.

(By Gene I. Maeroff)

Efforts to eradicate illiteracy in the United States are grossly inadequate, and new and varied approaches are needed to help tens of millions of adults who lack the skills to perform basic tasks, according to a report issued yesterday by the Ford Foundation.

"Publicly proclaimed goals and actual achievements are far apart," the report says in criticizing existing projects aimed at illiteracy. "The public rhetoric of these programs is designed to secure legislation and funding from a Congress that knows little about its educationally and economically marginal constituents."

The report, entitled "Adult Illiteracy in the United States: A Report to the Ford Foundation," calls for the creation of a network of community-based programs in the neighborhoods of the poor as the key to a vast attempt to increase the functional skills of adults.

Participants would help design the programs based on their own needs. The acquisition of reading and writing skills would be directed toward enabling men and women to join more fully in society by linking instruction to such endeavors as job training, community activism and attempts to improve housing and health care.

A problem of existing programs, the document maintains, is that they are not immediately relevant to people's lives and, as a result, fail to reach large numbers of illiterate people. "Only 2 to 4 percent of them ever enter the programs," according to the report, which has been published as a book by McGraw-Hill.

The authors of the two-year study are Carman St. John Hunter, a staff member of World Education, and David Harman, an education professor at Hebrew University in Israel. World Education is an international nonprofit organization concerned with community development and nonformal education.

The extensive growth of adult education around the country has apparently bypassed people with the least schooling. The report cities figures showing that while people with less than a high school education constitute 40 percent of the adult population, they make up only 13 percent of the participants in adult education.

Complicating the battle against illiteracy is the question of determining the amount of reading ability a person needs to cope with an increasingly complex society.

WIDESPREAD ILLITERACY HINTED

The report relies on statistics gathered in earlier studies of illiteracy in the United States. Mrs. Hunter said in an interview that the number of illiterates was uncertain and that researchers must depend on figures that would seem to indicate the likelihood of widespread illiteracy.

For example, two million adult Americans never attended any school, 14 million more never finished the fifth grade, 10 million others dropped out between the fifth grade and the eighth grade and 30 million dropped out of high school, making a total of 56 million adults without diplomas.

An additional indicator of illiteracy was the Adult Performance Level survey sponsored by the Federal Government in 1975. It was found that 23 million adults "lacked important functional competencies" and 34 million more "were functional but not proficient."

Mrs. Hunter said that the total inability to read or write, which is considered evidence of illiteracy in the underdeveloped parts of the world, is not necessarily an accurate measure of literacy in the United States, where a higher level of functioning is needed to get by in society.

THE DEFINITION OF LITERACY

In effect, the report deals with the implications of an evolving definition of literacy.

"Many of the Americans we are talking about would be considered educated in India or Indonesia," Mrs. Hunter said. "But the classic definition of literacy, the reading and writing people learn in the first four grades of school, is not enough in the United States."

Literacy is increasingly assessed by the ability to apply reading and writing skills. Many adults who know the alphabet and can write words are, for instance, nonetheless unable to address a letter so that it will reach its destination or interpret a bus schedule or understand a printed explanation of finance charges.

The report presumes that there is a strong relationship between poverty and illiteracy, pointing out that 41 million American adults earn less than $5,000 a year and that they are usually the people with the least schooling.

There is a hard core of illiterates, disproportionately members of minority groups, who almost never enroll in any of the programs designed to combat illiteracy, according to the report.

"Only by intensive attention will they be reached by any educational program," the document says. "Many will never enroll in programs of any sort for diverse reasons: cultural or linguistic barriers, fear of failing, distrust of the institutions of the mainstream culture, reliance on electronic media as a substitute for the written word, and the ability of some to find satisfaction despite low levels of academic attainment."

POTENTIAL SUPPORT SEEN

The informal, community-based approach to literacy envisioned in the report supposedly has the potential to win the confidence of people who would otherwise be suspicious of solutions that they consider imposed upon them from the outside.

The report contains some praise for the nation's biggest anti-illiteracy project, the Adult Basic Education program, which was

established by the Economic Opportunity Act of 1964 and was later transferred to the Elementary and Secondary Education Act. By 1976, this program enrolled 1,700,000 adults and was receiving $67.5 million in Federal assistance and $184 million in local and state funds.

Yet, persistent problems plague the Adult Basic Education program and one-third of the adults drop out of the courses, which last the equivalent of about one semester. Furthermore, the report asserts that many of the teachers tend to have little familiarity with the impoverishment of the adults they are teaching.●

A FINAL LOOK BACK

● Mr. GOLDWATER. Mr. President, on July 28 this Nation lost one of its most dedicated patriots and one of its finest authorities on constitutional law when Dean Clarence Manion passed away from the results of a stroke suffered 2 weeks earlier. The former head of the Notre Dame Law School and chairman of President Eisenhower's Commission on Intergovernmental Relations had long been associated with the cause of sound Government and adequate defense for the United States. He was founder of the highly respected Manion Forum radio program which was inaugurated in 1954 and continued up to the time of his death.

Mr. President, over the years I was associated with Dean Manion in many projects designed to make our Government more responsible to the needs of its citizens. He was of great assistance to me in the pursuit of conservative causes and assisted me in the publication of my book, "The Conscience of a Conservative." I could go on at great length extolling the accomplishments of this dedicated and remarkable man; however, I certainly could not improve upon the memorial written for the Manion Forum of August 19 by his son, Daniel A. Manion, a State Senator from the State of Indiana.

I hereby ask to have State Senator Manion's tribute to his father, entitled "A Final Look Back" printed in the RECORD.

The article follows:

A FINAL LOOK BACK—THE FRUITS OF THE SOIL OF GOD'S CREATIVE PURPOSE

(By Daniel A. Manion)

As we announced over the Manion Forum network last week, Dean Clarence Manion died on July 28, 1979, at the age of 83 of complications resulting from a stroke suffered two weeks earlier. This week's broadcast will be the last to be heard on the Manion Forum. After 25 years on the air, it is difficult to face the reality of having to close.

Yet, after much discussion among the members of the family, we feel satisfied with this decision. God has called Dean Manion, and, after all, Dean Manion was the Manion Forum. From start to finish he was the editor and decision maker of everything that went into the broadcasts and publications. To go forward with any project that would be under the name of the Manion Forum that did not have the careful scrutiny of Dean Manion would be something different, something new. No matter how good or how well meaning that new project might have been, it would not be the Manion Forum. Therefore, our family and close friends of the Manion Forum reluctantly agreed that it is better to end on a positive note and to package and preserve the legacy as it is.

In this, the final analysis, I want to take a brief look at the Manion Forum's history and its purpose. In his first broadcast over the Manion Forum network on October 3, 1954, Dean Manion stated "I am here now, next week and hereafter, to tell you the simple truth as I see it, limited only by the principles of decency, morality and good taste."

In what was to be his final 15-minute broadcast, heard on July 8, 1979, Dean Manion said, "I refused then and still refuse to turn around. I stand now, as I did then, for the historic independence and national sovereignty of the United States. You will hear more of my reasons why, in future Manion Forum broadcasts."

Well, we won't hear any more of those reasons. But really we need only to examine the vast reservoir of information that Dad left behind to know and understand those reasons that he could have given in the future.

In his book, Lessons in Liberty, written years before the Manion Forum came into being, Dean Manion constructed a diagram called the "Tree of Liberty," which diagram clearly illustrated the source and evolution of constitutional government in the United States. As with any tree, the Tree of Liberty started with the soil, in Dad's words "the soil of God's creative purpose." This was the foundation of all of Dean Manion's philosophy. As he stated in *Lessons in Liberty*, "this is the only soil in which the real Tree of Liberty can grow and live. If this tree, strong and broad as it now is, were transplanted to other soil it would soon wither and die."

The roots were the next part of the Tree of Liberty in Dean Manion's diagram. These roots consisted of the principles of the Declaration of Independence. In a guest editorial appearing in the July 4, 1971, issue of the New York Times entitled "A Very Rare Document," Dean Manion analyzed the Declaration and how it was founded on faith in God. He said "to proclaim 'that all men are created equal' and that 'they are endowed by their Creator with certain unalienable rights' goes far beyond any supporting floor of material evidence. Such a proclamation is a profound act of faith which each of the signers of the Declaration performed when he subscribed to it. . . .

"The signers thus truly believed that all men are equal before God but they knew from the evidence that man-to-man, all men are unequal; that here and now, each man is different from every other man. From the unquestionable evidence, they knew that the Creator gives each of us a special personality that is obvious from our looks and actions and is finally certified by the examination of our fingerprint, our God-given individualating trademark which distinguishes each of us from every other person who has ever lived."

The rest of the Tree of Liberty, of course, consisted of our federal system with the individual State and Federal Constitutions forming the trunk of the tree, and all of the branches of the state and federal government logically forming the branches of the tree. But all were founded on God's creative purpose and the unalienable rights that were endowed by our Creator, those of life, liberty and the pursuit of happiness.

This was the underlying philosophy that Dean Manion brought to the Manion Forum. But Dad didn't just espouse these principles—he lived by them. In 1934, when he ran for the U.S. Senate, the state Democratic nominating convention was deadlocked among three people. Deals were offered and made—but Dad wouldn't deal, and he lost.

When Clarence Manion was serving as Indiana Director of the National Emergency Council in the Roosevelt administration, a conflict arose. Dad felt strongly that the United States should not get involved in the war in Europe. When presidential assistants and other power brokers insisted that he promote the party line, Dad resigned instead.

In 1952, after teaching 25 years in the Notre Dame Law School, and after serving the last eleven of those years as the Law school's Dean, Dean Manion resigned. He had recently authorized the best selling book, the Key to Peace. Also at that time he was active in the Taft for President campaign. And, if that was not enough, on behalf of the American Bar Association, he was aggressively pursuing the adoption of the Bricker Amendment which would prevent treaties with foreign nations from interfering with the reserved right of the states. The heavy demand for speaking engagements on those issues made it impossible for him to continue as Dean.

Taft lost and Eisenhower won, and perhaps at Taft's request President Eisenhower appointed Dean Manion to the Chairmanship of the Commission on Inter-governmental Relations. The intent of the Commission was to return the taxing and regulatory power to the states.

Dean Manion's July 8 Manion Forum broadcast covers the details of that appointment and the subsequent controversies surrounding it. But what that broadcast does not relate is that when the Eisenhower administration changed from a neutral to a negative position on the Bricker Amendment, Presidential aides and power brokers again emerged. They insisted that if Dad would back off from his campaign for the Bricker Amendment, he would receive the next appointment to the U.S. Supreme Court. Not only was Dad a brilliant constitutional law expert and former Dean of the Notre Dame Law School, but he was also a Catholic Democrat, the apparent ethnic requirement that the High Court lacked at that time.

For some, that was a tempting prize indeed. But for Dad, he not only disregarded the Supreme Court lure but also resigned from the chairmanship of the prestigious Commission and continued his endeavors for the Bricker Amendment—which incidentally was ultimately one vote short of the two-thirds majority required in the Senate.

At that point in his incredible career Dean Manion founded the Manion Forum, which would continue for nearly a quarter century until this its final day. But the bottom line on that career was not the prestige and influence that sometimes followed his many pursuits, but rather it was Dean Manion's continual subordination of personal gain to what he believed was right. Whether a Senate seat or seat on a Supreme Court for Dean Manion, principle always prevailed over political expediency.

Before we close the book on this final chapter of what will undoubtedly be recognized historically as an American institution, we should recognize also those loyal workers in the Manion Forum who helped make it great. Emmett Mellenthin, who died June 6, 1979, and who was the subject of Dad's own final broadcast on July 8, was the director, engineer and Mr. Everything from the beginning. Trudy Kreider who has been with us for 23 years and Marlene Rumsey who has been with us for 20 years are the loyal and hard working office ladies who handled the large volume of work throughout the years and who remain with us to the end. Eugene Alexander, the accountant and also administrator of many of the many details, has been with the Forum for the past 15 years. And Wilda Polt, from the beginning until just a few years ago, was the office manager and editor. Captain Frank Manson in recent years was the invaluable on-the-spot reporter in Washington who obtained so many magnificent interviews for the Forum. And finally my sister, Marilyn Manion Thies, worked for the Forum

for a number of years and for the last 12 years has written the Manion Forum Newsletter, (the last of which appears on the back of this broadcast). For their excellent work and unqualified loyalty, we thank each and all of them and commend their work as Dad so often did.

We are very much aware that many friends of the Manion Forum would love to see it continue, at least under some form. Because of the fact that the Forum has in its treasury every recorded broadcast since the beginning, we plan to preserve the tapes in an accessible place for research and possibly even reproduction. But no matter what new entity, if any, takes over from the point on, it will not be the Manion Forum, because Clarence Manion was the Manion Forum.

To perpetuate the Manion Forum as it has been up till now is an impossibility, and we choose to put it to rest when it is on a high note. Future generations will always be able to draw upon it as the excellent source of information that Dad so carefully insisted that it be.

The Manion Forum always did have and still has money problems. I guess it was a non-profit organization on the first order. But not only did Dean Manion never receive any money for his mammoth effort and sacrifice—he always refused to ask for contributions over the air, and we are not going to start now.

Rather, we are ending all of this by tying a final ribbon on a beautiful package whose contents contains a 25-year legacy that is undoubtedly unsurpassed anywhere. The package includes the prolific writings of Dean Manion, exclusive interviews with leaders of business, religion, government and education. Some of those interviews include the voices of former President Herbert Hoover, Richard Cardinal Cushing, Captain Eddie Rickenbacker, Senator Joseph McCarthy, General Douglas MacArthur and hundreds more. In fact, the first national broadcast that Senator Barry Goldwater ever made was on the Manion Forum in 1957. And incidentally, it was Dean Manion who published The Conscience of a Conservative, the book that launched Barry Goldwater and the Conservative movement into national prominence. At that time no one else would publish it.

These historic broadcasts are not sensational merely for their content at the time—rather, many of the issues discussed by Dean Manion and his guests were presented with amazing foresight. Broadcasts warning of such things as the possible bankruptcy of the Social Security system, the threat of a weakening National Defense, the approach of runaway inflation and mammoth deficits, as well as numerous other subjects were presented long before these unfortunate problems actually occurred.

But regardless of the controversy at the time, the Manion Forum microphone was always available to patriots and advocates of the conservative cause when they were otherwise precluded from the national media. For that reason alone there is no doubt that the preservation of freedom in this country was better served.

In addition to the 15 minute broadcasts and interviews presented during the 25 year history of the Manion Forum, for the past several years Dean Manion also personally wrote daily three minute Footnotes. The last line of the last Footnote he recorded was this: "Regardless of its civil code of laws, a society that is not held together consciously by its teaching and observance of the laws of Almighty God is unfit for human habitation and doomed to destroy itself." That line beautifully sums up those principles he always espoused and lived. Those same principles diagramed in the Tree of Liberty. Those same principles so carefully brought out by his favorite example of that individuating fingerprint that underscores the miracle of God's creation.

Sometimes shoes are hard to fill, and often footsteps are tough to follow. But fingerprints are never duplicated—rather they are God's way of saying we are equal only under the scrutiny of his infinite wisdom and mercy.

The Manion Forum is Dad's fingerprint. It is a vast legacy through which he touched us all. The other members of the family and I choose to leave it that way—never duplicated, never smeared, but unmistakenly Dean Clarence Manion. With that, this is the Manion Forum finally, and prayerfully, signing off.

MY OLD KENTUCKY HOME, GOOD NIGHT

Dean Clarence Manion was eighty-three when he died.

He was my Dad.

We buried him on a hot July day in the Year of Our Lord 1979, after a funeral Mass at the parish church our family had attended for more than forty years.

The people who came to pay their last respects joined the family in singing America the Beautiful and God Bless America. Dad loved his independent nation under God, and these songs expressed that love.

Then, before the mourners left the church, my brother Christopher, from the depths of the choir loft, sang My Old Kentucky Home. Dad was born and raised in Kentucky; whatever took place after he left his home state many years ago was moulded by that birthright. Dad loved Kentucky with a nostalgic fondness; he loved the United States of America with a grand passion. He was a patriot.

My cousin, Father Miles Riley, flew to South Bend from San Francisco to be with us for the wake and to say the funeral Mass. Our last goodbye to Dad was a family affair. All five of his children helped plan the service. His sons, Dan and Christopher, read the passages from Scripture. Two of his grandchildren presented the gifts at the Offertory.

We made it a family-oriented service because Dad believed so much in the importance of the family. He felt—no, he *knew*—that the family is the backbone and the basis of society. He maintained that families, not the State, should take care of their members.

Dad, as Father Miles pointed out in his funeral homily, was a traditionalist. He believed in conserving the heritage left to us by our forefathers. He believed in God, in man's obligation to obey God, and in man's duty to organize his life in a way pleasing to God. Dad strove always to live by the precepts of his faith. He was firmly convinced that, if every person on earth were to observe the Ten Commandments, our world would be free of the strife and evils which now threaten us all.

Dad is in Heaven. We in his family know that, and so the tears we shed are not for him. We weep for ourselves, because we miss him very much. We hope that all of you in his radio family—and he did love you dearly—will rejoice in his homecoming to God's heavenly kingdom.●

NATIONAL MEALS ON WHEELS WEEK

● Mr. WILLIAMS. Mr. President, it is with a sense of real pride that I join my colleagues in the Senate and the thousands of people across the Nation who are celebrating National Meals on Wheels Week.

As the former chairman of the Special Committee on Aging, and as chairman of the Labor and Human Resources Committee, I have had the opportunity to thoroughly study the complex problems facing our elderly. Medical bills, skyrocketing housing costs, plus inflation have eaten away at their assets and they have watched as their fixed incomes and retirement nest eggs dwindle away.

Letters from constituents and testimony given during Senate hearings repeatedly bring home the fact that a significant number of senior citizens are confined to their dwellings, and isolated from others in their community because of their inability to get out on their own. Many are also plagued by malnutrition and hunger because they either cannot afford to buy enough food, or they are not physically able to prepare three well-balanced meals for themselves each day.

In 1965, Congress formally acknowledged this problem and decided to build on an existing volunteer network to bring hot, nutritious meals to the elderly. Federal funds were authorized to bring meals to the homebound, and provide food at congregate facilities. I cannot understate how rewarding it has been to see this program grow not only in size but in stature. It is a successful program and one which I am proud to champion in the Senate, and throughout the country. I have worked with meals on wheels groups in New Jersey, and I have seen the joy on the seniors' faces when their volunteers come to deliver a meal. And I have seen the rapport which grows among all the participants in the program. All to often the volunteer who delivers the food is the only contact which homebound elderly have with the outside world.

This friendship which blossoms between program participants is one of the most important aspects of meals on wheels. The nutritious food may avert malnutrition and help keep an elderly person from needless institutionalization, but it is the human interaction between volunteer and the homebound which makes the program invaluable.

Throughout the years, I have received many letters from New Jersey senior citizens, telling me how much the meals on wheels program has meant to them.

One man wrote:

I am a widower, 78 years old, with no one to cook for me. I never eat properly. Dry cereals and eggs or jelly on toast is very filling but I lost 22 pounds. One day my neighbor took me to lunch at the nutrition center. It has really saved my life. . . . The food is really delicious and served by such wonderful people.

Another person said:

We need these meals to help us at this serious time of high prices. My social security will not reach to buy the variety of diet we get . . . which is essential to our health.

And yet another wrote:

My Aunt and I are among the grateful people who receive the Meals on Wheels. This is a wonderful program for those of us who are disabled and have limited incomes. I hope it can continue. The people at the site render a greater service in preparing and delivering the meals . . . I find old age sad and frustrating not as Browning said . . . "Grow old along with me, the best is yet to be, the last of life, for which the first was made."

Volunteers also write about their experiences with the program. Dedicated, concerned people, they understand how much their work means to others.

One worker wrote:

Bill and I volunteer our services. In many ways we believe in the program and know how many benefits come from it. The educational, health and social aspects are of value and interest to us. As seniors we feel that having lived respectful lives and paying our taxes approximately fifty years, we should be given some consideration especially during a period of high inflation . . . it can lighten the burden where there is a fixed income.

Both the meals delivered to the homebound elderly and those meals served in the congregate eating sites, funded under the Older Americans Act, have been an effective and extremely popular means of helping thousands of senior citizens maintain their dignity, their health, and their independence within their homes and communities.

I would like to thank the many workers who make this program possible, and commend them for the outstanding job they have done since the programs' inception.●

CHRYSLER CORP.

● Mr. WEICKER. Mr. President, on Saturday Chrysler Corp. submitted to the Treasury Department a request for as much as $1.2 billion in loan guarantees as part of its recovery plan. Fortunately, Treasury Secretary G. William Miller rejected the request. Unfortunately, Mr. Miller merely sent Chrysler back home to rewrite the plan instead of simply telling them that the Federal Government would not bail out the company.

The principle of a Federal attempt to rescue a private company which is failing financially due to poor management is repugnant, not only to this Senator, but to the leaders of private enterprise. An article appearing in today's Wall Street Journal makes it clear that many of the top officials of the Nation's major corporations oppose a Federal bailout.

As Jack Meany, president and chief executive officer of Norris Industries, Inc. stated:

The right solution is to let the natural forces take place. . . . I don't think the government should underwrite private enterprise's failures. If we do that, we are not going to have private enterprise.

Mr. President, I ask that the article entitled "Many Top Executives Oppose Chrysler's Plea For Federal Assistance" which appeared in today's Wall Street Journal be printed in full in the RECORD. I strongly urge my colleagues to heed the admonitions of those in private enterprise who believe that the market place, and not the Government, is the most efficient allocator of resources.

The article follows:

[From the Wall Street Journal, Sept. 17, 1979]

MANY TOP EXECUTIVES OPPOSE CHRYSLER'S PLEA FOR FEDERAL ASSISTANCE

Should the government bail out Chrysler Corp.?

No, say many of the people most knowledgeable about big business—the top officials of major American corporations. And even most executives who support a federal aid package express doubts or qualifications.

Moreover, a nationwide survey by The Wall Street Journal finds that many leading businessmen don't want to comment on possible government help to the ailing No. 3 auto maker. Of 11 companies contacted by this newspaper's Philadelphia bureau, for example, only one would talk. Most businessmen don't see any reason to get involved in somebody else's problems, while others—mainly executives of suppliers or lenders to Chrysler—feel that they are too involved to comment publicly.

None of the businessmen, of course, knew the precise details of Chrysler's rescue plan, which wasn't submitted to the Treasury Department until Saturday, and thus were basing their comments on supposition. The company is asking for up to $1.2 billion in federal loan guarantees. But it isn't seeking the special tax credits that it had previously termed essential to its recovery. Chrysler also has raised the estimate of its after-tax loss for this year to $1.073 billion from its recent estimate of a loss of about $800 million. Treasury Secretary G. William Miller rejected the proposal as excessive and said it will have to be revised. Whatever the administration eventually does propose to Congress probably will face considerable skepticism there.

NATURAL FORCES

With regard to the general principle of a federal attempt to rescue a failing private company, many executives are clear enough, however. They don't like the idea.

"The right solution is to let the natural forces take place," says Jack Meany, president and chief executive officer of Norris Industries Inc., a diversified manufacturer based in Long Beach, Calif. "In general, I don't think the government should underwrite private enterprise's failures. If we do that, we aren't going to have private enterprise."

Mr. Meany also rejects Chrysler's argument that its collapse would severely damage the general economy. "Quite conversely," he says, "Chrysler's failure would channel the business they had to stronger enterprises and strengthen the economy. Having a weak member in the economy doesn't help it, but only helps make it weaker." He adds: "The slack will be picked up by others" and "the facilities will continue to operate—they'll still make cars—but under different ownership, by others more astute in the business."

HELPING THE WINNERS

Phil R. North, president of Tandy Corp., goes further. "The government should be trying to do everything it can to help its winners instead of trying to hurt the winners and help the losers," he says. "If government would pay as much attention to helping General Motors compete world-wide as they do to help Chrysler, which is only the victim of mismanagement, then GM might be selling a lot more cars abroad."

And even an executive at a company to whom Chrysler is an "important" customer opposes government assistance. "There are a lot of us," he explains, "that believe the marketplace is a more-efficient allocator of resources than the government."

The possibility of setting an unfortunate precedent also worries some executives. William W. Weide, president of Fleetwood Enterprises Inc., a producer of recreational vehicles and manufactured housing, declines to comment on the Chrysler situation specifically but says: "If we help in one case, what will we do when a second or third time comes along? It makes it difficult to maintain our independence from government."

Acknowledging the "practical political pressures that weigh in favor of the government providing some form of financial assistance to Chrysler just as it previously did in the case of Lockheed," Theodore F. Brophy, chairman and chief executive officer of General Telephone & Electronics Corp., adds: "I believe Chrysler isn't the same as Lockheed, and we establish a dangerous precedent of interference with the free-market system if we say yes to Chrysler and let a W. T. Grant fail."

CAN IT SURVIVE?

Like many executives, Mr. Brophy also says any federal help should be contingent on "a Chrysler-developed plan which would give reasonable assurance" that the "company will become financially viable and be in a position to repay whatever financial assistance is provided."

Doubts about whether the government is even able to rescue Chrysler are expressed by Joseph B. Collinson, chairman and chief executive officer of Textron Inc., the big conglomerate. He says he hasn't any qualms about the principle of government aid—a Chrysler-like situation "comes so seldom" that he discounts the threat of growing federal control over industry—but he thinks that the auto maker should be helped only if it can show that "it can survive and later be a profit-making corporation.

To help determine whether any rescue plans are workable, Paul Barnes, president of Talley Industries Inc., a diversified consumer-products maker, wants "an independent board" composed of banking people, marketing specialists and production experts to "evaluate Chrysler's going-ahead plans from both a financial and marketing standpoint."

But Chrysler may be a lost cause, says Lawrence Klamon, senior vice president of Fuqua Industries Inc., an Atlanta-based conglomerate. He questions "whether a bunch of loans to Chrysler won't be just forestalling what's really inevitable. I don't think Chrysler will ever be more than a marginal company in the industry. And that's being optimistic."

Of the executives who favor some federal help to the auto maker, most echo the views of Richard A. Lenon, chairman and chief executive officer of International Minerals & Chemical Corp., who says, "My principal concern is with the people—not only employes of Chrysler but also those of suppliers of that company."

Alexander Giacco, president of Hercules Inc., says he favors "protecting those industries that produce high value-added products, like automobiles," because such products provide "higher-paying jobs for American workers—which is something we should be trying to save."

Concern about possible job losses caused Howard L. Clark, a member of the executive committee of American Express Co., that company's former chief executive and once a director of Chrysler, to change his mind. A self-described "political conservative," Mr. Clark initially opposed aid to Chrysler as unsound in practice but now favors it, saying: "Government has become involved in lots of ways in business. Government spends as much as $15,000 per person training people for jobs, and here it has a chance by guaranteeing loans for Chrysler to save 40,000 jobs. That's a pretty efficient way to go about maintaining employment levels."

Yet the save-the-jobs plea isn't convincing to Tandy's Mr. North. "Don't tell me that if Chrysler went under, that many fewer automobiles are going to be sold or that many fewer bumpers are going to be made," he says. "The employes would just get their checks from a different employer, and the cars, instead of saying Chrysler on the front, would say GM or Volkswagen."

DOUBTS ABOUT DANGER

Even some executives favoring aid to Chrysler have doubts its contention that a collapse would severely hurt the economy and the work force. Douglas Jones, chairman

and president of Pittsburgh's H. H. Robertson Co., says he supports federal assistance if "it's provided at arm's length—I don't think the government should put any of the public's money into Chrysler"—but he adds: "This nation can get along without Chrysler as an auto maker." He also believes that "in the final analysis, it is only Chrysler that can save Chrysler."

However, Peter Scotese, president of Springs Mills Inc., a large textile company based in Fort Mill, S.C., thinks the auto industry is too important to leave only in the hands of GM and Ford. "Without wheels, this country can't function—and I just don't think it would be wise to leave the job of making cars to just two domestic producers."

The government could do a lot worse than invest in Chrysler, Mr. Scotese adds. "Let's face it—the U.S. already backs investment in underdeveloped countries that are a lot more risky than a loan guarantee for Chrysler would be." But he says he isn't "in favor of some sort of eternal subsidy for Chrysler."

RISK-REWARD RELATIONSHIP

Somewhat similarly, the long-term implications of a federal bailout don't seem to bother Paul Thayer, chairman of LTV Corp. Although declining to comment specifically on Chrysler, Mr. Thayer says: "As a general proposition, government assistance to business, particularly in loan guarantees, is a proper industry-government relationship provided there is a proper risk-reward relationship inherent in the deal."

Top executives of two airlines—both of which were in deep financial trouble some years ago—disagree about government bailouts. At Trans World Corp., whose TWA subsidiary sought but didn't get federal subsidies when it was in difficulty, L. Edwin Smart, chairman, declines to comment specifically on Chrysler but says, "I do think there are circumstances when government assistance to private companies is in order." He adds that the government loan guarantees for Lockheed "worked out well."

But Frank Borman, chairman and chief executive of Eastern Airlines, flatly opposes a government bailout of Chrysler. "I think there's enough leeway in the salary structure and other cost areas whereby they could help themselves. Workers, management and shareholders could all participate." He notes that a few years ago, Eastern's workers accepted a wage freeze and later a variable-wage plan.

Some executives opposed to financial aid to Chrysler do think that the government should consider how much its own regulations have contributed to the auto maker's problems. For example, Walter D. Scott, executive vice president for administration and finance at Pillsbury Co., believes that the government "should undertake a quick review of what its regulations are costing Chrysler and other auto makers—and then change the regulations if the benefits don't justify the costs."

Executives at GM and Ford couldn't agree more. GM "isn't opposed to federal government assistance for Chrysler so long as the aid is in the form of relief from the excess burden of regulation and is applicable to all automotive companies," Thomas A. Murphy, chairman, says. "More can be accomplished if the government releases its regulatory hold on business than by involving itself in ownership" of Chrysler and other companies. And at Ford, William O. Pourke, executive vice president for North American auto operations, says: "We don't look forward to a Chrysler collapse, but we think the rules should be the same for everybody. The customer benefits from free competition."

Most executives at Chrysler's rivals are opposed to exclusive aid to the ailing company. "The thought of my company's taxes being used as an incentive to sell against me doesn't give me a warm and comfortable feeling," Mr. Bourke says.

Some auto men prefer not to comment. Philip Caldwell, Ford's president, says Chrysler, burdened with "regrettable" problems, "doesn't need kibitzing from the sidelines."

For somewhat different reasons, many Chrysler suppliers also are reluctant to talk. At Bethlehem Steel Corp., for example, a spokesman says Lewis W. Foy, chairman and chief executive officer, "doesn't want to touch that one. They're a customer, you know." Similarly, David Roderick, U.S. Steel's chairman, "doesn't want to get involved," a spokesman notes. Many executives of suppliers of auto parts, paint and even paper take the same position. And the chairman of an industrial-equipment manufacturer implies that not only doesn't he want to harm his relations with Chrysler, but also he fears that any statement backing aid to the auto company would be viewed as an exercise in self-interest.

Finally, a Sun Co. spokesman says Theodore A. Burtis, chairman of the big oil company, refuses to comment because "we've got problems of our own. Who needs to jump into somebody else's troubles?" ●

SALT OFFERS FALSE LIMITS, FALSE HOPES

● Mr. GOLDWATER. Mr. President, the time is long overdue for a completely fresh approach to the defense of our country and its role in the world. We have very little time left to try to seize the initiative, restore our military strength and serve renewed notice that our fundamental goal is the defense of freedom. These and other important points were outlined recently in a very thoughtful article by former California Governor Ronald Reagan which was published recently in the Washington Star.

I ask that the Reagan article, which was adopted from a speech at San Diego, be printed in the RECORD.

The article follows:

SALT OFFERS FALSE LIMITS, FALSE HOPES

(By Ronald Reagan)

America's power, its will and its sense of purpose all seem to be in a state of advanced decline. Respect for, and confidence in, the United States are at an all-time low. We have a sense of being adrift on a stormy sea, without rudder or compass, our ship badly listing and taking on water. The time is long overdue for a fresh approach to the defense of our country and its role in the world.

We must seize the initiative, restore our military strength and make it apparent to all that our fundamental goals are the defense of freedom and the promotion of peace through genuine arms limitations.

What has happened to the security of our country and to our vision of the future of the world is a story of wishful thinking and stubborn persistence in policies long proven wrong. While the story, a melancholy tale, goes back to the Kennedy and Johnson administrations, we Republicans have to share a part of the blame.

The great legacy of the Eisenhower years—when the U.S. created the strategic superiority that maintained world peace and served as a counterbalance to the conventional military superiority of the Soviet Union—has vanished. Over the past 15 years we have permitted the Soviet Union to deprive us of our nuclear advantage while at the same time it increased its superiority in conventional forces. Our once unrivaled advantage in naval strength is melting away, our fleet is shrinking almost as fast as theirs is growing.

Of what value can our commitments be if we are inferior both in nuclear and conventional forces? How do we support our friends and defend our vital interests in the Middle East? How do we protect our own freedom? And how in Heaven's name did we get in this perilous situation?

The wrong turn came 15 years ago when our own military resources were sucked into the war in Vietnam and our strategic defense budgets began to shrink year after year. We were entranced with the notion that if we pounded our swords into plowshares the Soviets would do likewise. They did exactly the opposite. While we made actual reductions in our strategic programs, they made massive investments in theirs.

They talked about arms control and seemed to hold out the promise of real progress. But somehow, progress was always just around the corner, just another American concession or two away from realization.

Republican administrations should have reversed these policy assumptions. They should not have overstated what the strategic Arms Limitations Talks could do for us. In 1972 we presented SALT I as a "turning point in the arms race," and began our reliance on what is called the "SALT process," which included the doctrine of "Mutual Assured Destruction." At the same time, the Soviets began their exploitation of our naive desire to believe.

DEFEATISM REPUDIATED

Toward the end of the last Republican administration, the national mood had changed. There was repudiation of the defeatism of the Democrat-controlled Congress. We began a recovery of our military strength. The B-1 bomber was scheduled for production, the new MX missile was to be accelerated, the decline in our Navy was to be reversed and many other urgent programs were set in motion.

All of these were reassuring to the American people. With the promise of long-range defense programs to provide for our security, we went forward with the SALT II negotiations. But then came a new administration. The B-1 bomber was canceled without any quid pro quo, the MX was slowed down, the cruise missile delayed, the Navy's shipbuilding program cut back and under the heat of a Soviet propaganda attack, Mr. Carter halted development of a weapon that could have neutralized Russia's massive conventional superiority on the NATO front.

The Russians are now spending three times as much as we do on strategic arms and are increasing that by four to five per cent a year. We are barely keeping pace with inflation. While Mr. Carter maintains that his defense programs for America are adequate, simple arithmetic tells us that the gap in military strength between us and the Soviets can only grow wider if we continue on our present course. The administration deceives the American people when it tells us the new SALT II agreement will put a brake on the arms race, save money and be adequately verifiable. SALT II is not strategic arms limitation, it is strategic arms buildup with the Soviets adding a minimum of 3,000 nuclear warheads to their inventory and the U.S. embarking on a $35 billion catchup which won't be achieved until 1990, if then.

START ANEW

The SALT treaty now before the Senate should not continue to monopolize our attention nor must it become the cause of a divisive political struggle. This is no time for Americans to quarrel among themselves. Our task is to restore the security of the U.S. and we should make it emphatically known to the Soviets and—more importantly—to the nations of the Free World that we intend to do just that. At the same time, let

us assure the Soviet Union we will join in any arms limitation agreement that legitimately reduces nuclear armaments to the point that neither country represents a threat to the other.

To suggest, as the administration has, that any shortcomings in this SALT II agreement can be rectified in continuing talks leading to a SALT III agreement, is an exercise in futility. It makes no sense at all to ratify a Strategic Arms Limitation Treaty that does not limit arms on either side but vastly increases them while at the same we are told we'll enter into negotiations for a third such treaty that will make everything all right.

I believe the Senate should declare that this treaty, fatally flawed as it is, be shelved and the negotiators should go back to the table and come up with a treaty which fairly and genuinely reduces the number of strategic nuclear weapons. And then the Senate should make up its mind on our national security policy: where we are going in the decade ahead? What are our obligations as leader of the free world, and are we capable of meeting those obligations?

I can respect the thinking of those senators and others who have suggested that the treaty, despite its weaknesses, could be approved as part of a "package" that would substantially strengthen our defense programs. But I believe such a package deal would soon unravel and bring about the very dissension and confusion it was supposed to avoid. For one thing, it would send the wrong signal to the American people: it would create the impression that we are moving both up and down at the same time, and it would deceive more people than it would convince.●

KEEPING THE ABORTION ISSUE IN PERSPECTIVE

● Mr. McGOVERN. Mr. President, we have faced many times, the serious question of Federal funding of abortions through various health care programs, and the controversy over this issue has resulted in long hours of debate both here in the Congress and in personal conversations with our families, friends, and constituents. I would like to submit to the RECORD an article in which I expand upon that subject and related issues. It was published in the Aberdeen American News of August 26, 1979, and points out my personal thought and beliefs concerning this issue and the regrettable way it is being used as the sole means of judging a person or society.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

ABORTION IS A SERIOUS ISSUE BUT IT IS NOT THE ONLY ISSUE

(By Senator GEORGE MCGOVERN)

I believe that reverence for life is absolutely fundamental. However, I find myself increasingly concerned by the combination of intolerance, political intimidation, and readiness to ignore other issues relating to life that characterize those who call themselves the "right-to-life" lobby. I find it especially distressing that this group insists that there can be no other answer to the abortion issue except their answer—an amendment to the Constitution of the United States outlawing all abortions. There is, I believe a new and frightening fanticism in this single-issue movement which may threaten religious and political freedom in America—including the time-honored separation of church and state. We are being urged into political and religious warfare by a minority who seek to convert their particular view of unwanted pregnancies into a scorn for those who hold a different conviction about how best to protect and nurture life.

Paradoxically, some persons who are demanding less federal control over their lives are insisting on total federal control over the most private matter a women will ever experience.

I am opposed to abortion on moral grounds. But I do not believe that an amendment declaring abortion unconstitutional can ever be passed. If it were passed, it would not end abortions; it would simply mean that large numbers of abortions would be performed illegally.

Every public opinion poll indicates that the American people are sharply divided by conviction and practice on the issue of abortion. Some are in favor of abortion under some circumstances: opposed to it under others. Some would outlaw abortion under any condition. A majority of Americans however, have indicated their belief that the decision is essentially a personal one—a moral and medical matter to be resolved by the individual or family after private consultation with medical authority.

When it comes to the use of public funds to subsidize abortions for poor women, the American people are also divided. Some who do not challenge the right of a woman to terminate an unwanted pregnancy nonetheless argue that this right should be available only to those of sufficient income or wealth to finance it themselves. Still others who are opposed to abortion on moral grounds believe nonetheless that since the Supreme Court has ruled on the legal rights of women to abortion, that right must be insured to the poor as well as to the rich, even if it involves public assistance. In short, the American people hold widely varying views about how best to face the issues of unwanted pregnancies.

To further complicate the issue, major churches and synagogues are divided in their official pronouncements. A few are opposed to abortion under virtually all conditions. Other religious bodies, including my own (Methodist), firmly support the option of legal abortion under some circumstances, declaring that the sanctity of unborn human life must be balanced against "the sacredness of the life and well-being of the mother, for whom devastating damage may result from an unacceptable pregnancy". Still others are silent on the issue of abortion—apparently leaving this matter to the conscience of the individual and the judgment of God.

All of this re-enforces the wisdom of the founding fathers in building the constitutional separation of church and state. The American edifice of freedom rests on the proposition that here in the United States, no one religious sect can be permitted to impose its doctrines on the entire American people. Each American is entitled to hold to his or her own religious or moral beliefs. No one of us is entitled to use the Constitution of the United States to impose our personal convictions on our fellow citizens.

Beyond these constitutional protections of religious freedom and diversity in America, there is the unwritten but vital tradition of civil discourse and rational debate based on respect for the differing views of our fellow citizens.

All of these constitutional and traditional values are under attack in the single-issue syndrome now festering around the abortion issue. Dismissing public opinion polls and calling those who disagree with them "murderers", the "right-to-life" activists have vowed to eliminate from public office every person who holds a different religious or moral perspective.

Led and financed to some extent by religious groups with the cooperation of right-wing political elements, the anti-abortion lobby has targeted many of the most humane and devoted public servants for defeat at the polls. Some church groups enjoying tax-exempt status are now using their power in the pulpit, in the parochial schools, on the political hustings and in the nation's capital to wage political warfare against all who challenge their determination to use the Constitution to impose a minority religious viewpoint on the whole American people.

The anti-abortion lobbyists and their right-wing allies gloat publicly over their role in defeating such senators as Dick Clark of Iowa. They publicly boast that Senators Bayh, Church, Cranston, Culver and me are targeted for defeat in 1980. In attempting to defeat senators last fall, anti-abortion advocates repeatedly picketed and heckled the targated senators during their campaigns. They climaxed their effort by a massive last-minute distribution of political flyers to church communicants urging the defeat of senators who refused to support an amendment to the Constitution.

Apparently, the dedicated, single-issue, anti-abortion crusader is willing to swallow any candidate, no matter how archaic or twisted his priorities and values—so long as he pledges to make all abortions illegal. One need not be devoted to the life and liberty of those who live and walk the earth to win the endorsement of the anti-abortion lobby. All that matters is that the candidate promise to support a constitutional guarantee against the termination of an unwanted pregnancy. Never mind that the senator or congressman targeted for defeat has given his life to nurturing the conditions of decency and dignity for his fellow humans. Never mind that he has tried to halt the ravages of war and hunger and disease. Never mind that he has tried to stop the steady procession toward nuclear annihilation of our planet. Let him be replaced by any candidate, no matter how opportunistic or unprincipled who will give a ten-second campaign promise to be "right" on the only issue that counts—making all abortions illegal. This is the new trend of single-issue politics as practiced by the "right-to-life" lobby.

I would not for one moment decry the right of church leaders and church members to make known their views on the great social, economic and political issues of our time, including abortion. We need the ethical and spiritual insights of religion in confronting the issues of society.

The late Pope John XXIII, who delivered the great encyclicals, "Pacem in Terris" and "Master of Magistra", gripped the social conscience of the world, as did Pope Leo XIII in an earlier age with "Rerum novarum" and Pius XI with "Quadragesimo anno".

Beyond these renowned spiritual voices, one thinks of the vast multitude of devoted clergy and church workers who have labored for centuries to feed the hungry, and heal the sick and comfort the afflicted, even while ministering to the spiritual needs of their parishes. Civil rights for minority Americans, better wages and working conditions for American workers, compassion for the poor, concern for migrant workers and farm families, the terrible folly of the Vietnam war and the arms race madness—all of these are issues that have been sharpened by the ethical insights of religious leaders and rank-and-file church communicants. No one can fully comprehend the vast contribution of the churches to the betterment of humankind.

But this great tradition of ethical insight, social action and public protest should not be jeopardized by so blind a devotion to a single proposed political or constitutional solution to an issue that we lose sight both

of other solutions and other issues that bear in the human condition. Nor should a single church or group of churches press their own favored solution to a problem with such excessive zeal as to foreclose other possible solutions or to needlessly disrupt the common ground on which the churches stand.

Already the recent crusade in the nation's capital calling upon Congress to make abortion unconstitutional has set off a counter-demonstration by other religious leaders who favor different methods of dealing with the abortion issue. We will doubtless experience more such divisive political battles between the churches and synagogues if one religious lobby insists that its recommended solution is the only one worthy of consideration. In recent months the world has been exposed to the sorry spectacle of religious "wars" in Northern Ireland, the Middle East and Iran. Such zealotry is conducive to neither sane political discourse nor essential religious tolerance. Let us pray that we can develop a climate of mutual respect in which we can deal with our differences in a responsible way.

As one who is personally opposed to abortion, I see it as frequently the needless consequence of personal irresponsibility. It represents a failure of birth control; it is a reflection of the imperfection of our most modern birth control methods, a careless or ignorant disregard of sexual discipline, a lack of education or instruction, or the absence of counseling before or after pregnancy. Obviously, we need programs in proper sexual education, the use of contraceptives, counseling on the possibility of adoption and the easing of adoption restrictions. All of these are a challenge to family, religious, educational and community leaders to carry out their responsibilities more effectively instead of relying on the federal government or the politicians to do their work for them. In some respects those churches and institutions who regard abortion as a moral travesty are confessing their spiritual impotence in calling on politicians to make illegal a procedure that they cannot persuade their communicants to avoid on moral grounds. The growth of abortion represents a failure of the family, the school, and the community, to inculcate in all Americans a personal sense of responsible sexual behavior.

My wife, the mother of five children, finds the concept of abortion abhorrent. I do not believe there has ever been a moment during the 35 years of our married life when she even considered undergoing an abortion. I doubt that she would accept such a procedure even if rejecting it might jeopardize her own life. But she and I reject the notion that we should seek to impose our views on others who hold different but equally firm convictions by amending the Constitution. Nor do we think such an amendment would halt the practice of abortion.

For years I have been concerned about the ravages of alcoholism in the United States. The excessive use of alcohol may be destroying more human beings than the number of fetuses destroyed by abortion. But I could never support an amendment to the Constitution declaring the use of alcohol unconstitutional. That approach was tried in the 1920s with the 18th Amendment. It was a national disaster. Instead of abandoning the use of alcohol, millions of Americans became lawbreakers by producing and purchasing illegal liquor. Huge criminal syndicates developed overnight to produce and distribute the illegal brew. Every village and neighborhood across the land had its local bootlegger—sometimes dispensing highly toxic "rot-gut" whiskey. The 18th Amendment was enacted under the pressure of a single-issue lobby which was as convinced of the murderous results of "demon rum" as the right-to-life advocates are of the murderous results of abortion. But an amendment against alcohol did not make the American people sober; it simply sent them to the bootleggers and the gangsters.

So it was prior to the legalization of abortion in the United States, and so it would be again if an amendment against abortion were enacted. In country after country, including our own, when the abortion laws have become overly restrictive, women have terminated unwanted pregnancies by seeking out the illegal abortionists. This has led to unsterile procedures, coat hangers and all the rest of the practices that have killed or maimed many young women. They have left deep emotional scars on the law-breaking women. They have driven otherwise law-abiding citizens into the back rooms, the alleyways, the basements of illegal abortion quarters, often controlled by organized crime.

European countries that have had experience with both legalized abortion and illegal abortion have noted an alarming increase in the number of deaths and serious complications, including sterility or disease, when they have tried to outlaw abortion.

Given the present state of American society, I believe that an amendment declaring abortion unconstitutional would be as disastrous a failure as the prohibition amendment making liquor unconstitutional.

Those who believe that abortion is the only worthy test of one seeking high office should be reminded that each year millions of our fellow humans are being killed or maimed by the ravages of hunger, poverty, torture, exploitation, brutality, child abuse, wife-beating and war. There is no abortion issue for those who die daily from the pestilence, hunger, brutality and disease that stalk the earth. There is no abortion issue for millions of older Americans who suffer the squeeze of inflation, and who live with dangerous crime-ridden neighborhoods, insecurity, neglect and poverty. There will be no abortion issue or any other issue for any of us if nuclear holocaust terminates us all.

I ask those who are tempted to judge every electoral candidate only on abortion to recall other issues that bear on reverence for human life. It is easy for a political demagogue to give his election year pledge to make abortion illegal. I do not believe any such amendment will ever be ratified in the United States. I doubt that most of the candidates pledging to vote for such an amendment sincerely believe it can ever be ratified. The issue has become a political ploy. Most principled candidates refuse to exploit it.

So, dear citizen, ask us where we stand as politicians on the issue of abortion, but judge us, too, on where we stand and what we have done to feed the hungry, heal the sick, comfort the afflicted and strengthen the worker, the merchant and the senior citizen. What have we done to preserve the values and traditions of the family farm? What have we done to protect God's bountiful earth and its resources that sustain all life? What have we contributed to ending needless war and preventing future conflict? What have we done to reduce racial, religious and political bigotry in our society? What have we done to reduce the abuse of children and the neglect of the old and the handicapped? What have we done for freedom and the integrity of government? Have we become part of "the mess in Washington", or have we maintained our honor and merited your trust?

The abortion issue is serious and it is important. But it is not the only issue and no pledge to a constitutional amendment will either end abortion or resolve the issue.

So let those who feel strongly against abortion seek to influence their fellow citizens—not by recourse to the Constitutional amendments or single-issue ultimatums, but by the slow and patient process of moral and intellectual persuasion.●

THE CONCEPT OF CLOSE UP

● Mr. DURENBERGER. Mr. President, I rise to bring to the attention of my colleagues a series of activities which will take place over the next 9 months which I feel will be of significance to a great number of our constituents. It was announced earlier today that the Close Up Foundation, in which so many of us are involved, is joining with C-SPAN (Cable Satellite Public Affairs Network), the group that provides gavel-to-gavel coverage of the House proceedings, to televise up to 5 hours a week or regular seminars here in Washington between Close Up participants and various Government officials. These sessions could be viewed by any of the regular subscribers to C-SPAN and any of the almost 1,000 high schools that are presently "wired" to receive these transmissions.

I believe this is a tremendously significant achievement. I have long been involved with the Close Up program—first as a member of the Minnesota business community and now as a Member of the Senate. As chairman of the Minnesota Close Up committee, I was able to see the effect of the program on participants. Through the interchange with officials of Government, students became much more conversant with the issues and gained a much better sense of the complexity of Government.

I know that making these sessions available through cable television to all those who will watch will have this same impact. In this time of increasingly complex debates over energy, the economy, and SALT, it is vital that as many people as possible educate themselves on these issues. Televising Close Up sessions will provide this opportunity in a fair and nonpartisan fashion.

I believe these sessions will be yet another contribution that the Close Up Foundation will make to the cause of citizenship education. I salute C-SPAN for its vision and commend all who played a part in making this available.

Mr. President, I ask that an article from Cable Vision on Close Up and C-SPAN be printed in the RECORD.

The article follows:

THE CONCEPT OF CLOSE UP

(By Pat Gushman)

"Senator Glenn, what do you think are the chances for a lasting peace in the Middle East?" The questioner was not from ABC, NBC, CBS or the Washington Post. She was one of almost 11,000 high school students and teachers who participated in CLOSE UP during the past year.

The question and answer session, which took place on the floor of the House of Representatives was only one part of a week-long opportunity for students and teachers to take part in face-to-face discussions with members of the House and Senate, members of the Executive and Judicial branches of government, committee staffers, lobbyists, reporters, various departmental officials, ambassadors and just plain concerned citizens.

Having the opportunity to interact with government in such a direct, personal way is referred to by sponsors of the project as an "experience." And since 1971, more than 50,000 high school students have come to Washington for that experience. This fall, thousands more will be able to share that experience as a result of the joint effort of the CLOSE UP Foundation and the Cable Satellite Public Affairs Network (C-SPAN).

"We appear to be made for each other. It's a very natural thing for us to get together and try this out," said C-SPAN President Brian Lamb, in reference to the plans to distribute many of the CLOSE UP sessions live and on tape to school systems and communities around the country. The experiment linking students all over the United States directly to what is actually happening in Washington, and being seen through the eyes of their fellow students, might be considered the "second phase" of C-SPAN, which began operation last spring with satellite-fed live coverage of the House of Representatives. "It makes sense, that to enhance the value of our service," says Lamb, "that we would associate ourselves with CLOSE UP which has, as its sole mission, the task of involving high school students with their government."

Actually, anyone who has had his own personal experiences with visiting Washington, or his state capital perhaps, as part of a student "field trip," might not readily grasp the impact of the uniqueness the CLOSE UP experience offers. To be sure, there are buses, hotel rooms and cafeteria food, but the rest of the CLOSE UP experience includes an intensive week of 18-hour days during which students find themselves caught up in the pace and purpose of the political community.

"Since its inception in 1970," stresses CLOSE UP President Stephen A. Janger, "CLOSE UP has been committed to the idea that the program would not be one for spectators, but one for participants."

The cosmopolitan Janger, whose roots are in Oklahoma, began to ferment this concept ten years ago by combining his experience with domestic and international tour programs and the desire to appease a gnawing concern he saw in parents, teachers and students themselves about the state of political awareness and sense of civic responsibility of youth. Janger explains he and his associates believed that one way to deal with the increasing doubts about Government was to create a strong feeling of involvement and an identification with their own destiny. One way to reinforce such a concept was to make CLOSE UP a community focused program. The prospects for involving the hundreds of C-SPAN communities are particularly encouraging to Janger and his organization. According to Lamb, "A lot will depend on the cable operators' willingness to work with the community and school systems to make sure it is widely available to students, teachers and parents."

This year CLOSE UP officials expect to involve nearly 12,000 individuals in the program, a far cry from the 25 students who participated in the first "walk through" in 1971. "Academically, it was a success from the very start," Janger recalls, "but getting money in the early going was somewhat difficult. There were times when I thought it should have been started by a philanthropist." Then Congress established the Allen J. Ellender Fellowship program as a tribute to the late Louisiana Senator who had recognized early the value of the concept. By public law the Congress authorizes $1,000,000 to be used by the CLOSE UP Foundation, a nonprofit organization, for fellowships in participating communities.

The Federal funds, together with contributions from other foundations and corporations including R. J. Reynolds, General Mills, EXXON, Hewlett Packard, SOHIO, John Deere Corporation, Getty Oil, Shell, and the money raised by the participants themselves, make CLOSE UP approximately a $7 million operation. Transportation, food and lodging account for most of the expenditures.

NONPARTISAN APPROACH

The Foundation was able to pay off an operating deficit in 1975. It has since been operating on an even keel while continuing to expand its reach and gain the ever increasing support and participation of government officials. It has accomplished this by way of the established success of its nonpartisan (or multi-partisan) approach to political and governmental education. "I have no doubt that the students and teachers who participate return home with a much greater understanding of our political process and an even stronger desire to become involved," writes Senator Robert Dole (R-KS). "I am particularly pleased that the program offers a chance for them to meet with representatives of both political parties and to hear many different points of view."

And from Senator Dennis DeConcini (D-AZ): "I know the students and teachers from Arizona who participated in the program have appreciated the opportunity to participate in the many sessions and that they will return to the state with a better understanding of government. As a member of the CLOSE UP Board of Advisors. I am proud of the work that the foundation is doing. It is particularly important that we keep students interested in government and encourage their involvement in the political process."

Still, more telling of the CLOSE UP experience are the remarks of the participants who have suddenly found themselves thousands of miles from home, many for the first time, in a racially and socially mixed environment. Yet all have a single purpose: learning what their government is all about.

"My views were challenged, my opinions criticized, my sleep time short, and I've never learned so much in so little time," says one participant. "The seminar speakers opened up whole new fields of thought for me. It is not often that one has the chance to hear so many different points of view."

Some students are even quite issue oriented in their responses to the experience. One participant from North Carolina commented that before her week in Washington, she was sure that the defense budget should be cut drastically, if not thrown out altogether. "Over the course of the week," she says, "we argued about this issue in our workshop group and heard contrasting opinions at the Carnegie Endowment for International Peace and at the Pentagon. I still think the defense budget is grossly inflated, but I now realize the issue is not as simple as I had thought. There were many facets to this, and all such problems, which I had not considered. The solutions lie somewhere between my radical rantings and the more conservative ideologies."

Such insights are the result of intensive sessions which begin early in the morning and often do not end until almost midnight. The students are involved in speeches, question and answer sessions, workshops, small groups and even private conversations with government officials. Imagine being invited back into the chambers of Chief Justice Warren Burger to discuss the role of the judicial system.

CLOSE UP is on solid ground financially, as it has grown from a handful of interested organizers to a fulltime staff of some 70 managers, educators and support personnel. The ranks swell to 135 during the school year when contract teachers and project leaders come on while the programs are in session. Academically, it is a success. Students and teachers often return home to set up local programs for participation in community and state government which are based on the CLOSE UP model.

According to the foundation officials, this is where C-SPAN will come in. CLOSE UP expects to be able to bring as many as 15,000-16,000 students through the program next year. "At that point we will just about be reaching our logistical limit," explains Janger. "After that, you cannot bring in, feed and house many more students, let alone keep the sessions intimate and meaningful."

CLOSE UP Vice President Margery Kraus explains that in looking for a way to expand the reach and excitement of the program beyond the logistical limitations, the foundation brought in former broadcast journalist Tom Girard as a consultant. Girard considered the possibility of using video cassettes and other audio-visual techniques to include more schools and students in the process. "Tom had actually been pondering the potential of satellite technology for our project," Kraus says. "When we learned about C-SPAN, we saw it as a way to take CLOSE UP out into more communities."

Girard met with Lamb to explore the possibilities of conducting a joint experiment soon after C-SPAN turned on last March. Then Girard and CLOSE UP representatives attended the National Cable Television Association convention in Las Vegas to learn more about the potential of the satellite and cable television technology. "We were looking for additional programming for the network, and Tom was looking for ways to expand the reach and exposure of CLOSE UP," says Lamb. "It just evolved out of a conversation we had in my office one afternoon."

THE COUNTDOWN BEGINS

Both organizations took the concept to their perspective boards, were given the go ahead, and plans are to begin programming three to five hours a week initially, including live and taped coverage of CLOSE UP sessions: CLOSE UP will incur the costs of producing the telecasts, which will focus on the seminars, question and answer sessions and workshops. C-SPAN will carry them on transponder nine. "We will apply a similar approach to what we do with the House sessions," Lamb says. The cameras will eavesdrop on the sessions rather than incorporate all of the bells and whistles of the network production."

Details of the scheduling remain to be worked out. Wednesday might be the best day to kick this off, according to Lamb, because the House doesn't go into session until 3 p.m. "We can come in live from one of the hearing rooms on Capitol Hill, immediately, or we can use tape at other locations including the White House," says Lamb.

One of the major keys to the success of this experiment, according to Girard, is getting the schools cranked up. So, during the Congressional recess in August, CLOSE UP and C-SPAN staffs worked together, surveying the extent to which the network is reaching the schools and can be used. "The audio visual people, the social studies teachers and the administrators will all have to relate and communicate with the cable operators," Girard emphasizes.

"If what we are doing in Washington can be carried a step further and be replicated in the local communities, there could be a tremendous opportunity for local orignation—it could even be sponsored," explains Girard. "What better way to involve the cable system with every aspect of community life, government, education and business.●

SEVENTY-TWO PERCENT BELIEVE REFUGEE PROGRAM EXCESSIVE

● Mr. HUDDLESTON. Mr. President, during the debate on the Refugee Assistance Act of 1979, S. 643, I stated that the American public is becoming increasingly concerned about the open-ended immigration policy we have in regard to refugees. While most Americans do not object to offering reasonable assistance,

they know that our failure to integrate the refugee program into a national immigration policy will have adverse consequences for our country. Our citizens realize that we cannot continue to admit unprecedented numbers of illegal aliens, legal immigrants, and refugees without the United States incurring a substantial population burden.

I have obtained an advance copy of a Roper poll which clearly shows that our open-ended immigration policy for refugees does not have broad public support. This poll shows that 72 percent of the public believes that only 7,000 or fewer Indochinese refugees should be admitted each month. Only 19 percent support the President's decision to admit 14,000 per month. The principal reasons why the public holds these opinions are: First, our own needy should be our first concern, and second, refugees are expensive to resettle; they deny jobs to Americans and they are too great an economic burden for this country at this time. A substantial 82 percent hold these beliefs.

I ask that the poll from the Roper reports be printed in the RECORD.

The poll follows:

QUESTION 10.—GIVEN PROPOSAL TO RAISE NUMBER OF INDOCHINA REFUGEES U.S. ADMITS FROM 7,000 TO 14,000 A MONTH, WHAT SHOULD POLICY ON REFUGEE ADMISSION BE?

[In percent]

		Sex		Age				Income				Race		Geographic area				Market size			
	Total	Male	Fem	18-29	30-44	45-59	60+	Und 7M	7M-und 15M	15M-und 25M	25M+	Whte	Blck	NE	MW	So	Wst	A	B	C	D
Lower number of refugees we admit each month to less than 7,000	46	48	45	45	41	48	53	49	56	43	34	46	51	42	40	57	44	39	47	55	55
Leave at 7,000	26	25	26	26	26	24	26	29	21	28	28	26	27	26	30	23	23	28	25	24	21
Raise to 14,000	12	11	12	13	11	13	9	9	10	11	18	12	8	14	14	8	13	14	12	9	12
Raise number higher than that	7	7	6	7	12	4	3	2	4	9	10	7	5	7	7	4	10	7	8	5	2
Don't know/no answer	10	8	11	9	9	11	10	11	9	9	10	10	9	11	9	9	10	12	8	7	9

	Education				Occupation			Religion		Political affiliation			Political philosophy			Other key analysis groups					
																		Have kids			
	Total	Coll	HS grad	Non-HS grad	Excel prof	Whte coll	Blue coll	Prot	Cath	Dem	Rep	Ind	Cons	Modr	Libl	Pol-soc actv	Union mbrs	Und 13	13-18	1, 2 Pers fams	Empl fems
Lower number of refugees we admit each month to less than 7,000	46	36	50	55	34	46	51	49	45	49	42	45	51	48	34	38	49	44	51	48	45
Leave at 7,000	26	27	26	24	27	26	24	26	27	26	28	24	28	26	24	24	25	27	27	25	26
Raise to 14,000	12	17	10	7	14	15	10	11	11	11	13	13	9	12	20	15	11	12	8	11	13
Raise number higher than that	7	12	5	2	17	6	5	6	6	6	7	6	5	5	12	17	6	8	5	5	8
Don't know/no answer	10	9	9	12	8	7	9	9	9	8	9	12	7	10	11	6	8	8	9	10	8

QUESTION 11.—HOW DO YOU FEEL ABOUT UNITED STATES INDOCHINA REFUGEE ADMISSIONS POLICY?

[In percent]

		Sex		Age				Income				Race		Geographic area				Market size			
	Total	Male	Fem	18-29	30-44	45-59	60+	Und 7M	7M-und 15M	15M-und 25M	25M+	Whte	Blck	NE	MW	So	Wst	A	B	C	D
U.S. should admit more refugees to encourage other countries to admit more	12	14	11	14	14	12	7	8	9	14	19	13	8	14	13	7	19	13	15	9	6
Refugees expensive to resettle, deny jobs to Americans, too great an economic burden for this country	37	36	37	36	37	35	40	38	39	38	31	37	34	32	33	43	36	35	35	42	39
Refugees suffering and dying because have nowhere to go, we should help them	28	26	30	29	31	25	25	22	22	29	40	28	26	30	32	20	33	32	28	33	22
U.S. should not feel obligated to take in people from other countries who will have trouble adjusting to American ways	13	14	12	14	9	13	16	13	16	11	11	13	12	10	14	12	15	11	13	15	14
Refugees are hard-working and family-oriented/can contribute to American society	17	16	18	16	22	18	12	10	12	18	29	17	13	13	22	10	26	20	18	12	10
If U.S. accepts more refugees now, other countries will expel more people they don't want	15	15	16	16	14	15	17	12	13	17	19	16	13	14	16	12	23	16	15	16	11
We have a special obligation to help these refugees because of our Vietnam war involvement	14	13	14	14	17	12	11	11	11	15	17	13	13	13	19	7	18	17	11	9	23
We should help needy in our country first	45	45	46	43	37	46	56	53	51	41	37	44	58	38	45	49	50	38	46	52	57
None	1	2	1	-------	2	2	2	2	1	2	1	2	1	1	1	2	2	1	1	1	2
Don't know/no answer	6	4	7	6	4	5	7	8	6	5	3	6	5	7	5	5	5	7	5	5	2

		Question 10—U.S. policy on admission of Indochina refugees should be to—				
	Total	Lower to less than 7,000	Leave at 7,000	Raise to 14,000	Raise higher than 14,000	Don't know/no answer
U.S. should admit more refugees to encourage other countries to admit more	12	3	9	42	46	7
Refugees expensive to resettle, deny jobs to Americans, too great an economic burden for this country	37	57	33	4	2	12
Refugees suffering and dying because have nowhere to go, we should help them	28	7	36	72	74	21
U.S. should not feel obligated to take in people from other countries who will have trouble adjusting to American ways	13	21	9	3	2	4
Refugees are hard-working and family-oriented/can contribute to American society	17	4	20	47	47	10
If U.S. accepts more refugees now, other countries will expell more people they don't want	15	20	18	4	5	7
We have a special obligation to help these refugees because of our Vietnam war involvement	14	3	17	34	50	5
We should help needy in our country first	45	65	43	10	6	23
None	1	1	1	1	2	3
Don't know/no answer	6	1	2	2	2	45

FINAL DECLARATION OF NONALINED COUNTRIES MEETING IN HAVANA

● Mr. MOYNIHAN. Mr. President, on September 7, the heads of state or governments of the 89 nonalined countries at their meeting in Havana, issued a 130-page final declaration. The document presents a stark Marxist, prototalitarian, antidemocratic view of the world.

Prior to the conference, the Cuban Government circulated a draft declaration. After the conference, it was reported that the draft was changed and moderated by the delegates assembled. It was not. There were, of course, certain textual differences between the Cuban draft and the final document. Most noteworthy, certain vitriolic attacks on Egypt for making peace in the Middle East were dropped. And, at the meeting itself, the pro-Moscow forces did not succeed in obtaining recognition of the new Cambodian regime, installed by the Vietnamese soldiers who invaded that country.

However, the final declaration as published is an unrelenting and at times malevolent attack upon democratic nations and democratic values. That a movement of which Jawaharlal Nehru was a principal founder should have come to this must occasion perplexity and dismay in the West. It was never the purpose of the nonalined movement to be pro-Western. Nor should we in the West wish it to be. But neither was it destined for the movement to become an all but servile apologist for Soviet totalitarianism. It has.

Among the democratic nations, Israel and the United States are the object of sustained attack in the Havana declaration. The attacks on Israel in particular have an hysterical quality about them. Israel's policies are said to be "tantamount to genocide," its activities repeatedly connected with those of South Africa, its outlook equated with apartheid, its very existence judged illegitimate.

For some time now I have been calling attention to the sustained and calculated propaganda campaign, originating with the Soviet Government, designed to depict the Jewish people and the State of Israel as guilty of Nazi practices. That such a charge is unthinkable is precisely its advantage to those who make it. Reasonable men and women reject it out of hand, and do not note its ever wider acceptance.

In 1977 in an article in Commentary entitled "The Politics of Human Rights," I noted some of this progress:

> A long-established propaganda technique of the Soviet government has been to identify those it would destroy with Nazism, especially with the racial doctrines of the Nazis. Following World War II, for example, pan-Turkish, Iranian, and Islamic movements appeared in the southern regions of the Soviet Union. They were promptly accused of Nazi connections and branded as racist. Jews escaped this treatment until the Six-day War of 1967. The event, however, aroused sufficient pro-Israel, pro-Jewish sentiments within the Soviet Union to evoke the by now almost bureaucratic response. Bernard Lewis writes:
>
> "The results were immediately visible in a vehement campaign of abuse, particularly in the attempt to equate the Israelis with the Nazis as aggressors, invaders, occupiers, racists, oppressors, and murderers."
>
> Within the short period of time, and coincidentally with the introduction of 'racist' into currency as a general term of abuse, Soviet propagandists began to equate Zionism per se with racism. In a statement released to the press on March 4, 1970, a 'group of Soviet citizens of Jewish nationality'—making use of the facilities of the Soviet foreign ministry—attacked 'the aggression of the Israeli ruling circles,' and said that 'Zionism has always expressed the chauvinistic views and *racist* [my emphasis] ravings of the Jewish bourgeoisie.' This may well be the first official Soviet reference to Zionism as racism in the fashionable connotation of the term.
>
> Steadily and predictably, these charges moved into international forums. In 1973 Israel was excluded from the regional bodies of UNESCO. In 1974 the International Labor Conference adopted a 'Resolution Concerning the Policy of Discrimination, Racism, and Violation of Trade Union Freedoms and Rights Practiced by the Israeli Authorities in Palestine and Other Occupied Arab Territories.' The charge of racism was now pressed. In June 1975 it appeared at the Mexico City Conference of the International Women's Year.
>
> * * * The Zionism resolution was adopted by the General Assembly in November 1975. The following February, the United Nations Commission on Human Rights found Israel guilty of 'war crimes' in the occupied Arab territories. The counts read as if they could have come from the Nuremberg verdicts:
>
> annexation of parts of the occupied territories
> destruction and demolition
> confiscation and expropriation
> evacuation, deportation, expulsion, displacement and transfer of inhabitants
> mass arrests, administrative detention, and ill-treatment
> pillaging of archaeological and cultural property
> interference with religious freedoms and affront to humanity.
>
> In April 1976, in the Security Council, a representative of the Palestine Liberation Organization spoke of the 'Pretoria-Tel Aviv Axis' making an explicit reference to the 'axis' between Nazi Germany and Fascist Italy in the 1930's. In May, in the same body, the Soviet Union accused Israel of 'racial genocide' in putting down unrest on the occupied West Bank of the Jordan River. The same month, in a General Assembly committee, a PLO document likened Israeli measures to Nazi atrocities during World War II:
>
> "The sealing of a part of the city of Nablus is a violation of the basic human rights . . . reminiscent of the ghettos and concentration camps erected by the Hitlerites". . . .
>
> That the purpose of all this was to delegitimize Israel in the interest of its Arab enemies was of course obvious to everyone. What should have been equally obvious was that the assault on Israel—the most vulnerable of the democracies—served a most generalized effort to deprive the democratic nations of their legitimacy as democracies. Salami tactics, as the Communist used to say—first one small unit of the democratic world, then the next. For in true Orwellian fashion, the free societies in the world were under attack precisely and paradoxically for not being free. They were attacked for violating human rights. The charge could range from genocide to unemployment but it always followed the Orwellian principle: hit the democracies in the one area where they have the strongest case to make against the dictatorships.

Now, in the Havana declaration, the final accusation is made against Jews. Article 237 states:

> The Heads of State or Government reaffirmed that racism, including zionism, racial discrimination, and especially apartheid constituted crimes against humanity and represented violations of the United Nations Charter and of the Universal Declaration of Human Rights.

In August I read the draft final declaration drawn up in Havana and printed on stationery of the Cuban Ministry of Foreign Relations. The paragraph declaring Zionism to be a crime against humanity was numbered 205. I waited to see whether the much advertised "moderate forces" in the nonalined would seek to strike this abomination.

So far as I have been able to learn, no such effort was made. In any event, the passage remained unchanged, word for word.

Since then no government has protested. The passage has not to my knowledge even been reported in the American press. Our own Government has remained silent.

I would ask Americans to try to understand what has happened. A long propaganda campaign emanating from the Soviet Union has now culminated. Zionism has been declared a crime against humanity. This is of course precisely the charge leveled against nazism at the Nuremberg trials. To be a Zionist is to be a criminal under international law according to the declaration of almost two-thirds of the nations of the world, a declaration wholly supported by the Soviet bloc.

These governments have come near to declaring that it is a crime to be a Jew.

Our Government remains silent.

I find it as painful to raise this subject as others, I cannot doubt, will find my doing so. I dare to think that I understand the silence of our Government. The honorable and decent men and women who conduct our foreign policy—and this includes our President who is ultimately responsible for foreign policy—cannot reconcile this action by the nonalined with their need to believe that our relations with these nations are steadily improving. Indeed, the President repeatedly states that these relations have never been better. Even to take notice of the obscene act of these countries in Havana would force the administration to acknowledge that a policy has failed. This, for understandable if regrettable reasons, it will not do.

I respectfully suggest that our Government never will protest unless they are given to understand that at least American opinion expects them to do so. I would remind the Secretary of State that to declare Zionism to be a crime against humanity is a charge directed as much against American citizens as against Israelis. This was a point I tried to make when I was at the United Nations, but evidently without success. I would plead with our Secretary of State, an upright and compassionate man, to try to hear me in this matter, and hear others who might join me.

Decent and upright men did not take the antisemitism of the Nazis seriously. In 1939, the ship *St. Louis*, filled with European Jews, could find no safe port. It was even towed away in Havana. That city becomes, once again, the site of an

infamous episode—two events linked by a common theme.

CONFERENCE OF HEADS OF STATE OR GOVERNMENT OF NONALIGNED COUNTRIES

FINAL DECLARATION

237. The Heads of State or Government reaffirmed that racism including Zionism, racial discrimination, and especially apartheid constituted crimes against humanity and represented violations of the United Nations Charter and of the Universal Declaration of Human Rights.

DRAFT FINAL DECLARATION FOR THE SIXTH CONFERENCE OF HEADS OF STATE OR GOVERNMENT OF THE NONALIGNED COUNTRIES

RACIAL DISCRIMINATION AND RACISM

205. The Heads of State or Government reaffirmed that racism including Zionism, racial discrimination and especially apartheid constituted crimes against humanity and represented violations of the UN Charter and of the Universal Declaration of Human Rights.●

MILWAUKEE ROAD UPDATE

● Mr. BAUCUS. Mr. President, many Members of the Senate are interested in the continuing problems associated with the bankruptcy of the Milwaukee Railroad. I would like to describe for the information of my colleagues recent events affecting the Milwaukee.

BANKRUPTCY COURT PROCEEDINGS

On August 10, the Milwaukee trustee, Richard Olgilvie, filed a plan of reorganization for the railroad with the bankruptcy court. Before it goes into effect, the plan must be approved both by the court and the Interstate Commerce Commission. There will be extensive hearings and probably substantial modifications to the plan.

Under this plan, the railroad would be slashed from the present 9,800-mile system to 3,400 miles concentrated in the Midwest and called "Milwaukee II."

According to the trustee, a few portions of the Milwaukee's Western Lines may be purchased by the Burlington Northern or the Union Pacific. However, approximately 4,940 miles of track are scheduled for abandonment.

The reorganization plan proposes a tentative classification for claims against the estate. Under the preliminary plan the highest priority claims would be expenses of administration, such as the salary of the trustee and his legal staff.

The lowest priority under the trustee's proposed reorganization plan would be labor protection claims of employees who lose their jobs in the reorganization.

When he filed his reorganization plan, the trustee asked the court for permission to "embargo" lines west of Miles City on October 1. The trustee argues that his cash position makes continued operation of these lines impossible.

Arguments for and against the embargo have been heard in the bankruptcy court in Chicago. The court's special master has issued a preliminary decision recommending that the embargo be granted.

I would point out for the benefit of the Senate that the cash position of the Milwaukee Railroad is better now than it was last May when the bankruptcy court rejected a similar embargo request on the grounds that the Interstate Commerce Commission must approve such abandonments.

The bankruptcy judge's decision on the embargo request is expected soon.

ICC PROCEEDINGS

Unless the trustee's embargo request is granted by the court, the Interstate Commerce Commission must approve any abandonment of service.

The ICC must also approve any reorganization plan before it can go into effect.

The trustee has filed with the ICC an abandonment application covering all of the Milwaukee's lines west of Miles City. Soon the trustee will file two additional applications: The reorganization plan and an abandonment application for certain lines east of Miles City.

The Interstate Commerce Commission has established a schedule for consideration of the abandonment application for Western Lines. Under the procedure, the Milwaukee presented its case in favor of abandonment in Butte, Mont., beginning September 10. Cross-examination of railroad witnesses will take place in Chicago beginning September 24.

Public hearings, which will give communities, shippers, and employees an opportunity to present their comments on the proposed abandonment will be held in Montana, Idaho, and Washington beginning October 2.

Mr. President, at this point I would like to submit for the RECORD, a schedule of the Interstate Commerce Commission hearings:

DATE, PLACE, AND LOCAL TIME

CHICAGO, ILLINOIS

September 24–28, West Auditorium, 9:30 a.m., 600 West Madison St.

October 15–26, West Auditorium, 9:30 a.m., 600 West Madison St.

BUTTE, MONTANA

October 2, Ramada Inn, 1:00 p.m.

October 3, 2900 Harrison St., 9:30 a.m. and 7:00 p.m.

October 4–5, 2900 Harrison St., 9:30 a.m.

SEATTLE, WASHINGTON

October 2, New Federal Building, 1:00 p.m.

October 3–5, Room 514, 9:30 a.m., 915 Second Avenue.

SPOKANE, WASHINGTON

October 2, U.S. Court House, 1:00 p.m.

October 3, West 920 Riverside, 9:30 a.m. and 7:00 p.m.

October 4–5, West 920 Riverside, 9:30 a.m.

MISSOULA, MONTANA

October 9, 10, 12, City Council Chambers, 9:30 a.m.

October 11, City Hall, 201 W. Spruce St., 9:30 a.m. and 7:00 p.m.

GREAT FALLS, MONTANA

October 9, City Commission Chambers, 9:30 a.m. and 7:00 p.m.

October 10, 11, 12, Civic Center Building, Park Drive, 9:30 a.m.

MOSES LAKE, WASHINGTON

October 9, 11, 12, Grant County Public, 9:30 a.m.

October 10, Utility District, 312 West 3rd Avenue, 9:30 a.m. and 7:00 p.m.

ST. MARIES, IDAHO

October 9, Benewah County, 1:00 p.m.

October 10, 11, 12, Court House, 9:30 a.m.

Persons who wish to testify at the October hearings may call a toll-free number at the ICC: 800–424–9312, between the hours of 2 to 5 p.m., mountain time, to arrange a convenient time to testify. Information about the hearings may be obtained from the Interstate Commerce Commission's section of rail services planning at 202–207–0831.

The Office of Rail Public Counsel has announced that it will help the public be represented in the proceeding. Shippers and all affected parties who need assistance or who would otherwise not be represented are urged to contact the Office of Rail Public Counsel, 1030 15th Street N.W., Washington, D.C. 20005. The phone number for the Office of Rail Public Counsel is 202–254–7803.

EMPLOYEE OWNERSHIP

Mr. President, recently the Department of Transportation released four studies on the Milwaukee Road. Although these studies did not examine employee ownership in any comprehensive way, the DOT concluded that "the concept of an employee stock ownership plan for the Western Lines of the Milwaukee does not appear to be practicable."

I do not think that the Department of Transportation can justify its conclusion. Not only is there strong evidence that the Western Lines must be part of any successful Milwaukee reorganization, but employee-owned organizations tend to be highly efficient and more profitable than conventional business arrangements.

The international rail unions and an organization called New Milwaukee Lines have commissioned a preliminary feasibility study of employee ownership for the Milwaukee. This study will be the first impartial, comprehensive study of viability of an employee-owned Milwaukee.

The preliminary results of the study indicate that the Department of Transportation seriously underestimated revenues and overestimated costs on the Pacific Coast extension. Final results of the study, which are expected before the end of September, will give Congress a much better foundation for intelligent decisionmaking with regard to the Milwaukee.

New Milwaukee Lines is an organization of Milwaukee shippers and employee interests which is developing an employee ownership plan for the Milwaukee.

New Milwaukee Lines points out that the Midwest is an area already characterized by excess capacity in its rail systems. Two other railroads, the Rock Island and the Illinois Central Gulf, which operate in the same area as the proposed Milwaukee II, are already in severe financial straits. Midwestern traffic is characterized by relatively short, unprofitable hauls and few new market opportunities.

New Milwaukee Lines proposes that a new company be formed to acquire the entire Milwaukee system and create a transcontinental system which would connect Louisville, Ky., and the west coast. The group has filed an alternative reorganization plan with the bankruptcy court which emphasizes the economic importance of concentrating resources on

relatively profitable long-haul transcontinental traffic.

CONGRESSIONAL ACTION

Both the House and the Senate are considering a number of legislative proposals to deal with the Milwaukee Road.

Representatives from the Midwest have proposed legislation that would result in an immediate abandonment of the Western Lines and expedite the trustee's proposed "Milwaukee II" reorganization plan.

On September 7, the Senate Commerce Subcommittee on Transportation held a hearing to consider Milwaukee legislation.

At the hearing, I pointed out the importance and the viability of the Milwaukee's Western Lines.

As the Nation increasingly relies on its coal resources, and as new market opportunities for our grain develop in Asia, Western Lines will be increasingly important and profitable.

It does not make sense to abandon railroad lines when railroads are the most efficient means of transporting bulk commodities over long distances. As fuel prices increase, the efficiency advantage of railroads will also increase.

Interstate Commerce Commission Chairman Daniel O'Neal testified that the Milwaukee has sufficient cash reserves to operate through 1979.

Mr. President, the Congress should not act precipitously on legislation affecting the Milwaukee. Plans for employee ownership are being developed and offer an opportunity for continued service in many parts of the country the bankruptcy trustee proposes to abandon.

But time is badly needed to fully develop and implement these plans.

So, I urge my colleagues to help provide the time the Milwaukee needs, and not to act precipitously on legislation that would result in wholesale abandonments.

Rail shippers, employees, and other affected citizens throughout the Milwaukee system have shown their strong support and need for continued operation of the railroad. I know that if we in Congress are imaginative enough and far sighted enough the Milwaukee can survive as a viable transcontinental railroad.●

ANNOUNCEMENT OF POSITION ON VOTES

Mr. PELL. Mr. President, having recently returned from Europe where I attended the funeral services for Lord Mountbatten as a member of the official U.S. delegation, I wish to state my position on a number of rollcall votes that occurred during my absence.

On rollcall No. 253 I would have voted "nay."

On rollcall No. 254 I would have voted "yea."

On rollcall No. 255 I would have voted "yea."

On rollcall No. 256 I would have voted "yea."

On rollcall No. 257 I would have voted "nay."

On rollcall No. 258 I would have voted "nay."

On rollcall No. 259 I would have voted "yea."

On rollcall No. 260 I would have voted "yea."

On rollcall No. 261 I woud have voted "nay."

On rollcall No. 264 I would have voted "nay."

On rollcall No. 265 I would have voted "yea."

On rollcall No. 266 I would have voted "yea."

On rollcall No. 267 I would have voted "nay."

On rollcall No. 268 I would have voted "nay."

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

NATIONAL RECREATION AND PARKS WEEK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 330.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A resolution (S.J. Res. 90) to provide for the designation of a week as "National Recreation and Parks Week."

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

The Senate proceeded to consider the bill.

● Mr. DURENBERGER. Mr. President, Senate Joint Resolution 90 is supported by several national and State organizations who are collectively interested in parks recreation and allied environmental and social programs. Among national supporters are the National Recreation and Park Association, the National Association of State Outdoor Recreation Liaison Officers, and the National Parks and Conservation Association.

Passage of this resolution and subsequent attention and involvement to it by selected executive agencies will lead to improved recreation and park opportunities for most Americans. It will expand the public's understanding of the physical and mental health benefits potentially available through recreation, and it will encourage public use of park and recreation systems.

Citizen and professional groups in all of the 50 States are deeply interested and supportive of the passage of Senate Joint Resolution 90 and today I ask support of the Senate for approval.●

The joint resolution was considered, 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, follows:

Whereas America's public recreation and park systems include outstanding elements of our national cultural and natural heritage;

Whereas recreation and leisure experiences are important to the physical and mental health of the Nation and improve the quality of life for all people;

Whereas the American public seeks such experiences in national forests, parks, wildlife refuges, and other Federal recreation resources;

Whereas State and local governments offer a variety of recreation and park experiences and opportunities for all people, including the ill, handicapped, and the elderly;

Whereas the provision of public recreation and park opportunities encourages various forms of citizen participation and professional excellence; and

Whereas the Congress of the United States, through authorization of Federal recreation resource areas and appropriation of funds to aid other public park and recreation functions has encouraged the development of park and recreation facilities and programs at the National, State, and local levels: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating June 1 through June 7, 1980, as "National Recreation and Parks Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m. tomorrow; that the time following the approval of the Journal and the prayer be divided equally between the distinguished minority leader and the majority leader, and that that time not extend beyond 10 a.m.

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

GOLD PRICE AUGURS DEPRESSION FOR UNITED STATES

Mr. GRAVEL. Mr. President, I wish to comment upon a statement made by Senator MUSKIE, that the price of gold today had hit an historic high of $350 per ounce. I would like to comment on this for the record, as to the relevance of this, because I do not think the full appreciation of this is upon us.

I think it is the first harbinger of our movement as a Nation into a depression, and I use those words fully realizing what I am saying in that regard.

What has happened is the equivalent of a crash as we experienced it in the fall of 1929. That crash was entirely masked by two events that occurred at that point, events that cannot be duplicated.

At that point in our history, we were on a hard currency and at the same time we had no inflation. So when the

discounting of America's productive worth took place in the marketplace, it showed precipitately before our eyes. Today, with double-digit inflation on the order of 12 percent to 13 percent, and the fact that we are not on a hard currency, there is no way for anybody to see the precipitate fall that has taken place in the discounting of the productive worth of this country. We only can see it in the only measure that exists in the world today, and that is the measure of the only hard currency we have, and that of course is gold.

Why is this taking place? Very simply, it is because of a decision the market has made over what would be the effect on the marketplace of our society, and that is a political decision. That political decision that the market has assumed is the one to install a windfall profits tax on the United States, which would be the equivalent of causing about $150 billion or more in the next decade to be transferred from one sector of our society, which would be oil and gas, to another sector of our society, which would be the Government, and the Government would then disburse this money as it felt.

The international investment community has recognized that that kind of transfer of wealth is the harbinger of an economy that will be getting more and more into difficulty, and they obviously have made a decision to discount what that productive capability will be. That discounting has not taken place in Japan; that discounting has not taken place in Germany, but it is taking place in this country.

It is very tragic and unfortunate. I venture to say—and I say this most respectfully—that I am the only person in the Senate who probably has an appreciation of the consequences of these events. If these events are prophetic, it will be that we will be visited by unbelievable pain in this country over the forthcoming decade.

We are on the brink of the 50-year economic cycle. How deeply we launch ourselves into that cycle will depend upon the public policies that are effected by the political body. This political body is bent upon eroding the productive capability of this country and doing so for a decade. So the depths we plunge ourselves into are unfathomable.

I make note of this at this time because I have had it on my mind for some days. This is the reason I have indicated that I would do all in my power to try to stop the passage of this legislation.

The $150 billion that will come from this tax, one, is not to be transferred to Government and, two, it is not a tax on windfall profits, because those windfall profits do not exist. I challenge anybody in this country to come forward with any existence of windfall profits in the energy industry. It is a severance tax on oil, and that severance tax will transfer from the energy industry—that part of the energy industry that is the only part that can do something to satisfy our energy needs in the short run—$150 billion-plus over the next decade, from that part of industry to Government.

That is what the global investment community sees today, and that is why the global investment community is launching headlong into gold, in order to protect itself from the economic holocaust that we are bringing upon ourselves.

There is only one parallel to that in history, and that was the passage of the Smoot-Hawley Act. That act was signed into law in June of 1930, but it passed the House in 1929. It passed the Finance Committee, which was the area where this was debated, or essentially the agreement that it would pass was determined in October of 1929, when we had the stock market crash.

What we are seeing now is another stock market crash. The only thing is that it is masked so we do not understand it, but its effects upon us will be every bit as painful and every bit as tragic.

As the Smoot-Hawley Act of Congress caused the great depression of 1930, it will be the windfall profits tax, which probably will pass in this body, regardless of what I say or anybody else says, which will be the harbinger of the great depression of the 1980's; and it will be a political act by this Congress on this occasion.

(Mr. GRAVEL assumed the chair.)

REMINDER OF VOTES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I remind Senators that the first vote tomorrow is expected to occur about 10:45 a.m. That will be a rollcall vote, and it will be followed immediately by another rollcall vote.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9:45 tomorrow morning.

The motion was agreed to; and at 6:46 p.m. the Senate recessed until tomorrow, Tuesday, September 18, 1979, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate on September 17, 1979:

DEPARTMENT OF STATE

Donald R. Norland, of New Hampshire, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chad.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Ronald P. Laurent, of Illinois, to be president, Government National Mortgage Association, vice John Howard Dalton, resigned.

HOUSE OF REPRESENTATIVES—*Monday, September 17, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Every one then who hears these words of Mine and does them will be like a wise man who built his house upon a rock.—Matthew 7: 24.

O Lord, our God, we thank You that You have showed us the way, the truth, and the life. We confess our faults and our own unfaithfulness by not following in the path that You have showed.

Renew our strength, O Lord, and help us to remember that with the change and uncertainty of life we have the assurance that underneath all Your loving arms and Your promise of hope. Lead and sustain us that our efforts may be built upon the truth and thus endure for the good of all people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on September 6, 1979, the President approved and signed a joint resolution of the House of the following title:

H.J. Res. 244. Joint resolution to authorize and request the President to issue annually a proclamation designating the first Sunday of September following Labor Day of each year as National Grandparents Day.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 367. Joint resolution to authorize and request the President to proclaim the week of September 16 through 22, 1979, as "National Meals on Wheels Week".

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3996) entitled "An act to amend the Rail Passenger Service Act to extend the authorization of appropriations for Amtrak for 3 additional years,

and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. LONG, Mr. HOLLINGS, Mr. EXON, Mr. PACKWOOD, Mr. SCHMITT, and Mrs. KASSEBAUM to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 97. Joint resolution designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust."

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON HOUSE JOINT RESOLUTION 399, CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on House Joint Resolution 399, making continuing appropriations for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON A JOINT RESOLUTION MAKING APPROPRIATIONS FOR FEDERAL TRADE COMMISSION FOR FISCAL YEAR 1980

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on a joint resolution making continuing appropriations for the Federal Trade Commission for the fiscal year 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

MARKETING QUOTA PENALTIES EXEMPTION FOR STATE PRISON FARMS

The Clerk called the bill (H.R. 998) to amend the Agricultural Adjustment Act of 1938, as amended, to exempt State prison farms from paying of marketing quota penalties.

There being no objection, the Clerk read the bill, as follows:

H.R. 998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 273(d) of the Agricultural Adjustment Act of 1938, as amended, is further amended to add a new sentence as follows: "Effective with the 1978 crops, no penalty shall be collected under this Act with respect to the marketing of any agricultural commodity grown on State prison farms for consumption within such State prison system.".

With the following committee amendment:

Page 2, line 1, strike out "section 273(d)" and insert in lieu thereof "section 372(d)".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VALIDATING THE EFFECTIVENESS OF CERTAIN PLANS FOR THE USE OR DISTRIBUTION OF FUNDS APPROPRIATED TO PAY JUDGMENTS AWARDED TO INDIAN TRIBES OR GROUPS

The Clerk called the joint resolution (H.J. Res. 383) to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups.

There being no objection, the Clerk read the joint resolution as follows:

H.J. RES. 383

Whereas pursuant to Public Law 93-134 (Act of October 19, 1973; 87 Stat. 466; 25 U.S.C. 1401), the Secretary of the Interior or his designee has submitted plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups; and

Whereas none of such plans have been disapproved by congressional action; and

Whereas a recent July 9, 1979, decision of the United States District Court for the District of Columbia in the case of Seminole Indian Tribe of Florida versus Andrus has called into question the effectiveness and validity of those plans submitted to Congress under Public Law 93-134; and

Whereas it is the purpose of this resolution to validate the effectiveness of the plans (other than the plan involved in the Seminole decision and a plan involving the tribes of the Warm Springs Reservation which is the subject of pending litigation) which were submitted to the Congress pursuant to Public Law 93-134 and which had been presumed to have become effective prior to the July 9, 1979, United States district court decision: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93-134 are hereby declared to be valid and effective as of the dates indicated:

Tribe or group	Docket number(s)	Effective date
Washoe	ICC 288	Sept. 25, 1974
Seneca	ICC 342-A and 368-A	Sept. 26, 1974
Fort Berthold (Three Affiliated Tribes.)	ICC 350-A, E, and H	Oct. 2, 1974
Paiute, Northern	ICC 87	Oct. 10, 1974
Nez Perce	ICC 175-B	Oct. 10, 1974
Cherokee, Eastern	ICC 282-A through L	Oct. 10, 1974
Ponca	ICC 322, 323, and 324	Nov. 23, 1974
Tuscarora	ICC 321	Dec. 18, 1974
Chippewa, Red Lake	ICC 189	Feb. 3, 1975
Sioux, Yankton	ICC 332-B	Feb. 7, 1975
Kikiallus	ICC 263	Feb. 18, 1975
Skagit, Lower	ICC 294	Feb. 18, 1975
Lummi	ICC 110	Mar. 3, 1975
Apache, Chiricahua	ICC 30 and 48 and 30-A and 48-A.	Mar. 16, 1975
Sioux, Cheyenne River	ICC 114	Mar. 16, 1975
Iowa	ICC 135	Mar. 24, 1975
Ottawa, Oklahoma	ICC 304 and 305	June 17, 1975
Pueblos de Jemez, Santa Ana, and Zia.	ICC 137	June 17, 1975
Apache, Jicarilla	ICC 22-K	July 8, 1975
Suquamish	ICC 132	Sept. 14, 1975
Winnebago	ICC 243, 244, and 245	Oct. 30, 1975
Cabazon	ICC 148	Oct. 30, 1975
Apache, Western	ICC 22-D	Dec. 3, 1975
Cherokee	ICC 173-A	Nov. 5, 1975
Navajo	Ct. Cl. 49692	Nov. 17, 1975
Creek, Oklahoma	ICC 167-273	Nov. 16, 1975
Angoon	ICC 278-B	Feb. 1, 1976
Samish	ICC 261	Dec. 10, 1975
Swinomish	ICC 233	Dec. 10, 1975
Shawnee	ICC 334-B	Mar. 5, 1976
Mohave	ICC 283 and 295	Apr. 12, 1976
Chippewa, Pillager	ICC 144	Apr. 28, 1976
Yakima	ICC 161, 222, and 224	May 13, 1976
Colville	ICC 161, 222, and 224	May 21, 1976
Kiowa-Comanche-Apache.	ICC 257 and 259-A	June 8, 1976
Fort Berthold (Three Affiliated Tribes).	ICC 350-F	June 20, 1976
Flathead (Confederated Salish and Kootenai).	Ct. Cl. 50233 No. 8 and No. 9.	Aug. 25, 1976
Seneca	ICC 84; 342-B, C, and 368; 342-F and I.	Jan. 29, 1977
Six Nations and Stockbridge-Munsee.	ICC 84 and 300-B ICC 300.	Mar. 4, 1977
Devils Lake Sioux	ICC 363	July 23, 1977
Saginaw Chippewa	ICC 57	Nov. 12, 1977
Fort Berthold Tribes	ICC 350-C and D	Mar. 13, 1978
Fort Mohave	ICC 295-A	Nov. 12, 1977
Potawatomi	ICC 15-K, 29-J, 217, 15-M, 29-K, and 146.	Mar. 6, 1978
Mescalero (Lipan)	ICC 22-C	Apr. 9, 1978
Taos Pueblo	ICC 357-A	Apr. 10, 1978
Colville-Nez Perce	ICC 186	May 1, 1978
Creek	ICC 275	June 15, 1978
Seneca Nation	ICC 342-G	Feb. 1, 1979
Lake Superior and Mississippi Chippewa.	ICC 18-C and 18-T	Feb. 1, 1979
Sisseton-Wahpeton	ICC 363 (1867 and 1872).	Mar. 26, 1979
Pyramid Lake	ICC 87-B	June 12, 1979
Bois Forte	ICC 18-D	June 5, 1979

SEC. 2. The following plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93-134 are hereby declared to have been validly submitted and are exempted from the submission deadline in section 2 of said Act and shall be effective as provided in section 5 of said Act:

Tribe or group	Docket number(s)
Caddo	ICC 226.
Goshute	ICC 326-B and J.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REORGANIZATION OF FOREIGN CLAIMS SETTLEMENT COMMISSION AND ABOLITION OF MISCELLANEOUS AGENCIES

The Clerk called the bill (H.R. 4337) to provide for the transfer of the Foreign Claims Settlement Commission of the United States to the U.S. Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission and for other purposes

There being no objection, the Clerk read the bill, as follows:

H.R. 4337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FOREIGN CLAIMS SETTLEMENT COMMISSION

SEC. 101. The Foreign Claims Settlement Commission of the United States, established under Reorganization Plan Numbered 1 of 1954 (5 U.S.C. App.), is hereby transferred to the Department of Justice as a separate agency within that Department.

SEC. 102. The personnel, assets, liabilities, unexpended balances of appropriations, authorizations, allocations, and other funds held, used, available, or to be made available, in connection with the functions of the Commission shall be transferred to the Department of Justice and made available to the Commission. The Commission shall continue to perform its functions as provided by the War Claims Act of 1948 (50 U.S.C. App. 2001 et seq.), the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.), and Reorganization Plan Numbered 1 of 1954 (5 U.S.C. App.)

SEC. 103. (a) The Commission shall be composed of a Chairman and two members. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, to serve on a full-time basis. The other members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, and serve on a part-time basis.

(b) The terms of Office of the Chairman and members of the Commission shall be for three years, except the Chairman and members first appointed after the enactment of this subsection shall be oppointed to terms ending respectively September 30, 1982, September 30, 1981, and September 30, 1980. The incumbent of any such office may continue to serve until a successor takes office.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, members of the Foreign Claims Settlement Commission who are serving on the effective date of this Act, shall continue to serve in the same capacities until the expiration of the terms to which they were appointed.

(d) Members of the Commission (other than the Chairman) shall be compensated on a per diem basis at a rate of compensation equivalent to the daily rate for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day that such member is employed in the actual performance of official business of the Commission as may be directed by the Chairman. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

SEC. 104. (a) The Commission is authorized, in accordance with civil service laws and in accordance with title 5 of the United States Code, to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission.

(b) The Commission is authorized to employ experts and consultants in accordance with section 3109 of title 5 of the United States Code, without compensation or at rates of compensation not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5 of the United States Code.

(c) Notwithstanding any other provision of law, the Commission is further authorized to employ nationals of other countries who may possess special knowledge, languages, or other expertise necessary to assist the Commission.

(d) The Commission is authorized to pay expenses of packing, shipping, and storing personal effects of personnel of the Commission assigned abroad, and to pay allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946 (22 U.S.C. 1131 et seq.).

(e) The Commission is authorized, with the consent of the head of any other department or agency of the Federal Government, to utilize the facilities and services of such department or agency in carrying out the functions of the Commission.

(f) Officers and employees of any department and agency of the Federal Government may, with the consent of the head of such department or agency, be assigned to assist the Commission in carrying out its functions. The Commission shall reimburse such department and agency for the pay of such officers or employees.

SEC. 10. All functions, powers, and duties not directly related to adjudicating claims are hereby vested in the Chairman, including the functions set forth in section 3 of Reorganization Plan Numbered 1 of 1954 and the authority to issue rules and regulations.

SEC. 106. The Attorney General shall provide necessary administrative support and services to the Commission. The Chairman shall prepare the budget requests, authorization documents, and legislative proposals for the Commission within the procedures established by the Department of Justice, and the Attorney General shall submit these items to the Director of the Office of Management and Budget as proposed by the Chairman.

SEC. 107. Nothing in this Act shall be construed to diminish the independence of the Commission in making its determinations on claims in programs that it is authorized to administer pursuant to the powers and responsibilities conferred upon the Commission by the War Claims Act of 1948 (50 U.S.C. App. 2001 et seq.), the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.), and Reorganization Plan Numbered 1 of 1954 (5 U.S.C. App.). The decisions of the Commission with respect to claims shall be final and conclusive on all questions of law and fact, and shall not be subject to review by the Attorney General or any other official of the United States or by any court by mandamus or otherwise.

SEC. 108. Section 2(d) of the War Claims Act of 1948 (50 U.S.C. App. 2001(d)) is hereby repealed.

TITLE II—ANNUAL ASSAY COMMISSION

SEC. 201. The Annual Assay Commission, and the positions of assay commissioners established by section 3547 of the Revised Statutes of the United States (31 U.S.C. 333), are hereby abolished. The functions of that Commission and of the assay commissioners are hereby transferred to and vested in the Secretary of the Treasury.

TITLE III—UNITED STATES MARINE CORPS MEMORIAL COMMISSION

SEC. 301. The United States Marine Corps Memorial Commission, established by the Joint Resolution of August 4, 1947 (61 Stat. 724), entitled "Joint Resolution to establish a commission to formulate plans for the erection, in Grant Park, Chicago, of a Marine Corps Memorial", is hereby abolished.

TITLE IV—THE LOW EMISSION VEHICLE CERTIFICATION BOARD

SEC. 401. The Low Emission Vehicle Certification Board established by section 212 of the Clean Air Act (42 U.S.C. 7546), is hereby abolished.

TITLE V—DETERMINATION ORDER

SEC. 501. The Director of the Office of Management and Budget is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions, powers, and duties pursuant to this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available, in connection with the functions transferred by this Act, as the Director may deem necessary to accomplish the purposes of this Act. The Director is further authorized and directed to provide for terminating the affairs of each agency, board, or commission abolished by this Act.

TITLE VI

SEC. 601. This Act shall take effect on October 1, 1979.

With the following committee amendment:

Page 6, after line 15, add the following new section:

SEC. 109. Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (31) and inserting in lieu thereof:

"(31) Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice."; and

(2) by striking out paragraph (90) of such section.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. That concludes the call of the Consent Calendar.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. BEDELL. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may be permitted to sit tomorrow, Tuesday, September 18, 1979, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERSONAL EXPLANATION

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, I take this time to state my position on two rollcall votes that I missed on Friday, September 14, 1979.

The votes are as follows:

Rollcall No. 471, on an amendment to H.R. 4040, the Defense Department authorization for fiscal year 1980, offered by the gentleman from Missouri (Mr. SKELTON). The amendment was adopted by a vote of 189 to 149. Had I been present, I would have voted against the amendment.

Rollcall No. 472, a vote on final passage of H.R. 4040, the Defense Department authorization, for fiscal year 1980. The bill was passed by a vote of 282 to

46. I was paired for this bill and had I been present, would have voted in favor of it.

PERSONAL EXPLANATION

Mr. DAN DANIEL. Mr. Speaker, on rollcall No. 472, I am recorded as not having voted. I was present. Had I been recorded, I would have voted in the affirmative.

C-SPAN

(Mrs. BOGGS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOGGS. Mr. Speaker, I would like to join the gentleman from Kentucky, Mr. PERKINS, in recognizing the educational significance of today's announcement providing for the televising of Close Up sessions through C-SPAN.

Since I have been in Congress, I have been an enthusiastic supporter of the Close Up program. I have witnessed firsthand the impact the program has had on the young people of my State—one which had encouraged them to take an active interest in our political system. I have been particularly impressed that in spite of a growing climate of cynicism and lack of trust in those of us in politics, there exists this opportunity to have a firsthand closeup view of our system in action and to take back home the message that Government in this country welcomes the ideas and involvement of its citizens.

Because I believe it is important for people to be able to see its Government at work, I have followed closely the growth of the idea of televising the House proceedings through C-SPAN. But as we all know, the proceedings on the floor are but a part of our process of Government. That is why I am pleased to learn that the in-depth Close Up sessions with Government officials, which have been so important to my constituents, will now be aired for all who watch the House in session to see.

This opportunity to see Government in action and to hear the active questioning of our political leaders can only help to generate a greater understanding of our democratic processes of Government.

AN IMPORTANT NEW SET IN AMERICAN GOVERNMENT EDUCATION

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, it is with great personal pride that I share in this opportunity to announce to my colleagues today the inauguration of an exciting new concept in bringing our Government closer to the people.

The Close Up Foundation, whose fellowship program was authorized by an act of Congress in 1972, has become a constructive force in citizenship education. It has energized social studies, government and civics programs in high school classrooms throughout the country through its outstanding Washington-based program for high school students and teachers and through its excellent curriculum materials. Now, as a result of its linking with C-SPAN, which is responsible for televising the House proceedings, Close Up will be sponsoring a series of live discussions with governmental leaders and students that can be seen on television in schools and homes throughout the country.

This is truly an important new step in American Government education. By combining their resources, Close Up and C-SPAN will be creating what amounts to a "living textbook" for high school students and teachers.

What is equally exciting about this concept is that through the employment of the latest technological resources, Congress will be able to extend in a very significant way the educational activities it has previously authorized through the Allen J. Ellender Fellowship program. Students who may never get the opportunity to visit Washington personally will be able to participate in their classrooms and homes in seminars and forums that will allow them to share the latest thinking of their elected representatives and other Federal officials.

Congress has no higher responsibility than to secure the benefits of education for its constituents. I am personally pleased that the Close Up Foundation and C-SPAN will be working together to assist us in meeting this responsibility.

GASOHOL SHOULD BE PERMANENTLY EXEMPTED FROM FEDERAL MOTOR FUELS EXCISE TAX

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, on Friday, September 14, 1979, I introduced a bill which would make permanent the exemption of gasohol from the Federal motor fuels excise tax. As you may be aware, I submitted another bill, H.R. 3030, last March which extended the exemption from 1984 to 1989. At that time, I considered the 5-year extension to be optimistic in light of the Carter administration's less than wholehearted support of alcohol fuel. Since that time, however, the administration has become more receptive to the idea of incentives for alcohol production and marketing, and the President has recommended this excise tax exemption be permanent. I could not agree more. There are many reasons why this exemption is good for our energy program and there are just as many reasons for extending it permanently.

Many farmers and investors in my district are anxious to begin producing and marketing alcohol fuel. They do not want the Federal Government to assume the total burden and risk in their business, but they do want some assurance that this new enterprise designed to reduce our dependence on foreign oil will have the necessary encouragement to be successful. That is where the exemption on the Federal motor fuels excise tax comes in. Businessmen do not plan only for the immediate future; they must know what to expect on the long pull if they are to make sound decisions. This extension will give farmers and investors the assurance they need that the tax advantages of producing alcohol fuel will exist for more than 5 years.

I am sure those Members of Congress who represent agricultural districts have many constituents who have contacted them urging swift passage of incentives for the production of alcohol fuels. I think it is also very likely that those Members from nonagricultural districts have also been contacted by their constituents who are very interested in the use of alcohol to supplement our gasoline supplies. Because of the proven ability of gasohol to provide a net energy gain and thereby reduce our dependence upon foreign oil imports, I urge all of you to join me in support of this measure to extend the excise tax exemption.

□ 1210

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4360

Mr. EVANS of the Virgin Islands. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 4360, as introduced on June 6, 1979, by the gentleman from New York (Mr. ZEFERETTI).

The SPEAKER. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

REVENUE RULING 79-72—NEW LEGISLATION

(Mr. WHITTAKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTAKER. Mr. Speaker, I rise today to encourage my colleagues to join me in remedying a situation which is both a disincentive to savers and an added burden to our financial institutions. I speak of Revenue Ruling 79-72, issued by the Internal Revenue Service on February 12 of this year.

This ruling would require holders of short-term certificates of deposit to pay taxes on the interest they earn before it is actually received. It would force the millions of taxpayers who hold these certificates to file on an accrual basis with regards to this interest, even though they would be cash basis taxpayers for all other purposes. It would also entail countless additional hours of paperwork for our already overburdened financial institutions.

There are over 6 million short-term certificates in the banking sector alone.

The legislation I am introducing today will bring much-needed relief to our financial institutions, as well as relieving millions of taxpayers from an even more complicated personal tax return than they currently face. Any benefit to the Treasury is insignificant when compared to the adverse effects of this ruling, and thus my bill should be passed to alleviate this regrettable situation.

SOVIET MILITARY IN CUBA

(Mr. WAMPLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAMPLER. Mr. Speaker, through piecemeal reports it has emerged that the Soviet Union has a combat brigade in Cuba and an underground military command base west of Havana with a capacity for 8,000 men.

From a military and political standpoint, there are clear reasons why such a Soviet presence in Cuba imperils the security of the United States.

First, it constitutes a tripwire situation which gives Cuba far greater latitude in hemispheric operations that are contrary to the interest of the United States.

Second, if it remains, it is a demonstration to the world that the United States lacks the capacity to prevent the expansion of the Soviet empire into Latin America.

Third, a base is a base. Through clandestine development and infiltration, it can provide a facility for the storage and deployment of mobile missiles and torpedoes. It can service Soviet submarines. It can house surveillance instruments for electronic intelligence. It can service and resupply mine layers. It can cost us billions in the reorientation of our defenses to meet a new threat from an exposed flank.

Fourth, it can provide a military assistance group and supply point for the training and equipment of forces devoted to so-called wars of liberation in Latin America.

Fifth, it can represent a cheaply gained but powerful blue chip in the diplomatic poker game of power politics.

Sixth, it inflicts major damage on our OAS Treaty with the Latin American countries and destroys any vestigial value of the Monroe Doctrine.

Mr. Carter exhorts us to calmness while assuring us that this situation is no threat to American security; that it should not be linked to the SALT treaty. It is true that we should be calm while awaiting early and decisive action on the part of the President. Our period of calmness must be short however and our refusal to accept this situation must be strong and positive. Every day that the current situation lasts, the weaker our position becomes. We have a threat on our doorstep. Unless we require its removal, we shall have to accept a major recession in our position before the Soviet Union and the onlooking world.

INTERNATIONAL COMMUNIST TERRORISTS AND MURDERERS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, according to a Washington Post report today, State Department bureaucrats convinced President Carter to release four Puerto Rican terrorists as a sign of good will to Cuba's Fidel Castro, in the misguided belief that such benevolent action might dissuade Castro from castigating the United States during the Conference of Nonalined Nations in Havana.

The State Department apparently also entertained the hope—thus far equally misplaced—that Castro would reciprocate by releasing four American prisoners.

Surely, there can be no greater error in the conduct of our international affairs than to presume that the Communists are honorable people with humanitarian objectives.

Fidel Castro is merely one in a long line of international Communist terrorists and murderers, who have dedicated themselves to the destruction of the values most cherished by American citizens.

To calculate on favors from such a tyrant is surely a delusion.

Our diplomats must learn the lesson of history that strength in international relations will never be achieved through compromise with ruthless dictators or international communism.

I include the Washington Post report at this point in the RECORD:

[From the Washington Post, Sept. 17, 1979]

THE "HERO" OF PUERTO RICO

(By Rowland Evans and Robert Novak)

President Carter's release of four Puerto Rican terrorists boosted Fidel Castro's prestige in the Third World just as he emerged as its dominant pro-Soviet voice, with the Cuban dictator spicing his triumph by violating one commitment to Washington and going slow on another.

Castro privately offered early this year to swap four Americans jailed in Cuba in return for the four Puerto Ricans held in U.S. jails, promising not to publicly claim credit. The Americans were still in jail five days after the nationalists were released. Castro immediately broke his promise of discretion, in effect proclaiming himself the hero of Puerto Rico.

So the commander of Soviet surrogate troops in Africa and leader of spreading Marxist revolution in the Caribbean and Central America is lionized in the Third World, thanks to U.S. policies. This turn of events is strange even in the wonderworld of Carter administration foreign policy. How did it happen?

The president's decision stemmed not only from a stimplistic commitment to "human rights" but also from the desire of some State Department officials to head off further diatribes against the United States at the Castro-dominated "nonaligned" conference in Havana (which denounced Yankee imperialism anyway). And there is strong evidence Carter was thinking in terms of his own domestic political interests as well.

Although the administration denies any tit-for-tat deal, the original proposal came from Castro himself early this year when a congressional delegation went to Havana to seek release of the Americans. "There need be no negotiations or publicity," Castro privately informed the congressmen. "You've made an appeal and I have proposed a solution."

Carter quickly bought the deal, supported by the State Department's human-rights specialists, but amid doubts by his principal foreign-policy aides.

The doubts were quickly confirmed. Despite Castro's implicit pledge of silence, this headline appeared in the controlled Havana press only hours after the release of the terrorists: "Carter Forced to Release Puerto Ricans." That raised well-founded suspicions that the wily Castro had always intended to parade his conquest over Washington during the non-aligned conference.

Nor was Castro in any rush to fulfill his end of the bargain. At this writing, Washington still expects the release of the Americans, but there has been no move from Havana.

The certainty that releasing the four terrorists would add further glitter to Castro as revolutionary leader prompted a warning to Carter earlier this year from Puerto Rico's Gov. Carlos Romero-Barcelo "Adversaries of the United States," he said, referring obliquely to Castro, "will interpret the gesture as a tacit admission by the United States that . . . Puerto Rico's role as a part of the United States is both invalid and intolerable." Unless the four terrorists admit their guilt, the governor added, their release will justify charges that they have been held all these years as "political" prisoners.

Castro has been trumpeting exactly that. The terrorists were "political prisoners," and Puerto Rico, like pre-revolutionary Nicaragua, is a captive of the "colonial" power of the United States.

When the four Puerto Ricans walked out of jail, they threatened to repeat the criminal acts that put them there following the assassination attempt on President Truman and the shoot-up of the House of Representatives. Back in San Juan, they were received as heroes, then went on an island-wide tour reviling the United States and praising Castro.

Simultaneously, on Sept. 13 at a Washington dinner for several hundred leaders of the Hispanic community in this country, Carter claimed political credit for the release of the Puerto Ricans. But it is doubtful that that will gain him the support of any Hispanic Americans.

As of now, not even native Puerto Ricans want independence. In repeated votes, the Independence Party has received negligible support. But that might change with Castro able to claim U.S. recognition as unofficial bargaining agent for Puerto Rican independence.

This performance, coming while Washington seems powerless to push Soviet combat troops off Cuba, suggests the perils of playing to the applause of the Third World in shaping U.S. foreign policy. Those perils are deepened when combined with understandable efforts of an unpopular president to save himself politically.

SELECT COMMITTEE ON COMMITTEES UNNECESSARY AND EXPENSIVE

(Mr. LUNGREN asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, when I fought against the creation of the Select Committee on Committees earlier this session, I did so because I was concerned it would be unnecessary and expensive. Unfortunately, my concerns appear to have been justified.

And as one of its first official acts, the select committee has asked—not for jurisdictional reform, not for a limitation on committee assignments, not for a reduction in congressional staff—but to build 42 cubbyholes for Members to telephone their offices from the gallery above historic Statuary Hall.

This proposal, variously estimated to cost from $50,000 to $129,000, is not a good sign that the select committee will get down to the substantive work of reforming in the House.

Instead, it seems bent on giving Members a little present for the coming holiday season.

Since our germaneness rule has eliminated the Christmas-treeing of bills which the Senate now practices—we are going to deck the galleries of Statuary Hall with carrels for Christmas, instead.

CABLE TELEVISION SERVICE FOR THE BOISE AREA OF IDAHO

(Mr. HANSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANSEN. Mr. Speaker, beginning this past Friday on September 14 the people of Idaho who live in the Boise and Treasure Valley area now have the opportunity to share in the daily, legislative activities of this body via television. It is all being made possible through the facilities of United Cable Television of Boise which inaugurates its cable service later today. Since March 19 of this year, increasing millions of people throughout our country are able to watch congressional proceedings right in their own homes. The Cable Satellite Public Affairs Network (C-SPAN), a nonprofit cooperative of the cable television industry transmits these House sessions via satellite to its 500-plus affiliates in 50 States. It is a pleasure for me to welcome a new communications operation, United Cable Television of Boise, and I am sure their C-SPAN service will prove to be both educational and instructive for the people of western Idaho.

SECOND ANNUAL REPORT TO CONGRESS ON STATUS OF HEALTH INFORMATION AND HEALTH PROMOTION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

In accordance with Title XVII, Section 1705 (a) of the Public Health Service Act (Title I of P.L. 94-317), I am transmitting the Second Annual Report to Congress on the Status of Health Information and Health Promotion.

This Report has been prepared by the Department of Health, Education, and Welfare and submitted to me as required by law. The Report describes HEW's health information and health promotion activities in 1979 through August 2, and those proposed for 1980.

JIMMY CARTER.

THE WHITE HOUSE, *September 17, 1979.*

EIGHTEENTH QUARTERLY REPORT OF COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

In accordance with Section 5 of the Council on Wage and Price Stability Act, as amended, I hereby transmit to the Congress the eighteenth quarterly report of the Council on Wage and Price Stability. The report contains a description of the Council's activities during the first quarter of 1979 in monitoring both prices and wages in the private sector and various Federal government activities that may lead to higher costs and prices without creating commensurate benefits. It discusses Council reports, analyses, and filings before Federal regulatory agencies. It also describes the Council's activities of monitoring wages and prices as part of the anti-inflation program.

The Council on Wage and Price Stability will continue to play an important role in supplementing fiscal and monetary policies by calling public attention to wage and price developments or actions by the government that could be of concern to American consumers.

JIMMY CARTER.

THE WHITE HOUSE, *September 17, 1979.*

□ 1220

ANNUAL REPORT TO RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I hereby transmit the Annual Report to the Railroad Retirement Board for fiscal year 1978.

The report summarizes the Board's operations to assist the railroad sector during the year. Under the Railroad Retirement Act, 1,100,000 recipients were paid $4 billion in retirement and survivor benefits, and under the Railroad Unemployment Insurance Act 175,000 beneficiaries were paid almost $200 million in unemployment and sickness benefits.

I note with concern that the Board has advised me that the balance in the Railroad Retirement Account continues to decline as benefit payments exceed income for the eighth consecutive year.

The Board's most recent actuarial valuation indicates a serious and growing actuarial deficit which requires short term remedial action, a judgment also concurred in by the General Accounting Office. This Administration's budget for fiscal year 1980 includes even-handed legislative proposals to restore to solvency the railroad industry pension fund which will assure the interests of current and future railroad retirement beneficiaries. We also invite the view of railroad labor and management on our proposal to provide sound financing of the industry pension component by the railroad industry without added Federal subsidies.

The Board is currently preparing its 14th Triennial Actuarial Valuation of the industry pension, which should provide a more accurate, up-to-date analysis of the financial condition of the fund. The forthcoming actuarial valuation will project the condition of the fund based on strict current law basis as well as under the normal requirements of the Employee Retirement Income Security Act (ERISA). Both estimates will use the economic assumptions in the most recent Social Security Trustee's Report. These additional perspectives will help assure that changes to restore the solvency of the industry pension are based on information under a variety of economic and legislative assumptions.

JIMMY CARTER.

THE WHITE HOUSE, *September 17, 1979.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes, if postponed, will be taken on Tuesday, September 18, 1979.

MISCELLANEOUS CHANGES IN TAX LAWS

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the

bill (H.R. 4746) to make miscellaneous changes in the tax laws.

The Clerk read as follows:

H.R. 4746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SIMPLIFICATION OF PRIVATE FOUNDATION RETURN AND REPORTING REQUIREMENTS.

(a) AMENDMENT OF SECTION 6033.—Section 6033 of the Internal Revenue Code of 1954 (relating to returns by exempt organizations) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

"(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979,

"(2) a copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual returns), together with proof of publication thereof, shall be filed by the foundation together with the annual return under this section, and

"(3) the foundation managers shall furnish copies of the annual return under this section to such State officials and other persons, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed $1,000.

"(d) SECTION TO APPLY TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

"(1) NONEXEMPT CHARITABLE TRUSTS.—A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

"(2) NONEXEMPT PRIVATE FOUNDATIONS.—A private foundation which is not exempt from tax under section 501(a)."

(b) PUBLIC INSPECTION OF PRIVATE FOUNDATIONS' ANNUAL RETURNS.—

(1) IN GENERAL.—The first sentence of subsection (d) of section 6104 of such Code (relating to public inspection of private foundations' annual reports) is amended to read as follows: "The annual return required to be filed under section 6033 (relating to returns by exempt organizations) by any organization which is a private foundation within the meaning of section 509(a) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the date of the publication of notice of its availability."

(2) CONFORMING AMENDMENTS.—Such subsection (d) is amended—

(A) by striking out "ANNUAL REPORTS" in the heading and inserting in lieu thereof "ANNUAL RETURNS"; and

(B) by striking out "annual report" each place it appears in the second and third sentences and inserting in lieu thereof "annual return".

(c) REPEAL OF PRIVATE FOUNDATION ANNUAL REPORTING REQUIREMENTS.—Subpart D of part III of subchapter A of chapter 61 of such Code (relating to information concerning private foundations) is hereby repealed.

(d) TECHNICAL AMENDMENTS.—

(1) Section 6034 of such Code (relating to returns by trust described in section 4947(a) or claiming charitable deductions under section 642(c)) is amended—

(A) by striking out "section 4947(a)" in subsection (a) and inserting in lieu thereof "section 4947(a)(2)";

(B) by adding at the end of subsection (b) the following new sentence: "This section shall not apply in the case of a trust described in section 4947(a)(1).";

(C) by striking out "EXCEPTION" in the heading of subsection (b) and inserting in lieu thereof "EXCEPTIONS"; and

(D) by striking out "SECTION 4947(a)" in the section heading and inserting in lieu thereof "SECTION 4747(a)(2)".

(2)(A) The first sentence of section 6652 (d)(3) of such Code (relating to annual reports) is amended to read as follows: "In the case of a failure to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual returns), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to meet such requirement, $10 for each day during which such failure continues, but the total amount imposed hereunder on all such persons for such failure with respect to any one annual return shall not exceed $5,000."

(B) The heading of paragraph (3) of section 6652(d) of such Code is amended by striking out "REPORTS" and inserting in lieu thereof "RETURNS".

(3) Subsection (b) of section 6104 of such Code (relating to inspection of annual information returns) is amended by striking out "6056.".

(4) Section 6685 of such Code (relating to assessable penalties with respect to private foundation annual reports) is amended to read as follows:

"SEC. 6685. ASSESSABLE PENALTIES WITH RESPECT TO PRIVATE FOUNDATION ANNUAL RETURNS.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of section 6104(d) (relating to private foundations' annual returns) and who fails to so comply with respect to any return, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return."

(5) Section 7207 of such Code (relating to fraudulent returns, statements, or other documents) is amended by striking out "sections 6047 (b) or (c), 6056, or 6104(d)" and inserting in lieu thereof "subsection (b) or (c) of section 6047 or pursuant to subsection (d) of section 6104".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by striking out "4947(a)" in the item relating to section 6034 and inserting in lieu thereof "4947(a)(2)".

(2) The table of subparts for part III of subchapter A of chapter 61 of such Code is amended by striking out the item relating to subpart D.

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out "reports" in the item relating to section 6685 and inserting in lieu thereof "returns".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

SEC. 2. TREATMENT OF REIMBURSEMENT OF CERTAIN TRAVEL EXPENSES FOR PURPOSES OF SECTION 4941.

(a) GENERAL RULE.—Section 4941(d)(2)(G) of the Internal Revenue Code of 1954 (relating to payment or reimbursement of certain traveling expenses) is amended by striking out "or" at the end of clause (vi), by striking out the period at the end of clause (vii) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(viii) any payment or reimbursement of traveling expenses for travel between a point in the United States and a point outside the United States, but only if such payment or reimbursement with respect to any one trip by an official does not exceed the lesser of the actual cost of the transportation involved or $2,500, plus an amount for all other traveling expenses not in excess of 125 percent of the maximum amount payable under section 5702(a) of title 5, United States Code, for like travel by employees of the United States for a maximum of 4 days.

Clause (viii) of subparagraph (G) shall not apply to any payment or reimbursement made by a private foundation if more than one-half of the foundation's support (as defined in section 509(d)) is normally derived from any business enterprises, trade association, or labor organization."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to travel beginning after the date of the enactment of this Act.

SEC. 3. TREATMENT OF CERTAIN CHARITABLE TRUSTS FOR PURPOSES OF THE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (C) of section 57(b)(2) of the Internal Revenue Code of 1954 (relating to treatment of certain charitable contributions of trusts for purposes of the minimum tax) is amended by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively, and by inserting after clause (iii) the following new clause:

"(iv) deductions allowable to a trust—

"(I) all the income interests in which are devoted to one or more of the purposes described in section 17(c) (determined without regard to section 17(c)(2)(A)),

"(II) all of the interests (other than income interests) in which are held by a corporation, and

"(III) the grantor of which is a corporation."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975.

SEC. 4. EXTENSION OF WITHHOLDING TO PAYMENTS OF SICK PAY MADE BY THIRD PARTIES.

(a) GENERAL RULES.—Paragraph (1) of section 3402(o) of the Internal Revenue Code of 1954 (relating to extension of withholding to certain payments other than wages) is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any payment to an individual of sick pay which does not constitute wages (determined without regard to this subsection), if at the time the payment is made a request that such sick pay be subject to withholding under this chapter is in effect,".

(b) AMOUNT TO BE DEDUCTED AND WITHHELD.—Subsection (o) of section 3402 of such Code is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) AMOUNT WITHHELD FROM ANNUITY PAYMENTS OR SICK PAY.—If a payee makes a request that an annuity or any sick pay be subject to withholding under this chapter, the amount to be deducted and withheld under this chapter from any payment to which such request applies shall be an amount (not less than a minimum amount determined under regulations prescribed by the Secretary) specified by the payee in such request. The amount deducted and withheld with respect to a payment which is greater or less than a full payment shall bear the same relation to the specified amount as such payment bears to a full payment.

"(4) REQUEST FOR WITHHOLDING.—A request that an annuity or any sick pay be subject to withholding under this chapter—

"(A) shall be made by the payee in writing to the person making the payments and shall contain the social security number of the payee,

"(B) shall specify the amount to be deducted and withheld from each full payment, and

"(C) shall take effect—

"(i) in the case of sick pay, with respect to payments made more than 7 days after the date on which such request is furnished to the payor, or

"(ii) in the case of an annuity, at such time (after the date on which such request is furnished to the payor) as the Secretary shall by regulations prescribe.

Such a request may be changed or terminated by furnishing to the person making the payments a written statement of change or termination which shall take effect in the same manner as provided in subparagraph (C). At the election of the payor, any such request (or statement of change or revocation) may take effect earlier than as provided in subparagraph (C).

"(5) SPECIAL RULE FOR SICK PAY PAID PURSUANT TO CERTAIN COLLECTIVE-BARGAINING AGREEMENTS.—In the case of any sick pay paid pursuant to a collective-bargaining agreement between employee representatives and one or more employers which contains a provision specifying that this paragraph is to apply to sick pay paid pursuant to such agreement and contains a provision for determining the amount to be deducted and withheld from each payment of such sick pay—

"(A) the requirement of paragraph (1)(C) that a request for withholding be in effect shall not apply, and

"(B) except as provided in subsection (n), the amounts to be deducted and withheld under this chapter shall be determined in accordance with such agreement.

The preceding sentence shall not apply with respect to sick pay paid pursuant to any agreement to any individual unless the social security number of such individual is furnished to the payor and the payor is furnished with such information as is necessary to determine whether the payment is pursuant to the agreement and to determine the amount to be deducted and withheld."

(c) DEFINITION OF SICK PAY.—Paragraph (2) of section 3402(o) of such Code (relating to definitions) is amended by adding at the end thereof the following new subparagraph:

"(C) SICK PAY.—For purposes of this subsection, the term 'sick pay' means any amount which—

"(i) is paid to an employee pursuant to a plan to which the employer is a party, and

"(ii) constitutes remuneration or a payment in lieu of remuneration for any period during which the employee is temporarily absent from work on account of sickness or personal injuries."

(d) TECHNICAL AMENDMENT.—Subparagraph (B) of section 3402(o)(2) of such Code (defining annuity) is amended by striking out ", but only to the extent that the amount is includible in the gross income of such individual".

(e) REPORTING REQUIREMENTS.—Section 6051 of such Code (relating to receipts for employees) is amended by adding at the end thereof the following new subsection:

"(f) STATEMENTS REQUIRED IN CASE OF SICK PAY PAID BY THIRD PARTIES.—

"(1) STATEMENTS REQUIRED FROM PAYOR.—

"(A) IN GENERAL.—If, during any calendar year, any person makes a payment of third-party sick pay to an employee, such person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom such payment was made showing—

"(i) the name and, if there is withholding under section 3402(o), the social security number of such employee,

"(ii) the total amount of the third-party sick pay paid to such employee during the calendar year, and

"(iii) the total amount (if any) deducted and withheld from such sick pay under section 3402.

For purposes of the preceding sentence, the term 'third-party sick pay' means any sick pay (as defined in section 3402(o)(2)(C)) which does not constitute wages for purposes of chapter 24 (determined without regard to section 3402(o)(1)).

"(B) SPECIAL RULES.—

"(i) STATEMENTS ARE IN LIEU OF OTHER REPORTING REQUIREMENTS.—The reporting requirements of subparagraph (A) with respect to any payments shall, with respect to such payments, be in lieu of the requirements of subsection (a) and of section 6041.

"(ii) PENALTIES MADE APPLICABLE.—For purposes of sections 6674 and 7204, the statements required to be furnished by subparagraph (A) shall be treated as statements required under this section to be furnished to employees.

"(2) INFORMATION REQUIRED TO BE FURNISHED BY EMPLOYER.—Every employer who receives a statement under paragraph (1)(A) with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to such employee showing—

"(A) the information shown on the statement furnished under paragraph (1)(A), and

"(B) if any portion of the sick pay is excludable from gross income under section 104(a)(3), the portion which is not so excludable and the portion which is so excludable.

To the extent practicable, the information required under the preceding sentence shall be furnished on or with the statement (if any) required under subsection (a)."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made on or after the first day of the first calendar month beginning more than 120 days after the date of the enactment of this Act.

SEC. 5. TREATMENT OF CERTAIN REPAYMENTS OF SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS.

(a) GENERAL RULE.—Section 62 of the Internal Revenue Code of 1954 (defining adjusted gross income) is amended by inserting after paragraph (14) the following new paragraph:

"(15) CERTAIN REQUIRED REPAYMENTS OF SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS.—The deduction allowed by section 165 for the repayment to a trust described in paragraph (9) or (17) of section 501(c) of supplemental unemployment compensation benefits received from such trust if such repayment is required because of the receipt of trade readjustment allowances under section 231 or 232 of the Trade Act of 1974 (19 U.S.C. 2291 and 2292)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to repayments made in taxable years beginning after the date of the enactment of this Act.

SEC. 6. DISCLOSURE OF TAX RETURNS TO STATE AUDIT AGENCIES.

(a) GENERAL RULE.—Subsection (d) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of return information to State tax officials) is amended to read as follows:

"(d) DISCLOSURE TO STATE TAX OFFICIALS.—

"(1) IN GENERAL.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36, shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation.

"(2) DISCLOSURE TO STATE AUDIT AGENCIES.—

"(A) IN GENERAL.—Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agenc' means any State agency, body, or extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

"(B) STATE AUDIT AGENCY.—For purposes of subparagraph (A), the term 'State audit agency' means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 7. INVESTMENT CREDIT FOR CERTAIN PROPERTY USED IN MARITIME SATELLITE COMMUNICATIONS.

(a) GENERAL RULE.—Paragraph (5) of section 48(a) of the Internal Revenue Code of 1954 (relating to property used by governmental units) is amended to read as follows:

"(5) PROPERTY USED BY GOVERNMENTAL UNITS.—Property used by the United States, any State or political subdivision thereof, any international organization, or any agency or instrumentality of any of the foregoing shall not be treated as section 38 property. For purposes of the preceding sentence, the International Telecommunications Satellite Consortium, the International Maritime Satellite Organization, and any successor organization of such Consortium or Organization shall not be treated as an international organization."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

SEC. 8 INCREASES IN INTEREST RATES PAYABLE ON UNITED STATES RETIREMENT PLAN AND INDIVIDUAL RETIREMENT BONDS.

(a) IN GENERAL.—The first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by adding at the end thereof the following new paragraph:

"The Secretary of the Treasury, with the approval of the President, may provide by regulations that the investment yield on any offerings of bonds issued under this Act which are described in section 405(b) or 409(a) of the Internal Revenue Code of 1954 (relating to retirement plan bonds and individual retirement bonds, respectively) be increased for the interest accrual periods specified in such regulations so that the investment yield on such bonds for such periods is consistent with the investment yield on new offerings of such bonds."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to the investment yield on bonds issued before, on, or after the date of the enactment of this Act, but only for purposes of increasing the investment yield on such bonds for interest accrual periods beginning after the date of enactment of this Act.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 20 minutes, and the gentleman from Tennessee (Mr. DUNCAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4746 contains miscellaneous changes in the Federal tax laws.

The bill's provisions relate to: First, simplification of private foundation return and reporting requirements; second, treatment of reimbursement by a private foundation of certain travel expenses incurred by Government officials; third, treatment of certain charitable trusts established by corporations for purposes of the minimum tax; fourth, extension of withholding to payments of sick pay made by third parties; fifth, treatment of certain repayments of supplemental unemployment compensation benefits; sixth, disclosure of tax returns to State audit agencies; seventh, investment credit for certain property used in maritime satellite communications; and eighth, increases in interest rates payable on U.S. retirement bonds.

Mr. Speaker, these changes will improve the tax law by simplifying it or by providing treatment for transactions or situations consistent with the present law treatment of substantially similar transactions or situations. In addition, the provision extending the availability of withholding to sick pay paid by third parties will assist taxpayers in meeting their tax obligations in a less burdensome way. Finally, the change in the tax return disclosure rules will assist State audit agencies in performing their responsibilities. Of course, confidential tax return information furnished to State audit agencies would be subject to the same safeguards against unauthorized use which now apply to the States taxing authority.

In reporting H.R. 4746 to the floor, the Committee on Ways and Means recognizes that there needs to be a forum for the orderly consideration of various nonmajor changes in the tax code. The ever-increasing complexity of our tax laws requires that we allot some time to periodically review minor substantive tax proposals. Also, we must be in a position to evaluate proposals to provide relief, where warranted, from the adverse effects—and often unintended effects—of the application of broad rules of existing tax policy.

Although serving as such a forum, the committee has taken the posture, however, that we must approach such narrowly drawn legislative relief only after much scrutiny and where other approaches to resolution of an issue have been exhausted.

This approach to legislating in the minor tax bill area is essential—as I have outlined on several occasions—so as not to further complicate the tax code encumbering it with an excessive number of narrowly drawn rules. In a sense, minor tax bills should meet a higher burden of proof since they often involve issues that are not of particularly broad based interest to the general public.

H.R. 4746 has met this burden of proof. No objection was raised either by the Treasury or any other witnesses before the committee to any of the provisions that have been incorporated in this bill.

In brief, Mr. Speaker, let me summarize the individual sections of H.R. 4746:

Section 1, formerly H.R. 3433, combines information reporting requirements for private foundations so that only one return would have to be filed to furnish information now required on two separate returns. It also makes a few other minor simplifications in tax reporting requirements in this area.

Section 2, formerly H.R. 988, modifies the foundation "self-dealing" rules so as to permit private foundations to reimburse Government officials for certain expenses for foreign travel under limitations similar to those that apply already to the reimbursement of expenses for domestic travel.

Section 3, formerly H.R. 4290, modifies existing law to insure that certain charitable lead trusts established by corporations to promote charitable giving do not become subject to the alternative minimum tax.

Section 4, formerly H.R. 960, would allow, on a voluntary basis, individuals to elect to have withholding from payments of sick pay made by a third party, such as an insurance company.

Section 5, formerly H.R. 3353, would allow a deduction from gross income for the repayment of supplemental unemployment compensation benefits if the repayment is required because the individual has later qualified for the receipt of trade readjustment allowances. This provision simplifies the current law so that individuals not in a position to itemize their deductions or secure a deduction under the claim of right provision of the code can receive a deduction to offset amounts already included in income but which later had been repaid.

Section 6, formerly H.R. 3372, would permit a State taxing authority to disclose State tax information to their State auditing agency as part of the auditing agency's function of reviewing the activities of the State taxing authority.

Section 7, formerly H.R. 4299, would make it clear that the U.S. designated participant in the International Maritime Satellite Organization (Comsat) would continue to qualify for the investment tax credit on property that it has invested in this organization. This is simply a clarification which has already been made in another area where Comsat serves as the U.S. representative to an international organization.

Finally, section 8, formerly H.R. 3688, would authorize the Treasury Department to make upward adjustments in the interest rates on outstanding U.S. retirement bonds so that such bonds would earn interest at a rate consistent with the yield for new issues of such bonds.

The bill would reduce budget receipts by less than $10 million annually for fiscal year 1980 and later years. In addition, the provision for increasing interest rates on U.S. retirement bonds will increase budget outlays by $6 million in fiscal year 1980 and by $2 million annually thereafter.

Mr. Speaker, H.R. 4746 makes small, but important, adjustments in our tax laws which have been the subject of detailed hearings and is a bill on which I know of no controversy. I urge its adoption by the House.

Mr. JONES of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Speaker, I rise in support of H.R. 4746. In particular, I would like to discuss title I of the bill, which I authored.

Title I would simplify the tax reporting requirements for private foundations. Under current law, foundations are required to file two separate reports to the Internal Revenue Service. One report is a yearly informational filing; the other is an annual report. Both of these filings contain similar information, and this duplicaiton is both unnecessary and counterproductive.

Title I would combine both of these reports into one single filing which would be available to the public for inspection. In doing so, it would save an estimated 100,000 pieces of paperwork and 58,000 work-hours per year. It would also allow the 22,500 private foundations to spend more of their time helping people instead of filing out bureaucratic forms.

Mr. Speaker, title I of H.R. 4746 is identical to legislation which passed the House last year. It is back before us today because the Senate ran out of time to consider the bill in the 95th Congress. I urge my colleagues to vote for this legislation.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4746 which makes a number of changes to the Internal Revenue Code of 1954.

The bill contains eight separate and noncontroversial bills that were passed by the Select Revenue Measures Subcommittee of the Ways and Means Committee. Because of their noncontroversial nature it was felt that the bills should be expedited and that consolidation would expedite their consideration by the full committee and the House of Representatives.

H.R. 4746 is supported by the Treasury and contains suggested Treasury amendments.

I urge the bill's immediate passage.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN of Tennessee. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I rise in support of H.R. 4746 and would like to briefly comment on the provisions of the bill which allow a private foundation to reimburse a Government official for certain foreign travel expenses.

The Tax Reform Act of 1969 imposed an excise tax on certain transactions engaged in by private foundations, including the reimbursement of a Government official for travel expenses. An exception was provided where the Government official was reimbursed for domestic travel expenses. However, the reimbursement of a Government official by a private foundation for foreign travel expenses was not excluded.

The current restrictions imposed on the reimbursement of Government officials for foreign travel expenses has resulted in private foundations not being able to carry out their exempt function to the fullest extent possible. Thus, the reimbursement restrictions in practice have gone beyond their intended purpose and require amendment.

H.R. 4746 provides that a private foundation may reimburse a Government official for foreign travel expenses, subject to certain limitations. These limitations are similar to those imposed under current law in the case of reimbursement for domestic travel and are reasonable. Thus, under the bill the foreign travel expenses must be incurred as a result of travel between the United States and a point outside the United States. In addition, the amount of the reimbursement for transportation expenses cannot exceed the actual amount of such expenses or $2,500, whichever is less. Further, in the case of other traveling expenses the amount of the reimbursement cannot exceed 125 percent of the maximum amount payable under section 5702(a) of title 5 of the United States Code—concerning travel by U.S. employees—for a maximum of 4 days.

The bill also requires the private foundation to meet certain support requirements. Thus, the reimbursing private foundation cannot normally receive more than one-half of its support from any business enterprise, trade association, or labor organization. If it does then its reimbursement payments are not eligible for the bill's exception.

The bill is supported by Treasury, and I urge its immediate passage.

□ 1230

Mr. DUNCAN of Tennessee. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL), a member of the committee.

Mr. FRENZEL. Mr. Speaker, I rise in support of the bill H.R. 4746 which includes therein a section, section 3, which was a bill that I introduced dealing with the treatment of certain charitable trusts established by corporations for purposes of minimum tax. I had asked the chairman of the subcommittee to include that particular bill in the Technical Corrections Act, but I think he quite correctly perceived that my change, while it was an unintended result of our last tax reform bill, had enough substance to it so that it should be handled in this way. I thank him for handling it promptly and urge that the full bill, which is meritorious in all of its sections, be promptly passed.

● Mr. PICKLE. Mr. Speaker, I rise in support of this bill, H.R. 4746, that embodies eight bills approved by the Subcommittee on Select Revenue Measures, section 8 of which includes my bill H.R. 3688 that would authorize the Treasury Department to make upward adjustments in the interest rate on outstanding retirement bonds (IRA's) so that such bonds would earn interest at a rate consistent with the yield for new issues of such bonds. This bill passed the House and the Senate last session, but got caught in the last-minute crunch on October 15, 1979, and since the Senate had attached it to another bill, it needed a conference to resolve and we ran out of time.

Here is the situation that section 8 of the bill addresses:

Under present law, money set aside under individual retirement accounts or Keogh plans may be invested in individual retirement bonds or retirement plan bonds offered by the U.S. Treasury.

These bonds are an extremely good, long-term investment for the U.S. Treasury, and any bonds sold help to relieve the pressure on the short-term market and thereby also help to hold down pressures on interest rates.

But the share of the market affected by these bonds has historically been very small. Currently, they offer serious drawbacks to the investor—drawbacks this legislation seeks to remedy.

The individual retirement and retirement plan bonds bear an interest rate fixed as of the date of purchase. They cannot be sold or exchanged until age 59½ or until death or disability. Thus, in most instances, the purchaser is locked into an investment in these bonds at a fixed rate of interest until retirement. Some retirement bonds still outstanding were issued at a 3¾-percent rate of return.

The legislation before you would provide simple equity to these investors by increasing that rate of return to the current rate of return on the series E savings bond. It would maintain that equity in the future—and also make these bonds a more attractive investment—by insuring that the future rate of return kept pace with the general market conditions, as does the series E bond. At the same time, since the series E rate is already carefully set not to interfere with the needs of the private market, these bonds would have no deleterious effects there.

As of July 31, 1977, approximately $169 million in retirement plan bonds and approximately $25 million in individual retirement bonds have been issued by the Treasury. Most are still outstanding. The revenue effect of improving the investment yield on these bonds is negligible, amounting to less than $6 million by 1981.

But, again, while this is a small bill, it is an important one. An improved yield will allow these bonds to serve as a competitive yardstick with private investment. The citizen will always have the option to go to a nontrustee plan using these bonds, and this will make it harder for someone to be victimized by unscrupulous retirement plan sellers offering programs which have a lower actual yield than is available on the open market.

At the same time we provide a good investment for the U.S. Government with beneficial effects on the overall interest rate picture.

This bill will have a very small effect on revenue. It is estimated that it will have no effect on budget receipts, but it will increase outlays by $6 million in

fiscal 1980 and by $2 million each year thereafter.

I urge the adoption of this bill.●

Mr. DUNCAN of Tennessee. Mr. Speaker, I have no other requests for time and yield back the remainder of my time.

The SPEAKER pro tempore (Mr. DICKS). The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI) that the House suspend the rules and pass the bill, H.R. 4746.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FEDERAL OPEN MARKET COMMITTEE MINUTES

Mr. MITCHELL of Maryland. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4998) to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis.

The Clerk read as follows:

H.R. 4998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12A of the Federal Reserve Act (12 U.S.C. 263) is amended by adding at the end thereof the following:

"(d)(1) The Board of Governors of the Federal Reserve System shall take and maintain detailed minutes of all meetings of the Committee.

"(2) Subject to paragraph (3), the minutes of each such meeting shall include a transcript of the proceedings of such meeting. Such transcript may be edited, without changing the substance involved, in accordance with regulations prescribed by the Board. Such regulations may authorize the inclusion of staff reports. Views expressed by any member of the Committee shall be attributed to such member in such minutes.

"(3)(A) Before the publication of any minutes in accordance with the provisions of paragraph (4), the Board may delete from such minutes any information regarding any foreign country, central bank of a foreign country, or any international institution which has a majority of members who are foreign countries or central banks of foreign countries. Any such deletion shall be indicated in such minutes.

"(B) Not later than fifteen years after the date of each meeting with respect to which information is deleted under subparagraph (A), the Board shall review such information to determine whether such information should be published.

"(C) Not later than thirty years after the date of each meeting with respect to which information is deleted under subparagraph (A) and withheld from publication under subparagraph (B), the Board shall publish such information.

"(4) The minutes of each meeting of the Committee, prepared pursuant to paragraphs (1) through (3), shall be published by the Board on, but not before, the first business day of February of the fourth calendar year following the calendar year in which the meeting involved occurs.".

SEC. 2. (a) The amendments made by the first section of this Act shall apply only to meetings of the Federal Open Market Committee which are held after the date of the enactment of this Act.

(b) With respect to any meeting of the Federal Open Market Committee which was held before April 1, 1976, not later than six months after the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall publish any minutes of such meetings which have not previously been published.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Maryland (Mr. MITCHELL) will be recognized for 20 minutes, and the gentleman from Idaho (Mr. HANSEN), will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I yield myself as much time as I may consume.

H.R. 4998 would require that detailed minutes of all Federal Open Market Committee meetings be published "on, but not before, the first business day of February of the 4th calendar year following the calendar year in which the meeting involved occurs." For January meetings, the minutes thus will be released with a lag of 4 years and 1 month. For December meetings, the lag before publication and release will be 3 years and 2 months.

The FOMC started keeping detailed minutes of its meetings in 1936. In 1964, the minutes were released for all meetings before 1959, and the policy of publishing them with a 5-year time lag was adopted. Then, in May 1976, the FOMC voted to stop keeping minutes.

In 1977, the Subcommittee on Domestic Monetary Policy held hearings on H.R. 9465, which had been introduced by our former colleague Mark Hannaford. Written opinions on the value of the minutes, which had been solicited when the Honorable STEVE NEAL chaired the subcommittee and were received from 81 economists, historians, bankers and former top-level Federal Reserve officials, were published as part of the hearing record. Overwhelmingly, from Milton Friedman to John Kenneth Galbraith, these experts opposed the FOMC's decision to discontinue keeping minutes and favored legislation to reinstate them.

Former Federal Reserve Board Vice Chairman J. Louis Robertson pointed out that qualified men prefer not to remain anonymous and that as competent individuals, the members of the FOMC "should be willing and anxious to stand on their records and be held responsible for the way in which they play their respective roles." Former Federal Reserve Board Governor Sherman Maisel provided still another reason for attribution and disclosure of individual views. He stated:

> From my experience, I believe each member of the FOMC prepares more carefully and makes more considered statements based on his recognition that he and the others are on the record and will be judged in the future on their individual contributions to the debate.

The experts also stressed the importance of the minutes for research in monetary policy, both by academicians and Federal Reserve officials and staff. For example, former Federal Reserve Governor Dewey Daane stated that he often had occasion to refer back to the minutes both as a Governor and when he had been director of Research at the Federal Reserve Bank of Richmond.

In summary, there are diverse important reasons for reinstating the minutes of the FOMC. I am pleased that the Federal Reserve Board has given its support to the subcommittee's legislation to do exactly that. The final language of the bill, H.R. 4998, was worked out by subcommittee staff in cooperation with Federal Reserve Board counsel.

The minutes are to include transcripts of the meetings, which may be edited for style, but without changing substance, in accordance with regulations prescribed by the Federal Reserve Board. Staff reports may be included by reference. The views expressed by individuals must be attributed to those individuals.

To prevent premature disclosure of sensitive information, discussions concerning foreign entities can be deleted and withheld for up to 30 years. Further in this regard, assurance was given by the Federal Reserve Board that members of the congressional committees with oversight jurisdiction over the Federal Reserve shall have access to any deleted discussions on a confidential basis 1 year after the meeting during which they occurred.

The minutes for each year are to be released to the public 3 years and 2 months after the December meeting.

Mr. Speaker, I introduced H.R. 2307, a bill to require that detailed minutes of all FOMC meetings be maintained and released to the public on a deferred basis on February 21, 1979. Similar legislation, H.R. 424, had been introduced by the ranking minority member of the Subcommittee on Domestic Monetary Policy, the Honorable GEORGE HANSEN, on January 15. The subcommittee held a hearing on an amendment to H.R. 2307 in the nature of a substitute with the Federal Reserve Board, we marked up the legislation on July 27. The substitute was adopted by a voice vote and the bill reported as amended by a vote of seven ayes and no nays.

On July 27, I introduced a clean bill as H.R. 4998 for myself, Mr. NEAL, Mr. D'AMOURS, Mr. BARNARD, Mr. MATTOX, Mr. CAVANAUGH, Mr. HANSEN, and Dr. PAUL. It was marked up and favorably reported by the full Banking Committee by a voice vote, with no nays heard, on July 31.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the legislation before us is relatively simple and straightforward. It reestablishes what was formerly the longstanding practice of the Federal Reserve Board of Governors to publish the minutes of meetings of the Federal Open Market Committee after a delay of a few years. These minutes were discontinued when it was feared that a freedom of in-

formation suit might force their disclosure so early as to enable some market insiders to profit by the knowledge, at the expense of the stability and fairness of the Government securities market generally.

This legislation precludes such a suit, and mandates the keeping of the minutes and their timely release. Safeguards for sensitive information pertaining to foreign official institutions have been included, so that foreign central banks, for example, need not fear that they will suffer from this legislation.

While this legislation is not a major policy issue, and the provision for Open Market Committee minutes will not be greeted as an answer to a gas shortage nor as a method of verifying a SALT treaty nor as a way to pay for a canal, it is nevertheless of fundamental importance to responsible government. In former years, these minutes were used by scholars to examine the ways in which monetary policy was formulated and implemented, and from those studies it is safe to say that the Federal Reserve itself has learned something of the subtle constraints under which it operates, and the dangers of shortsighted focusing on popular, but ultimately misleading targets.

It is in the interest of informed public debate that this legislation be adopted, and it is in that spirit that I urge my colleagues to vote for its passage today.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. I thank the gentleman from Idaho for yielding.

Mr. Speaker, I rise for the purpose of asking the distinguished chairman of the committee, the gentleman from Maryland (Mr. MITCHELL), a question. What is so magic about the 3-year period of time that we selected? I know that it is shorter than the 5-year previous period that was in previous legislation, but I would think in the period of time since the original law went off the books in the middle 1960's that we reached a point in our consideration of disseminating of governmental information to the public that less information ought to remain a secret from the people of the country as opposed to making that information more public, so I would expect with a bill like this that perhaps it would be a year or so as opposed to 3 years, even though I admit that 3 years is better than 5 years.

□ 1240

Mr. MITCHELL of Maryland. Will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. In response to the inquiry of the gentleman, the Fed advanced the argument that very often in their minutes certain practices are adopted which will have an effect on the economic system over a 3-year period or maybe a 5-year period and a premature disclosure of those things might advantage some of the elements in our economic system.

Like the gentleman, I would prefer it to be 1 year. I would like to see us try this on a 3-year basis. If that works fairly well for the first go-round we will try again to shorten the time.

I think the gentleman is right, the argument advanced by the Federal Reserve people did have some cogency to it. For that reason we did agree to the 3-year period.

Mr. GRASSLEY. Mr. Speaker, I will accept the gentleman's statement as to the justification for the 3 years.

In another vein, is this bill any indication there will be a legislative determination that the 30-day period in which the decisions of the Federal Open Market Committee are to be made public will be reduced?

Mr. MITCHELL of Maryland. No; this legislation in no way affects that decision.

Mr. GRASSLEY. I know the legislation does not affect that decision but is there any thinking within your subcommittee or within the Committee on Banking, Finance and Urban Affairs in regard to that point and does the gentleman have any thoughts on that?

Mr. MITCHELL of Maryland. Will the gentleman yield further?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HANSEN. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. GRASSLEY. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

In response to the gentleman's inquiry, that has not been considered by the subcommittee at all and, frankly, the chairman of the committee has not addressed that issue in his own thinking.

It may well be before we got into the second half of this session we may want to give that some consideration.

Mr. Speaker, I would like to indicate to the gentleman that the time period is 30 days, not 45.

Mr. GRASSLEY. I thank the gentleman from Maryland for his comments and I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I have no further requests for time.

Mr. MITCHELL of Maryland. Mr. Speaker, I have no further requests for time and I urge the speedy passage of this legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. MITCHELL), that the House suspend the rules and pass the bill, H.R. 4998.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill, H.R. 4998, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

URGING GOVERNMENT OF SYRIA, ON HUMANITARIAN GROUNDS, TO PERMIT SYRIAN JEWS TO EMIGRATE

Mr. HAMILTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 91) urging the Government of Syria, on humanitarian grounds, to permit Syrian Jews to emigrate.

The Clerk read as follows:

H. CON. RES. 91

Whereas the United Nations Universal Declaration on Human Rights states unequivocally the right of every individual to emigrate and live in the land of his choice; and

Whereas the Government of Syria is a signatory of the declaration; and

Whereas the Syrian Government has placed restrictions on the right of Syrian Jews to emigrate from that country; and

Whereas the Syrian Jewish community, which numbers nearly five thousand persons, has expressed its desire, through numerous official and unofficial means, to rejoin families and relatives in other lands; and

Whereas numerous private organizations in the United States and other countries have expressed their willingness to facilitate such emigration and to assist in the absorption process; and

Whereas Syria is the only Arab state that has not permitted its Jewish community to exercise the right of emigration: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress calls upon the Government of Syria, on humanitarian grounds, to permit those members of the Syrian Jewish community desirous of emigrating to do so.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Indiana (Mr. HAMILTON) will be recognized for 20 minutes, and the gentlewoman from New Jersey (Mrs. FENWICK) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. HAMILTON).

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 91, urging the Government of Syria, on humanitarian grounds, to permit Syrian Jews to emigrate.

Mr. Speaker, House Concurrent Resolution 91 was introduced by our colleague from New York (Mr. SOLARZ). I know that I speak for my colleagues on the committee in expressing our appreciation for the leadership Mr. SOLARZ has provided on this matter and for the demonstrable efforts he has made both here and in Damascus, Syria, over the last several years to try to improve conditions for the small Jewish community in that country and enable them to emigrate if they so desire.

After some loosening of restrictions on the Syrian-Jewish community in 1976 and 1977 and letting a few women emigrate, the Syrian Government has more recently made it more difficult for Jews to emigrate, even though travel restrictions, despite high bonds which must be posted, have been relaxed and other restrictions have been modified.

I regret that the applications of some 51 Jewish women to leave Syria have been pending for some time, many for more than 1 year. Although some 500 Syrian Jews have escaped during the last several months illegally, we cannot be satisfied with results from our discussions with the Syrians on this issue recently. This resolution puts us on record. We attach importance to this matter and this resolution demonstrates our deep concern for these people.

The Subcommittee on Europe and the Middle East held a hearing April 2 of this year to review the situation in the 4,500 person Jewish community in Syria. Subsequently, on June 25 the subcommittee by voice vote reported House Concurrent Resolution 91 favorably. I might add that the State Department in a letter dated May 11, 1979, said that the administration posed no objection to the resolution.

Mr. Speaker, United States-Syrian relations have improved considerably in recent years, but today these relations face serious problems and challenges. We can rightly be concerned about Syria's lack of cooperation with the Camp David process and about its poor performance on the emigration issue and so state our problems with the way the Syrians behave on these issues, but, at the same time, I would hope that the House realizes we now have important and delicate discussions going on with the Syrian Government and that the Syrian Government today faces severe internal challenges.

We are now involved in concerted discussions with the Syrians to try to get their help to defuse the timebomb in Lebanon by curbing military activities of the Palestinians there. We need Syrian cooperation in Lebanon and elsewhere at a time of increased sectarian, Muslim violence in the country. This violence threatens the stability and the effectiveness of the Government. It is interesting to note that at this very time of sectarian violence throughout Syria, special protections have been given to the Jewish community in Damascus by the Government.

Mr. Speaker, it is obvious that it is in our interest to try to maintain a dialog with the Syrian Government. This resolution is consistent with past statements on this subject and it is consistent with our efforts to work with the Syrians to alleviate a humanitarian problem. I urge passage of House Concurrent Resolution 91.

Mrs. FENWICK. Mr. Speaker, I yield myself such time as I may consume.

I think this is an important resolution. It is a simple one. It is not an angry one. I think it will put this House on record as to our feelings in the matter of those who are not allowed to leave their country when they wish to do so.

Every country in the Middle East is important in its own particular way and certainly this applies to Syria. We know they are having difficulties at this time and we know, too, they are under stress as regards their relations with other countries in the area. It is therefore not the desire of the committee or this House, I am sure, to make difficulties.

However, Mr. Speaker, I think it is the desire of this House to speak up when the Universal Declaration of Human Rights to which Syria subscribed is violated in this way. Our chairman has spoken of the 51 women waiting to be allowed to leave. Surely these are not the great engineers, physicists, and trained people that Syria might need. They are young women anxious to come to a country where they might find a husband, and time passes, and they are not given permission to leave. To escape is difficult. It requires, of course, sacrifice of everything left behind. It endangers the families. It is a very heavy step.

□ 1250

This resolution, which purely on humanitarian grounds pleads for these people, is one which this House would wish to adopt without dissenting votes.

Mr. Speaker, I have no requests for time.

Mr. Speaker, I urge adoption of the resolution.

Mr. HAMILTON. Mr. Speaker, I yield such time as he may consume to our distinguished chairman of the committee, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of House Concurrent Resolution 91, urging the Government of Syria, on humanitarian grounds, to permit Syrian Jews to emigrate.

The resolution was ordered favorably reported, by a voice vote from the Committee on Foreign Affairs, after having been previously considered by the Subcommittee on Europe and the Middle East, which conducted hearings on the resolution.

I would like to commend two of our colleagues for the leadership and attention they have given to this matter of humanitarian concern—the gentleman from Indiana LEE H. HAMILTON, who chairs the Subcommittee on Europe and the Middle East, and the gentleman from New Jersey STEPHEN J. SOLARZ, for his efforts both here in the United States and in Syria, on behalf of the Jews residing there who wish to emigrate.

House Concurrent Resolution 91 calls on Syria to uphold its position as a signatory to the United Nations Universal Declaration on Human Rights, and permit the free emigration of any citizens who desire to leave.

It should be recognized that the Syrian Government has eased restrictions on Jews within its boundaries. However, their future within that country is not a hopeful one. The educational and career opportunities for Syrian Jews would be more advantageous elsewhere. If they so choose, those people should be granted the freedom to emigrate.

In 1977, Syria did permit a number of Jewish women to emigrate in order to marry. Many young Jewish women, for whom there are no prospective spouses, still remain in Syria, however. The exit applications of 51 of these women have been held in abeyance for over a year in some cases.

It is hoped that political concerns may be temporarily laid aside for a more fundamental consideration—a humanitarian reason—that is the emigration rights of people who believe they may more easily assimilate into another community.

Mr. Speaker, I urge the adoption of the House Concurrent Resolution 91.

Mr. HAMILTON. Mr. Speaker, I yield such time as he may consume to the gentleman who introduced the resolution, the gentleman from New York (Mr. SOLARZ).

Mr. SOLARZ. Mr. Speaker, I want to take this opportunity to express my very sincere appreciation to the distinguished chairman of the subcommittee, the gentleman from Indiana (Mr. HAMILTON), the distinguished chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI), and to my very good friend, the gentleman from New Jersey (Mrs. FENWICK), who is managing this resolution for the minority side today. Without their collective commitment, it would not have been possible to have brought this resolution out of the subcommittee, and then the full committee, and ultimately before the full House. And for that I am genuinely and deeply grateful.

I have the privilege of representing back in Brooklyn a community of 25,000 Syrian Jews who are deeply concerned as I am, about the plight and the problem of the 5,000 Jews who remain in Syria today. Over the course of the last few years, if the truth be told, there has been a modest improvement in the status of the Jewish community in Syria. A number of restrictions which had previously been imposed on this community have, fortunately and fortuitously, been removed.

I know that the Jewish community in Syria is deeply grateful for the improvements that have taken place.

The Syrian Jewish community in our own country, which lives in my district back in Brooklyn, is extremely grateful as well. And I certainly am grateful also. But the fact of the matter is that the fundamental problem confronting the Jewish community in Syria remains today what it has been for the last 30 years: As much as they want to leave for other lands, where they can live a life in freedom, they have been denied the right to do so.

I have been to Syria now on three occasions over the course of the last 5 years. I can testify without fear of contradiction that the overwhelming majority of Syrian Jews want nothing more nor less than the opportunity to leave Syria so that they can live in other lands. Unfortunately, in spite of their obligations

under the Universal Declaration of Human Rights, to which the Government of Syria is a signatory, the Syrian Government has so far refused to permit these people to go.

I might mention to the Members of the House that Syria is literally the only country in the Arab world which has not given its Jewish citizens the right to go. Egypt has given them the right to go. The Moroccans have given them the right to go. The Algerians have given them the right to go. Even the Iraqi's have given them the right to go. Syria is the only country in the Arab world which refuses to permit these people to leave.

A little over 2 years ago, for the first time in three decades, the Syrian Government gave official permission to a small group of a dozen single Syrian Jewish women, who were the recipients of proxy marriage proposals from some young Jewish men in our own country, the right to leave Syria, to come to the United States, where hopefully they could meet and marry some eligible young men in our own country. So far, six of these young women have already been married. One of them, I am happy to report, has already given birth to a baby boy.

I can tell you that on the day when they were given permission to go, on the day when 12 proxy marriage ceremonies were held in Damascus, it was one of the happiest and most joyful days in the history of that beleaguered community. Not simply because they were happy that these 12 young women would have a chance to meet some young men and marry in this country, but because, for the first time in three decades, the doors which had been closed on this community had been opened, and there was hope that over time some more might be able to get out as well.

Shortly after the women arrived we sent out 51 more marriage proposals to Svria in the hope that another group might be given permission to leave as well. It is almost 2 years since that second group of marriage proposals arrived in Damascus. But I regret to report that not a single one of these women, not one of whom can in any way be considered a threat to Syria, has been given permission to leave.

Not only have these additional women not been given permission to leave, but not a single Syrian Jew, young or old, male or female, has been given an opportunity to go either.

Over the course of the last 2 years, after that first group of women were given permission to leave, we tried in a variety of different ways, privately not publicly, to persuade the Syrian Government to permit more Syrian Jews to go. I personally went to Damascus where I pleaded with officials in the foreign ministry to let them go. I know that President Carter through intermediaries attempted to use his influence to prevail upon the Syrian Government to permit some more of these women, and ultimately the rest of the Jewish community, to go as well. But for 2 years, no matter how persistently we tried, quietly, not publicly, because we had no desire whatsoever to embarrass the Syrian Government, and we were concerned only about making it posssible for more of these women and ultimately other Syrian Jews to leave, we ran up against one stone wall after another.

We finally came to the conclusion that, if we were really concerned about these people, we had to do something else. Unfortunately, there were not too many other people in the world who knew about them because it is a small community. Unlike the three million Jews in the Soviet Union, which is a large and visible group, these people only number 5,000. Most people do not even know they exist, and if we did not care about them, I do not know who else would.

We decided we had no other alternative but to go public once again in an effort to let the Syrian Government know these people have not been forgotten. I do not know whether this resolution will succeed in softening the hearts of those Syrian officials who have the authority to make the decision which would make it possible for them to leave. Hopefully it will.

I want to assure the Syrian Government that there is no intention by this resolution to embarrass them in any way whatsoever. Anyone who would look at the resolution can see that it has been carefully and conservatively drafted. It simply calls upon them, on a humanitarian basis, to recognize their obligations under the universal declaration of human rights and to let those Jews who want to go leave for other lands.

Whether or not this resolution results in the departure of any additional Syrian Jews, I have no doubt that it will do much to provide succor and sustenance to the Jewish community in Syria. It will let them know they have not been forgotten and that we here in the U.S. Congress care about them.

So in conclusion, Mr. Speaker, let me simply urge my colleagues, hopefully without opposition, to agree to this resolution, and I call upon President Asad and the Syrian Government at long last to let these people go.

Mr. HAMILTON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this legislation and commend the author of the resolution for its purpose. I commend also the subcommittee chairman, the gentleman from Indiana (Mr. HAMILTON), for his sympathetic response and understanding of the problem.

We talk in terms of human rights. At one time it was the Soviet Union, another time it was Iraq, and now it is Syria. There has been a number of other lands in this category. One thing they all have in common is that they are signators to the United Nations Charter, including that portion of it which deals with human rights and with freedom of emigration.

It is unfortunate that we find ourselves compelled to come to this state in the absence of a response. Their failure to discharge their contractual obligation is disheartening.

We have witnessed over a period of years a waxing and waning of sympathy on the part of various countries. Oft times the Jewish population in respective countries has been held hostage so that they can be used as pawns in international intercourse. That is unfortunate, but to the degree in which they have been made objects of commerce at least there have been relaxations of the visa allotments. Witness the Soviet Jewry question where some 10 years ago only 600 a year were permitted to emerge from the Soviet Union; last year I believe the figure was 30,000 or 40,000.

But that is only the result of a constant concern on the part of America as far as human rights is concerned.

Mr. Speaker, I am hoping, as the author has expressed so eloquently, that the Syrians will respond if for no other reason than a concern for human rights—no politics, no international pressure, but simply as a question of a basic concern for human rights.

● Mr. DERWINSKI. Mr. Speaker, I am convinced, as I have said many times before, that one of the major obstacles to the U.S. peace initiative in the Middle East is the antagonism of the Government of Syria. My amendments the last 2 years to the bills appropriating development funds were based on this belief. The high cost of the Israeli/Egyptian peace plan is made necessary by the activity of the so-called rejectionist group of Arab States, among whom Syria is a leader. Earlier this year the Syrian foreign minister, who is also deputy prime minister, expressing the official Syrian position, said that "no Arab ruler has a right to end this conflict."

The administration and its supporters, especially my colleague from New York, have been telling us that Syria has been cooperative behind the scenes. But now Mr. SOLARZ tells us that Syria should be chastised for its treatment of Syrian Jews. I agree. But I also hold that Syria's long-term record in Lebanon and its destructive resistance to our Middle East peace initiative makes it unworthy of U.S. aid.●

● Mr. WAXMAN. Mr. Speaker, today the House goes on record in condemning the continuing persecution by Syria of its pitiful Jewish community of 4,500. The Jews of Syria still must carry identification cards stamped "Mossawi" or "of the Mosaic faith." No one else in Syria is so identified by their religion. Curfews have been imposed in areas where Jews reside. They have been severely limited in their ability to sell property. And there are harsh restrictions on internal travel which apply only to Syrian Jews. Additionally, there are new reports that more and more Syrian Jews are being detained and tortured.

Two years ago, President Assad of Syria pledged to President Carter that it was prepared to ease emigration restrictions where humanitarian concerns warranted it. As a first step, marriages were arranged between 13 Syrian Jewish

women and prospective spouses in New York. It was hoped that this first tentative opening of the door would lead to more normal and enlightened policies. But the first group of Syrian women has proven to be the last. The discriminatory policies have not been eased. The plight of Syria's Jews has not ended. Despair has replaced the hope generated earlier.

There are, moreover, especially disturbing reports that increasing numbers of Jews are being detained and tortured in retaliation for the higher number of attempted flights across the border into Israel.

If given the opportunity, the overwhelming majority of Jews would leave Syria. The resolution before the House today affirms the fundamental right of freedom of emigration, and urges Syria to be fully responsive to the desire of its Jewish community to be able to exercise this right.

I urge my colleagues to support this resolution.

On August 27, the California Legislature completed action on a similar resolution regarding Syrian Jewry. I am pleased to share it with my colleagues. In addition, I am inserting into the RECORD recent articles on the renewed wave of repression and torture in Syria:

JOINT RESOLUTION NO. 38

Whereas, Both the United States of America and the Syrian Arab Republic are parties and signatories to the Universal Declaration of Human Rights; and

Whereas, The Syrian Arab Republic is a party and signatory to the International Covenant on Civil and Political Rights of 1966, to which it adhered on April 21, 1969; and

Whereas, Article 391 of the Syrian Penal Code proscribes the use of torture and establishes penalties upon conviction for the use thereof; and

Whereas, The Syrian Jewish community has been completely barred from emigration from the Syrian Arab Republic; and

Whereas, Since January 1, 1979, the Syrian Jewish community has been subjected to the reimposition of previous restrictions upon personal and civil rights, including the imprisonment and torture of over 20 Syrian Jews, gross restrictions on internal travel, the requirement of a special designation "Musawi" ("of the Mosaic faith") in colored ink on identity cards and other legal documents, a 7 p.m. curfew, searches of Jewish homes, a prohibition on sales of real property without advance proof of replacement of disposed property, and restrictions on travel abroad which require the posting of 25,000 Syrian pounds and that family members remain in Syria to insure the traveler's return; and

Whereas, The foregoing oppressive and discriminating treatment of the Syrian Jewish community which seeks religious freedom and the right to emigrate, offends the conscience of the American people and violates the provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, and is in derogation of the rules of law in the Syrian Arab Republic; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California hereby condemns and deplores the oppression and imprisonment of Syrian Jews, the lack of religious liberty, and the inability of Jews to freely emigrate, as a direct violation of the provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights; and be it further

Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to undertake all possible and appropriate measures, including, but not limited to, the withholding of any foreign aid or economic support funds by the United States government pending compliance by the Syrian Arab Republic with the provisions set forth in the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights, so as to encourage and compel the government of the Syrian Arab Republic to honor and comply with the provisions of all of the aforesaid agreements to which it is a party and a signatory, and by which it is bound; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of State, to the Senate Foreign Relations Committee, to the House Foreign Affairs Committee, and to the respective Senate and House Appropriations Committees.

[From the New York Times, Feb. 23, 1979]

REPRESSION OF JEWS IN SYRIA IS CHARGED

(By Judith Cummings)

Wearing a black mask that he said was necessary for the safety of relatives unable to leave Damascus, a man who said he was a Jew who recently escaped from Syria asserted yesterday that a new wave of repression had been imposed on the Jewish community there, signaling a retreat from human rights gains of the last two years.

The 37-year-old man, who was identified only as "Mr. Albert," said that the 4,500-member Syrian Jewish community had been subjected to harassment, detention and torture in the wake of several successful escapes by Jews to Israel in recent weeks.

The man appeared at a news conference in New York City sponsored by the Community Relations Council of New York, along with spokesmen for several American Jewish organizations and representatives of Governor Carey, Mayor Koch and other political leaders.

Richard Ravitch, the Community Relations Council president, asserted that the plight of Syrian Jews was deteriorating, in contradiction to a recent State Department report that said human rights in Syria had been improving. He said that in the past month alone, 20 Jewish men had been detained and beaten by the Syrian secret police on suspicion of having helped Jewish families leave. Syria maintains a ban on Jewish emigration.

SITUATION AGGRAVATED BY IRAN

Mr. Ravitch said the situation had been aggravated by the recent upheaval in Iran, where Jewish leaders are reported fearful that the country's 80,000 to 100,000 Jews will be subjected to scattered violence. The "uncertainty" in Iran, he said, "adds urgency to the situation of the Syrian Jew, especially with respect to the right to emigrate."

The Syrian refugee said he escaped to Israel Dec. 10, accompanied by his wife, their three children and his parents. He spoke behind a large mask, citing fear for the welfare of relatives left behind. After the conference ended, however, and reporters moved closer for individual questions, he uncovered his face and spoke without the mask for several minutes before replacing it.

Speaking in Arabic through an interpreter, he said his family was jailed and brutally beaten—both men and women—after the escapes of two of his brothers, one in 1961 and another in 1973. He is now living in Israel and studying Hebrew, he said.

Malcolm Hoenlein, executive director of the Community Relations Council, said the man's appearance at the conference had been sponsored by "the American Jewish community." He declined to be more specific.

STATE DEPARTMENT REPORT CRITICIZED

Mr. Ravitch sharply criticized a State Department report that he said cited steps initiated in 1977 by the Syrian Government to ease restrictions on Jews. He said the report failed to take account of the imposition of worse restrictions a short time later. The restrictions, he said, include limitations on internal travel and transfer of property. He said all Jews had the word "Musawi," which means "followers of Moses," stamped in bright ink on their identification cards.

The council called for increased United States pressure on the Government of President Hafez al-Assad to honor international human rights conventions that it had signed, citing in particular the United Nations' Universal Declaration on Human Rights.

The council, a two-year-old coalition of 26 Jewish organizations in the United States, also took issue with State Department's views on the United States aid policy toward Syria. The department has urged that the aid, amounting to $90 million a year, be continued in the interest of maintaining "leverage" with the Syrian Government.

Mr. Ravitch, however, said that if the Syrian Government did not respond to the latest appeals to ease restrictions, an effort would be made in Washington to have such assistance terminated.

[From the New York Times, Mar. 2, 1979]

SYRIAN JEWS FACING RENEWED OPPRESSION

To the Editor:

Syrian U.N. Representative Hammoud el-Choufi's allegation (news story Feb. 24) that there are no special barriers to Jewish emigration and that the sole purpose of Syria's emigration restrictions is "to prevent a brain drain and has nothing to do with religion" does not square with the facts.

The ban on Jewish emigration applies to all 4,500 Syrian Jews—young and old, skilled and unskilled. It was only after President Carter's personal intervention with President Assad in May 1977 that the Syrian authorities allowed 14 young Syrian Jewish women to emigrate to the United States in July 1977. None of the young women was a doctor, engineer or other scientific professional.

The two teen-age Jewish girls who returned to Syria did so because they were homesick for their families, and they returned at a time when there was hope that the easing of restrictions would permit them to leave again at a later date with their families.

Yet despite President Assad's promise to President Carter to consider other similar humanitarian requests, there has been no approval in the past year and a half of a list of some 50 additional young Jewish women to seek husbands within the Syrian Jewish community of 25,000 in America. The refusal of the Syrian Government to allow Jews to leave legally has led to desperate attempts by entire families to flee the country "illegally" in recent months.

To intimidate the Jewish community and prevent further escapes, the Muhabarat (intelligence or secret police) has reimposed internal travel restrictions on the Jewish community and has arrested and brutally beaten scores of Jews, ostensibly for aiding escapees. Eyewitnesses who saw some of the Jews after their release told me that one had his jaw broken and another suffered from serious back injuries and emerged from weeks of interrogation "completely shattered mentally."

We have in the past publicly acknowledged the improvements that President Assad brought about in the life of Syrian Jewry. We

are thus particularly distressed at the latest signs of reversion to brutality and repression. Our concern continues to be to secure respect for the fundamental human rights of Syrian Jews, including the right to emigrate. This has nothing to do with scoring propaganda points.

GEORGE E. GRUEN,
Director, Middle East Affairs,
American Jewish Committee.

NEW YORK, *February 26, 1979.*

[From the New York Times, Feb. 24, 1979]

SYRIA DENIES PERSECUTION OF JEWS

Syria's chief delegate to the United Nations denied yesterday that members of the Jewish community in his country were persecuted. He accused Zionist groups of spreading such reports to divert attention from recent charges that Israel had abused Arab political prisoners.

In a telephone interview, Mahoud el-Choufi, the Syrian representative, rejected the accusations, made Thursday at a news conference. The accuser, who wore a mask and was not identified, said that he escaped recently from Syria and that the Jewish community of 4,500 was subjected to harassment.

Describing the testimony as part of an effort by Zionists to influence the Carter Administration's policies on the Middle East, he maintained that it also was intended to distract world public opinion from the charges, made before the current session of the United Nations Human Rights Commission, concerning torture of Arab prisoners held by the Israeli authorities.

RESTRICTIONS ARE ACKNOWLEDGED

Mr. Choufi acknowledged that there were regulations restricting the emigration of doctors, engineers and other professionals because their services were needed at home. These restrictions apply to Jews and non-Jews, he said, and are not directed at any group because of religious faith. "It is a question of trying to prevent a brain drain and has nothing to do with religion," he said, adding that many Jews are affected because a large number are in the restricted professions.

He also recalled that a number of Jewish women wishing to marry outside Syria were permitted to leave in 1977 and that restrictions were waived to help them do so. Some have returned voluntarily, he said, suggesting that they would not have done so had they felt persecuted in Syria.

"There is no new wave of repression, as has been charged," he declared. "The situation of Jews has improved steadily." ●

● Mr. SANTINI. Mr. Speaker, I want to take this opportunity to voice my strong support of House Concurrent Resolution 91, urging the Government of Syria, on humanitarian grounds, to permit Syrian Jews to emigrate.

The plight of the 5,000 Jews who remain in Syria today is clearly emphasized by this measure; more importantly, the resolution lets both the Syrian Government and the Syrian Jewish community know that they have not been forgotten. The resolution calls upon the Syrian Government, on humanitarian grounds, to recognize its obligations under the Universal Declaration of Human Rights and to give those Syrian Jews who want to emigrate, the right to do so. Syria is literally the only Arab nation which has not given its Jewish citizens the right to emigrate to other lands.

It is my earnest hope that this congressional resolution will contribute to the freedom of Syrian Jewish emigration.●

Mr. HAMILTON. Mr. Speaker, I have no further requests for time.

Mrs. FENWICK. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. (Mr. MITCHELL of Maryland). The question is on the motion offered by the gentleman from Indiana (Mr. HAMILTON) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 91.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

HAZARDOUS MATERIALS TRANSPORTATION ACT AMENDMENTS

Mr. FLORIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3502) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1980 and 1981, as amended.

The Clerk read as follows:

H.R. 3502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended—

(1) by striking out "and" after "1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", not to exceed $5,000,000 for the fiscal year ending September 30, 1980, and not to exceed $5,500,000 for the fiscal year ending September 30, 1981".

SEC. 2. (a) The Secretary of Transportation shall prepare and submit to the Congress a comprehensive safety report regarding the transportation of hazardous materials. Such report shall be submitted to the Congress not later than one year after the date of enactment of this Act and shall include, but not be limited to—

(1) a review of the progress that has been made in implementing the provisions of the Hazardous Materials Transportation Act;

(2) a review of the progress that has been made in responding to the recommendations of the National Transportation Safety Board regarding the transportation of hazardous materials;

(3) an analysis and evaluation of the manpower and funding needs of the Department of Transportation, especially the Materials Transportation Bureau, to fully implement the provisions of the Hazardous Materials Transportation Act;

(4) an analysis and evaluation of the relationship between the Federal Government and nongovernmental organizations in performing certain regulatory functions, including an estimate of the costs that would be incurred by the Federal Government if it assumed such functions;

(5) an analysis and evaluation of the adequacy and effectiveness of the inspection and compliance program of the Department of Transportation for hazardous materials;

(6) an analysis and evaluation of the existing system of compensation for incidents involving the shipping, handling, or transportation of hazardous materials, including an evaluation of the merits of establishing a Federal Hazardous Materials Compensation Fund;

(7) an analysis and evaluation of the desirability of establishing a Federal grant program to encourage State and local governments to participate in such inspection and compliance program;

(8) a survey and summary of Federal, State, and local laws and regulations, in such detail as the Secretary deems appropriate, relating to (A) the safety and health of persons engaged in the handling or transportation of hazardous materials and other persons who might be affected by an accident involving hazardous materials, and (B) plans and procedures for handling accidents involving hazardous materials;

(9) an analysis and evaluation of the effects of the hazardous materials transportation regulatory program on farming and ranching operations;

(10) a survey and summary of Federal, State, and local programs, in such detail as the Secretary deems appropriate, that regulate the shipping, handling, or transportation (including routing) of hazardous materials;

(11) an analysis and evaluation of the uniformity of Federal, State, and local laws and regulations regarding the transportation of hazardous materials;

(12) an analysis and evaluation of all training and education programs regarding the shipping, handling, or transportation of hazardous materials, including an evaluation of training programs for responding to hazardous materials incidents;

(13) an analysis and evaluation of all existing regulations that establish criteria and standards with respect to the type of route over which nuclear materials may be transported;

(14) an analysis and evaluation of whether the existing regulations relating to the transportation of hazardous materials are understandable to employees of shippers and carriers who handle such materials; and

(15) recommendations for any changes in existing laws and regulations that the Secretary deems necessary to carry out the policy set forth in section 102 of the Hazardous Materials Transportation Act.

(b) The report required by subsection (a) of this section shall be prepared by the Secretary of Transportation in consultation with the Nuclear Regulatory Commission, the Environmental Protection Agency, the National Transportation Safety Board, the National Academy of Sciences, appropriate officials of State and local governments, and other interested organizations and persons. Such report shall include, in an appendix, a statement of the views of all Federal, State, and local agencies and other interested organizations and persons consulted by the Secretary with respect to the content of such report in its final form.

SEC. 3. (a) The Secretary of Transportation, in consultation with the Nuclear Regulatory Commission, shall conduct a study of the regulation of the transportation of nuclear materials by rail carrier. The matters to be considered and evaluated by the Secretary in conducting such study shall include—

(1) the adequacy of the existing scheme of regulation of the transportation of nuclear materials by rail carrier;

(2) appropriate criteria and standards with respect to the type of route over which nuclear materials may be transported by rail carrier, giving due consideration to factors such as the demographical and geographical characteristics of areas through which such nuclear materials can be safely transported;

(3) the advantages and disadvantages of transporting nuclear materials by carriers of other modes in certain circumstances;

(4) appropriate means for avoiding the transportation of nuclear materials over lines of railroad tnat have a high level of deferred maintenance;

(5) the possibility of acts of terrorism, sabotage, or vandalism involving rail carriers transporting nuclear materials;

(6) the need to preempt relevant provisions of State and local law, taking into account the need to assure an adequate level of public safety;

(7) the advantages and disadvantages of licensing each movement of nuclear materials by rail carrier on a case-by-case basis;

(8) the advantages and disadvantages of dedicating specific trains solely to the transportation of nuclear materials;

(9)(A) the need to provide advance notice to State and local government officials through whose jurisdiction nuclear materials are to be transported by rail carrier, (B) appropriate methods for providing such notice, (C) the appropriate amount of time in advance of the transportation that such notice should be provided, and (D) the appropriate information (such as the safety measures to be employed and the route to be used) that should be included in such notice;

(10) the adequacy of measures employed by State and local government officials to deal with any incident involving the transportation of nuclear materials by rail carrier which may pose a risk to health and safety or property; and

(11) such other matters relating to the safe and efficient transportation of nuclear materials by rail carrier as the Secretary considers appropriate.

(b) The Secretary of Transportation shall, no later than June 30, 1980, submit a report to the Congress setting forth the results of the study conducted under subsection (a) of this section, together with any recommendations for legislation or other action which the Secretary considers appropriate.

(c) As used in this section, the term "nuclear materials" means materials or combinations of materials which spontaneously emit ionized radiation in a quantity and form which may pose a risk to health and safety or property.

The SPEAKER pro tempore. Is a second demanded?

Mr. MADIGAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. FLORIO) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, this bill authorizes $5 million for fiscal year 1980 and $5.5 million for fiscal year 1981. The authorization for the past year was $5 million.

The Hazardous Materials Transportation Act is one of the most important safety acts administered by the Department of Transportation. It requires the Federal Government, through the DOT, to oversee the transportation of hazardous materials by all modes of transport.

The Commerce Committee is not satisfied with the Department of Transportation's efforts under this program, and I believe the same will be said for the Public Works Committee. The Federal response is not what it should be, and progress has been slow.

This authorization provides a small increase over the amount requested by DOT, and it is hoped that the increased authorization will be used by DOT to improve their performance in this program.

The Public Works bill requires DOT to complete a reevaluation of the hazardous materials transportation program. The Commerce Committee bill requires a study of the transportation by railroad of nuclear materials. Both studies are needed and should provide the groundwork for improving the role of the Federal Government in the regulation of the transportation of hazardous materials.

I urge your support for this authorization.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I rise in support of H.R. 3502, as reported by the Committee on Interstate and Foreign Commerce, with the additional material reported by the Committee on Public Works and Transportation.

Mr. Speaker, this is a simple authorization bill which authorizes $5 million for fiscal year 1980, and $5.5 million for fiscal year 1981. The level of authorization is higher than that which was requested by the administration because of the importance in having a strong enforcement program with respect to the transportation of hazardous materials. As you know, the 1970 Rail Safety Act required the Secretary to develop a comprehensive program for making certain that the transportation of hazardous materials was made as safe as possible. The Congress enacted the Secretary's recommendations into law with passage of the Hazardous Materials Transportation Act of 1975. Since that time, the Department of Transportation has made progress in setting standards and enforcing those standards so as to assure the safety of the public.

Both the bill reported by the Committee on Interstate and Foreign Commerce and the Committee on Public Works and Transportation contain additional requirements for studies by the Secretary of Transportation in order to further improve the orderliness and safety of transporting hazardous materials. The economic health of this Nation requires transportation of dangerous chemicals from one industrial site to another. The public health and safety of this Nation requires that such transportation be undertaken in as safe a manner as possible and to achieve that safety, there is a need for both standards and orderly procedures. The study provisions contained in both bills will give us further insight as to the ways and means for achieving safety through uniform standards on a nationwide basis.

Mr. Speaker, I urge the adoption of this bill which provides the necessary money for a very important program in our ongoing efforts to maintain a strong nationwide industry without jeopardizing the public.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I am pleased to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, it is important that we should have greater safety in the transportation of dangerous materials. I wonder whether it would have to be within the province of another committee to study also the storage of these hazardous materials. I am thinking particularly, of course, of nuclear waste.

Would it be possible for this committee also to study that matter?

Mr. MADIGAN. Mr. Speaker, in response to the gentlewoman's question, the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce, has adopted an amendment offered by the gentleman from Illinois (Mr. CORCORAN) which requires that that study be done, require that the sites be identified, and requires that they be identified not only as temporary sites but also as permanent sites, ultimately, I think, with the goal of making sure all those sites are, if not managed by the Federal Government, subject to strict supervision by the Federal Government.

□ 1310

Mrs. FENWICK. Mr. Speaker, I thank my colleague.

I am a cosponsor of a bill which was introduced by our colleague, the gentleman from Vermont (Mr. JEFFORDS), to look into the transportation and storage of nuclear waste. It is incredible that we have not decided what to do in this regard, when we have been dealing with nuclear materials for 30 years or more. I am happy to see the progress that has been made by this committee in relation to transportation, but I hope storage will be handled as well.

Mr. MADIGAN. I thank the gentlewoman for her contribution.

Mr. Speaker, I have no further requests for time.

Mr. FLORIO. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, I rise to join my colleagues in expressing support of H.R. 3502. As you have heard, that bill authorizes appropriations of $5 million for fiscal year 1980 and $5.5 million for fiscal year 1981 to carry out the Hazardous Materials Transportation Act.

The bill also requires the Secretary to prepare a report evaluating and analyzing aspects of the hazardous materials transportation program and the issues surrounding its present effectiveness.

That report must include, but is not limited to, 15 specific points of interest and concern, including the following:

An analysis and evaluation of the relationship between the Federal Government and nongovernmental organizations in performing certain regulatory functions, including an estimate of the costs that would be incurred by the Federal Government if it assumed such functions; an analysis and evaluation of the desirability of establishing a Fed-

eral grant program to encourage State and local governments to participate in such inspection and compliance program; and a survey and summary of Federal, State, and local laws and regulations, in such detail as the Secretary deems appropriate, relating to the safety and health of persons engaged in the handling or transportation of hazardous materials and other persons who might be affected by an accident involving hazardous materials, and plans and procedures for handling accidents involving hazardous materials.

I think this kind of information is essential to how we legislate in the future on this important and serious matter of transporting hazardous material.

I am satisfied that the authorizations in the bill and the report the bill requires are both necessary and in the public interest: I urge the enactment of H.R. 3502.

Mr. FLORIO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON), the distinguished chairman of the Committee on Public Works and Transportation.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 3502, a bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1980 and 1981.

The bill was jointly referred to the Committee on Public Works and Transportation and the Committee on Interstate and Foreign Commerce. Both committees have reported H.R. 3502.

The reported bill provides funding levels of $5 million for fiscal year 1980 and $5.5 million for fiscal year 1981. In addition, it calls for a comprehensive report by the Secretary of Transportation on the current effectiveness of existing laws and regulations pertaining to the transportation and handling of hazardous materials, including nuclear materials, in our Nation's commerce, and the need for any change in those laws and regulations. Finally, it requires that the Secretary of Transportation conduct a study on the transportation of nuclear materials by railroad.

Regulation of the safety aspects for the handling and the shipping of hazardous materials is vested in the Secretary of the Department of Transportation. Responsibility for carrying out this function is delegated to the Materials Transportation Bureau and to various modal administrations in the Department, such as the Federal Highway Administration and the Federal Rail Administration.

As reported, the bill maintains funding levels for fiscal year 1980 at the same level authorized for fiscal years 1978 and 1979. A slight increase is provided for fiscal year 1981. The Committee on Public Works and Transportation believes that these are the minimum amounts that are necessary to carry out an effective program, until it has time to review the report and the study called for in the bill.

Recent history shows that the transportation of hazardous materials is increasing, and that incidents involved in this transportation are increasing. Consequently, it is imperative that the Congress take whatever action is required to assure that hazardous materials are handled and transported in as safe a manner as is possible.

The report and study provided for in sections 2 and 3 of the bill should provide the necessary information and data needed by the Congress: First, to determine the effectiveness of existing laws and regulations; and second, to support the need for any change in those laws and regulations that may be found to be necessary.

In my opinion, the money and actions provided for in the bill are indispensable in order to provide for the safety of our citizens. I urge the House to act favorably on this bill.

Mr. FLORIO. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, this legislation is necessary if the Materials Transportation Bureau is to deal effectively with the very complex matter of transporting hazardous materials.

Reports published earlier this year by the Library of Congress and the General Accounting Office raise serious questions about the ability of MTB to safeguard the general public against accidents and carry out the provisions of the Hazardous Materials Transportation Act. But cutting off funds is not going to help anybody and will just increase the risk of accidents. We cannot permit this to happen, particularly in light of the dramatic increase in accidents, death, and injuries involving the transportation of hazardous materials in 1978.

This measure continues the same level of funding as the last 3 years for fiscal 1980 and provides for a modest increase in fiscal 1981. It also calls for a report to address some of the criticisms raised in the reports.

I urge its speedy adoption.

Mr. FLORIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and pass the bill, H.R. 3502, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3502, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FLORIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1141) to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal year 1980.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 115 of the Hazardous Materials Transportation Act (49 U.S.C. 1812) is amended—

(1) by striking "and" immediately after "1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $5,500,000 for the fiscal year ending September 30, 1980".

MOTION OFFERED BY MR. FLORIO

Mr. FLORIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FLORIO moves to strike out all after the enacting clause of S. 1141 and insert in lieu thereof the provisions of H.R. 3502, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1980 and 1981."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3502) was laid on the table.

VESSEL DOCUMENTATION ACT

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1196) to revise and improve the laws relating to the documentation of vessels, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vessel Documentation Act".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this Act; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 3 PORTS OF DOCUMENTATION.

The Secretary shall designate ports of documentation in the United States where vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary shall specify the geographic area to be served by each designated port, and he may discontinue, relocate, or designate additional ports of documentation.

SEC. 4. VESSELS ELIGIBLE FOR DOCUMENTATION.

Any vessel of at least five net tons that is not registered under the laws of a foreign country is eligible for documentation if it is owned by—

(1) an individual who is a citizen of the United States;

(2) a partnership or association whose members are all citizens of the United States.

(3) a corporation created under the laws of the United States, or any State, territory, or possession thereof, or of the District of Columbia, or the Commonwealth of Puerto Rico; whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;

(4) the United States Government; or

(5) the government of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

SEC. 5. HOME PORTS.

(a) With the approval of the Secretary and subject to such regulations as he may prescribe, the port of documentation selected by an owner for the documentation of his vessel shall be the vessel's home port.

(b) Once a vessel's home port has been fixed as provided in subsection (a), it may not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

SEC. 6. NAME OF VESSEL.

(a) At the time of application for initial documentation of a vessel, the owner shall provide a name for the vessel. Subject to the approval of the Secretary and upon the issuance of a certificate of documentation, that name shall become the vessel's name of record.

(b) Once a vessel's name of record has been fixed as provided in subsection (a), it shall not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

(c) The Secretary may prescribe a reasonable fee for changing a documented vessel's name of record.

SEC. 7. CERTIFICATE OF DOCUMENTATION; APPLICATION; ISSUANCE; FORM; EXHIBITION.

(a) Upon application by the owner of any vessel eligible for documentation, the Secretary shall issue a certificate of documentation of a type specified in section 10, 11, 12, 13, or 14 of this Act.

(b) The Secretary may prescribe the form of, the manner of filing, and the information to be contained in, applications for certificates of documentation.

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel for which it is issued;

(2) identify its owner; and

(3) be in the form and contain any additional information prescribed by the Secretary.

(d) The Secretary shall, by regulation, prescribe procedures to insure the integrity of, and the accuracy of information contained in, certificates of documentation issued under this Act.

(e) The owner and the master of each documented vessel shall make the vessel's certificate of documentation available for examination as the law may require or as the Secretary may prescribe.

SEC. 8. NUMBERS; SIGNAL LETTERS; IDENTIFICATION MARKINGS.

(a) The Secretary shall maintain a numbering system for the identification of documented vessels and shall assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for documented vessels.

(c) The owner of each documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned under subsection (a) and any other identification markings the Secretary may prescribe.

SEC. 9. PURPOSE OF DOCUMENTATION.

A certificate of documentation issued under this Act is—

(1) conclusive evidence of nationality for international purposes, but not in any proceeding conducted under the laws of the United States;

(2) except in the case of a pleasure vessel license, conclusive evidence of qualification to be employed in a specified trade; and

(3) not conclusive evidence of ownership in any proceeding in which ownership is in issue.

SEC. 10. CERTIFICATE OF DOCUMENTATION; REGISTRY.

(a) A registry may be issued for any vessel that is eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) Upon application of the owner of any vessel that qualifies for a coastwise license under section 11 of this Act, a Great Lakes license under section 12 of this Act, or a fishery license under section 13 of this Act, the Secretary may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

(d) A foreign built vessel registered pursuant to this section may not engage in the coastwise trade.

SEC. 11. CERTIFICATE OF DOCUMENTATION: COASTWISE LICENSE.

(a) A coastwise license or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a coastwise license or an appropriately endorsed registry is issued may, subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade; and

(2) the fisheries.

SEC. 12. CERTIFICATE OF DOCUMENTATION: GREAT LAKES LICENSE.

(a) A Great Lakes license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under the laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a Great Lakes license or an appropriately endorsed registry is issued may, on the Great Lakes and their tributary and connecting waters and subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade;

(2) trade with Canada; and

(3) the fisheries.

SEC. 13. CERTIFICATE OF DOCUMENTATION. FISHERY LICENSE.

(a) A fishery license, or, as provided in section 10(c) of this Act, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States; and

(3) qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries, only a vessel for which a fishery license or an appropriately endorsed registry is issued may be employed in that trade.

SEC. 14. CERTIFICATE OF DOCUMENTATION: PLEASURE VESSEL LICENSE.

(a) A pleasure vessel license may be issued for any vessel that—

(1) is eligible for documentation, and

(2) is to be used exclusively for pleasure.

(b) A licensed pleasure vessel may proceed from or to any port of the United States and to any foreign port without entering or clearing with the United States Customs Service.

(c) Notwithstanding any other law, the Secretary may prescribe reasonable fees for issuing, renewing, or replacing a pleasure vessel license; or for providing any other service in connection with a pleasure vessel license. The fees shall be based on the costs of the service provided.

SEC. 15. VESSEL LIMITED TO TRADE COVERED BY CERTIFICATE OF DOCUMENTATION; EXEMPTIONS; PENALTY.

(a) A vessel may not be employed in any trade other than a trade covered by the certificate of documentation issued for that vessel. A documented pleasure vessel may not be used for purposes other than pleasure. However, any certificate of documentation may, under regulations prescribed by the Secretary, be exchanged for any other type of certificate of documentation, or appropriately endorsed for any trade, for which the vessel qualifies.

(b) A non-self-propelled vessel which is qualified to be employed in the coastwise trade may, without being documented, be employed in that trade within a harbor or on the rivers or inland lakes of the United States, or on the internal waters or canals of any State.

(c) Whenever a vessel is employed in a trade that is not covered by the certificate of documentation issued for that vessel or a documented pleasure vessel is used other than for pleasure, the vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

(d) A documented vessel may not be placed under the command of a person other than a citizen of the United States.

SEC. 16. FALSIFICATION IN DOCUMENTATION: FRAUDULENT USE OF DOCUMENT; PENALTY.

(a) Whenever the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation in connection with the documentation of his vessel under this Act, in addition to any other penalty provided by law, that vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

(b) Whenever a certificate of documentation is knowingly and fraudulently used for any vessel, that vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

SEC. 17. CERTIFICATE OF DOCUMENTATION: TERMINATION OF VALIDITY.

(a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this Act and the regulations prescribed thereunder pertaining to that certificate of documentation; or

(2) is placed under the command of a person who is not a citizen of the United States.

(b) Except as provided by subsection (o) of section 30 of the Act of June 5, 1920, as amended (46 U.S.C. 961(a)), an invalid certificate of documentation shall be surrendered in accordance with regulations prescribed by the Secretary.

SEC. 18. VESSELS PROCURED OUTSIDE THE UNITED STATES.

(a) The Secretary and the Secretary of State, acting jointly, may provide for the issuance of an appropriate document for any vessel procured outside the United States that meets the ownership requirements of section 4 of this Act.

(b) Subject to any limitations the Secretary may prescribe, a vessel for which an

appropriate document is issued under this section may proceed to the United States and engage en route in the foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. Upon the vessel's arrival in the United States the document shall be surrendered in accordance with regulations prescribed by the Secretary.

(c) A vessel for which a document is issued under this section is subject to the jurisdiction and laws of the United States. However, the Secretary may suspend for a period not to exceed six months the application of any vessel inspection law administered by him, or any regulation issued thereunder, if he considers the suspension to be in the public interest.

SEC. 19. RECORDING OF UNITED STATES BUILT VESSELS.

The Secretary may provide for the recording and certifying of any information pertaining to vessels built in the United States that he considers to be in the public interest.

SEC. 20. REGISTRATION OF FUNNEL MARKS AND HOUSE FLAGS

The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

SEC. 21. LIST OF DOCUMENTED VESSELS.

The Secretary shall publish periodically a list of all documented vessels together with any information pertaining to them that he considers pertinent or useful.

SEC. 22. REPORTS.

To insure compliance with this Act and the laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in any reasonable form and manner he may prescribe.

SEC. 23. VIOLATIONS; PENALTY.

(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this Act or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $500 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of the penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty under this section.

(c) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in any appropriate district court of the United States.

SEC. 24. DEREGULATIONS AND REGULATIONS.

The Secretary may—

(1) delegate, and authorize successive redelegations of, any of the duties or powers conferred on him by this Act; and

(2) prescribe regulations to carry out this Act.

SEC. 25. RELATED TERMS IN OTHER LAWS.

With respect to the documentation of a vessel whenever used in any law, regulation, document ruling, or other official act—

(1) "certificate of registry", "registry", and "register" means a registry as provided for in section 10 of this Act,

(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" mean a coastwise license as provided for in section 11 of this Act;

(3) "enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" means a Great Lakes license as provided for in section 12 of this Act;

(4) "license for the fisheries" and "enrollment and license for the fisheries" mean a fishery license as provided for in section 13 of this Act; and

(5) "yacht" means a pleasure vessel whether or not documented.

SEC. 26. AMENDMENTS TO OTHER LAWS.

(a) Section 4131 of the Revised Statutes of the United States, as amended (46 U.S.C. 221), is further amended to read as follows: "Only a citizen of the United States may serve as master, chief engineer, or officer in charge of a deck watch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage and a vacancy is thereby created, until the vessel's first return to a United States port where a United States citizen replacement can be obtained, a person who is not a citizen of the United States may serve in—

"(1) the vacancy; or

"(2) any vacancy resulting from the promotion of another to fill the original vacancy.".

(b) Section 4311 of the Revised Statutes of the United States, as amended (46 U.S.C. 251), is further amended by striking the first sentence of subsection (a).

(c) Section 4320 of the Revised Statutes of the United States, as amended (46 U.S.C. 262), is further amended by

(1) striking the word "licensed" in the first sentence and inserting in lieu thereof the word "documented"; and

(2) striking the last sentence.

(d) Section 4377 of the Revised Statutes of the United States, as amended (46 U.S.C. 325), is further amended by striking the second sentence.

(e) Section 7 of the Act of June 19, 1886, as amended (46 U.S.C. 319), is further amended by—

(1) striking the first sentence and inserting in lieu thereof the following:

"Whenever a vessel, entitled to be documented and not so documented, is employed in a trade for which certificates of documentation are issued under the vessel documentation laws, other than a trade covered by a registry, the vessel is liable to civil penalty of $500 for each port at which it arrives without the proper certificate of documentation, and if it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo, is liable to seizure and forfeiture."; and

(2) striking the last sentence.

SEC. 27. REPEALS.

The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act:

Revised statutes section	Revised statutes section	Revised statutes section
4132	4167	4315
4136	4168	4318
4137	4169	4319
4138	4170	4321
4139	4171	4322
4141	4174	4323
4142	4176	4324
4143	4177	4325
4144	4178	4326
4146	4179	4327
4147	4180	4328
4150	4182	4329
4155	4183	4330
4156	4187	4333
4157	4189	4335
4158	4190	4337
4159	4191	4338
4160	4214	4339
4161	4215	4372
4162	4217	4384
4163	4312	4385
4164	4313	4495
4166	4314	4498

Date	Chapter	Section	Statutes at large Volume	Statutes at large Page
Apr. 17, 1874	106		18	30
Feb. 27, 1877	69	1 (only the part amending R.S. 4315, 4318, and 4319).	19	251
June 30, 1879	54		21	44
June 26, 1884	121	21	23	58
July 5, 1884	221	4	23	119
June 19, 1886	421	6	24	81
Feb. 21, 1891	250	1	26	765
Jan. 16, 1895	24	2, 4, 5	28	624, 625
Jan. 20, 1897	67	1, 2	29	491, 492
June 24, 1902	1155	1, 2	32	398, 399
Mar. 3, 1905	1457	9	33	1032
Apr. 24, 1906	1865	1, 2	34	136
May 28, 1908	212	7	35	426
Feb. 29, 1912	47		37	70
July 9, 1912	220		37	189
Aug. 24, 1912	390	5 (only the part amending R.S. 4132).	37	562
Feb. 24, 1915	57		38	812
Mar. 4, 1915	172	1	38	1193
Do	184	5	38	1218
Feb. 19, 1920	83	1, 2, 3	41	436, 437
Feb. 16, 1925	235	1	43	947
Aug. 5, 1935	438	310	49	528
May 20, 1936	434		49	1367
May 24, 1938	265		52	437
May 31, 1939	159		53	794
Do	160		53	795
June 2, 1939	168		53	798
Aug. 30, 1957	Public Law 85-237	1	71	517
Aug. 17, 1961	Public Law 87-157		75	392
Sept. 29, 1965	Public Law 89-219	10	79	892

SEC. 28. EFFECTIVE DATE.

This Act shall be effective on the first day of the eighteenth month following the month in which enacted.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. BIAGGI) will be recognized for 20 minutes, and the gentleman from New York (Mr. LENT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1196, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Speaker, H.R. 1196 is a comprehensive bill that restates in a concise and orderly manner the law governing documentation of vessels. It eliminates the restrictive administrative details found in the present law. Enactment of the bill will permit the use of modern business procedures and techniques to more efficiently meet the needs of the maritime industry and the public.

Vessels are documented in order to establish their nationality and their qualification to be employed in a specific trade. A vessel's document identifies the name of the owner of the vessel—contains the name and description of the vessel—and states the vessel's home port.

The documentation laws are among the oldest in the country. Their origin dates back to the 1790's. But they have not grown old gracefully. Instead they have grown into a haphazard conglomeration of outdated and confusing statutes. H.R. 1196 is designed to bring order out of the confusion.

Those Members who have examined H.R. 1196 carefully will have noted that it is some 18 pages in length. If this seems excessive for a bill whose purpose is clarification and simplification, I suggest they look at section 27 of the bill.

That section will repeal almost 70 sections of the revised statutes—and all or part of some 30 other statutes. This bill replaces that maze of over a hundred separate laws with one statute containing 24 operative sections.

Beyond simply reducing the number of existing laws and sections, H.R. 1196 will simplify and clarify the law—making it accessible and understandable to those who are affected by it and those who enforce it. But, more importantly, the bill will remove from the law those detailed provisions that prevent the Coast Guard from modernizing and simplifying the procedures for documenting vessels.

An example of the procedures now required by the law is the requirement that the document of every licensed vessel be presented at a documentation office each year for renewal. This requires that the document be removed from the vessel—where it properly belongs—and be taken by the master or the ship's agent to the documentation office. H.R. 1196 would eliminate the requirement for a visit to the documentation office and allow the annual renewal or validation to be done by mail.

Another example is that existing law, in many instances, requires documents and other forms to contain specific and detailed information that is unnecessary and repetitive. In some cases, the statute specifies at great length the exact language to be printed on the document—language we would call archaic today. By contrast, H.R. 1196 leaves the content and wording of documents and forms to the administering agency. They can thus be simplified, shortened, and made more readable and understandable.

While H.R. 1196 simplifies the law and allows for the elimination of many antiquated procedures, it does not change the fundamental purposes or objectives of the vessel documentation laws. The bill retains the basic requirements for documentation—the delineation of vessels eligible for documentation—and the basic types of documents issued to vessels. It also retains the authority to document pleasure vessels.

Enactment of the bill will not require any vessel to be redocumented—nor will it impose any additional paperwork burdens on the marine industry. It is, in fact, designed to reduce those burdens.

I urge enactment of this much-needed and long-delayed modernization of this area of the law.

□ 1320

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with the unanimous support of my committee colleagues in urging passage of H.R. 1196 and want to commend the distinguished chairman of the full committee, Mr. MURPHY, and the chairman of the subcommittee, Mr. BIAGGI, for bringing this bill and the two others which follow to the floor of the House.

This bill is the culmination of efforts begun by the Coast Guard in 1967 when it acquired vessel documentation responsibilities from the Customs Service, coincident with the establishment of the Department of Transportation. It recognizes that since a system for the documentation of vessels was established in 1789, many statutory changes have been enacted that have resulted in a compilation of laws which in many cases are archaic and inconsistent. In their complexity they are difficult to understand, unwieldy and time consuming to administer.

Similar bills were introduced in four earlier Congresses.

H.R. 1196 repeals archaic provisions of the documentation laws while clarifying the remainder without substantive change. In large part, it accomplishes this by vesting broader discretionary authority in the Secretary of the Department in which the Coast Guard is operating and thus provides better procedures for the registration or licensing of vessels of the United States for identification, trade, and international purposes. The improvements made possible by this bill are intended to save time and expense to the shipping industry and to the Coast Guard by allowing for the renewal of vessel documents and changes of master to be recorded by mail, allowing changes in trade to be recorded by the endorsement of existing documents, and by standardizing the format for vessel documents.

The bill continues provisions for the documentation of pleasure vessels, an earlier controversy and, in general, provides for a more efficient documentation and recordation system that still preserves a vessel's basic trade and identification privileges.

It is high time to move this proposal for reform of the vessel documentation laws. I commend this action and urge the passage of this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. FORSYTHE).

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4360

Mr. FORSYTHE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 4360.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

● Mr. MURPHY of New York. Mr. Speaker, H.R. 1196 is one of a series of bills that have been developed by the Merchant Marine and Fisheries Committee to clarify, simplify, and improve those laws relating to the merchant marine that are administered by the Coast Guard. It has long been recognized that many of the marine safety statutes now in force are outdated, duplicative, complex, and unclear. In many cases, they contain detailed requirements that make them inflexible and difficult to adapt to changing conditions.

Many of these laws date back to the earliest days of the Nation. Amendments to them over the years, for various purposes, have added to the confusion. The result is a patchwork of laws that hinder rather than promote the safety or efficiency of the merchant marine. Taken as a whole, they are difficult to understand on the part of the public and industry—and equally difficult to enforce.

In its work on these bills, the committee has tried to replace these outmoded laws with statutes that are clear, precise, understandable, and enforceable. In accordance with the more modern practice, many detailed requirements have been left to be issued as regulations by the enforcing agency, thus allowing more rapid adaptation to changing conditions in the affected industries. In many cases, the Coast Guard has identified new and more efficient procedures to carry out some of these laws—but has been unable to make any changes due to the detailed and inflexible constraints of the present statutes. We have tried to remove those constraints.

In one or two cases, the changes made by these bills are to bring the language of the law into conformity with the way it is actually being administered today. The simple fact is that in certain instances the Coast Guard has, in the committee's opinion, not enforced the law as it is written but as it considers to be more practicable and consistent with safety.

In some cases, therefore, these bills give the Coast Guard clear legal authority to do what it has been doing for several years under more questionable authority. The committee believes that we should not leave these laws in such an

outdated condition that the Coast Guard feels forced to imaginatively interpret them in order to enforce them effectively and practicably.

Each of the bills we have developed has the support of the administration and of the affected industries. None of them will result in additional Federal expenditures. In fact, they should result in modest savings—both to the Government and to the public.

I believe that enactment of this bill, which is one of three bills we are presenting today will be a refreshing first step on the road to modernizing our maritime laws. The committee, of course, intends to continue its efforts in this area in the future.

The first bill we are presenting, H.R. 1196, attacks one of the oldest and most barnacle-encrusted bureaucratic procedures extant—documentation of vessels. Documentation performs roughly the same function for vessels that registration does for automobiles. It records ownership and establishes a basis for vessel identification and control. Additionally, it facilitates trade and commerce by classifying vessels for various purposes. A vessel must have a document before it can engage in a trade in the United States.

The vessel documentation laws trace their origin back to the 11th act of the First Congress. Since then, they have been amended and added to many times. Additionally, over the years, there have been numerous Government reorgnizations and transfers of functions among Government agencies that have not been incorporated into the documentation laws.

The result is an area of the law that is a delight to those who cherish complexity, obfuscation, and uncertainty, and the despair of those who believe our Merchant Marine deserves laws that make the sailing smoother and the course clearer.

H.R. 1196 will remove the fog that pervades the vessel documentation laws. I urge its enactment.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill, H.R. 1196, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TONNAGE MEASUREMENT SIMPLIFICATION ACT

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1197) to simplify the tonnage measurement of certain vessels, as amended.

The Clerk read as follows:

H.R. 1197

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 "Tonnage Measurement Simplification Act".

SEC. 2. Section 4148 of the Revised Statutes of the United States, as amended (46 U.S.C. 71) is further amended to read as follows:

"SEC. 4148. (a) Before a vessel is documented or recorded under the laws of the United States, or where the application of a law of the United States to a vessel is determined by its tonnage, the vessel shall be measured by the Secretary of the department in which the Coast Guard is operating. The Secretary may, by regulation, provide for the temporary documentation of a vessel prior to the measurement required by this section.

"(b) A vessel required to be measured under subsection (a) of this section, other than a vessel used exclusively for pleasure, shall be measured as prescribed in sections 4151 and 4153 of the Revised Statutes of the United States, as amended, and to the extent applicable, as prescribed in Public Law 89-219, September 29, 1965 (79 Stat. 891; 46 U.S.C. 83-83k) if—

"(1) it engages or intends to engage in an international voyage by sea; or

"(2) it is at least twenty-four meters in length and is self-propelled.

"(c) A vessel not required to be measured under subsection (b) of this section may be so measured if requested by its owner. A vessel not measured under subsection (b) shall be assigned gross and net tonnages by the Secretary which are functions of its length, breadth, depth, and other dimensions, including appropriate coefficients. The Secretary shall prescribe the manner in which dimensions are measured and which coefficients are appropriate. The resulting gross tonnages, taken as a group, shall reasonably reflect the relative internal volumes of the vessels measured, and the resulting net tonnages shall be in approximately the same ratios to corresponding gross tonnages as are the net and gross tonnages of comparable vessels measured under subsection (b) of this section. In accordance with regulations issued under this subsection, the Secretary may determine the gross and net tonnages of a vessel which is representative of a designated class, model, or type and may assign those gross and net tonnages to other vessels of the same class, model, or type.

"(d) A vessel shall be remeasured if—

"(1) the vessel is altered or the use of its space is changed so that its gross or net tonnage is affected;

"(2) having been measured under subsection (c) of this section, the vessel becomes, by use or alteration, subject to subsection (b) of this section; or

"(3) having been measured under subsection (b) of this section and not required to be so measured, the owner requests that the vessel be measured under subsection (c) of this section.

Except as provided in this subsection, a vessel that has been measured is not required to be remeasured to obtain another document.

"(e) The Secretary shall make such regulations as may be necessary to carry out the provisions of sections 4148, 4149, 4150, 4151, and 4153 of the Revised Statutes, as amended (46 U.S.C. 71, 72, 74, 75, 77).".

SEC. 3. A vessel measured prior to the effective date of this Act under sections 4151 and 4153 of the Revised Statutes of the United States, as amended, is considered as having been measured under section 4148(b) of the Revised Statutes of the United States, as amended by this Act.

SEC. 4. This Act is effective on the first day of the twelfth month following the month in which enacted.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. BIAGGI) will be recognized for 20 minutes, and the gentleman from New York (Mr. LENT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1197, which we are about to consider.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Speaker, I will yield myself such time as I may consume.

Mr. Speaker, H.R. 1197 is one of those bills that has a high benefit to cost ratio. It will not impose any costs on either the Federal Government, private industry, or the public. It will not harm anybody; it will not reduce safety. Instead it will save time and money for both industry and the Government.

H.R. 1197 would apply to commercial vessels that are less than 79 feet in length, and that do not engage in international voyages. These vessels would be authorized to use a simplified measurement system for determining their gross and net tonnages. Such a system is presently available only to pleasure vessels.

Under the simplified measurement procedure, the Coast Guard would assign to vessels gross and net tonnages that would be determined by a simple formula—using only the basic dimensions of the vessel such as length, breadth, and depth. The bill would give the Coast Guard authority to prescribe the formula and specify how the dimensions are to be measured.

The bill also would allow the Coast Guard to determine the tonnage of a vessel that is representative of a class or model and assign that tonnage to other vessels of the same class or model. This would eliminate the necessity of taking measurements on each individual vessel in the class.

The simplified measurement system authorized by this bill would be available at the option of the owner. He could, if he desired, have his vessel measured by the more complex system that will continue to apply to the larger commercial vessels—those over 79 feet in length.

The option of using the simplified method would not be available to any vessel that engages or intends to engage in an international voyage. This is necessary in order to insure the continued acceptability of U.S. documents by foreign governments.

One effect of the bill would be to allow all non-self-propelled vessels to use the simplified system. This would include the large and growing fleet of barges.

We estimate that over 3,000 vessels a year would be able to use the measurement procedure in H.R. 1197. When it is remembered that this method takes about one-eighth of the time of the formal system, it is apparent that a large saving in time will result. This saving will benefit both the industry and the government. In the case of the government, some future savings in personnel resources are expected.

H.R. 1197 is an opportunity to decrease the regulatory burden on the owners of barges and other small commercial vessels. I urge its enactment.

□ 1330

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with the unanimous support of my committee colleagues in urging passage of H.R. 1197.

This is another of several bills brought to the floor today in a regulatory reform effort and with anticipation of significant cost savings to the taxpayer.

H.R. 1197 authorizes the use of a simplified tonnage measurement system for non-self-propelled commercial vessels and for self-propelled commercial vessels of less than 24 meters (79 feet) which do not engage in international voyages. Vessel tonnages, based on the volume of space in a vessel, are entered on pertinent ships' documents and are essential to the maritime industry in determining tolls, port charges and related operating costs.

This bill would enable the Coast Guard to obtain acceptable commercial vessel tonnage measurements for the purpose of documentation and recordation in about one-eighth of the time required by the more formal measurement process. It adopts similar authority successfully implemented for pleasure vessels and conforms to action pending before the International Maritime Consultative Organization. Use of the simplified measurement process, which will still result in tonnages that are acceptably close to those determined by the more formal process, is at the option of a vessel owner.

The more detailed formal requirements will continue to be required for vessels making international voyages to insure the continued acceptability of U.S.-issued documents by foreign governments.

This bill provides for further simplification by allowing the issuance of temporary documents prior to measurement and by allowing tonnage determinations made for one vessel of a class to apply to all other vessels of that class.

Again, I commend the subcommittee chairman for this reform effort and urge the passage of the bill.

● Mr. MURPHY of New York. Mr. Speaker, H.R. 1197 deals with the measurement of vessels. It is closely related to documentation—with which we have just dealt—in that a vessel must be measured before it can be documented.

Vessels are measured in order to determine their size. The size is expressed in tons, each ton equaling 100 cubic feet. A vessel's tonnage therefore is not a measure of its weight, but rather of the volume of usable space in the vessel. The determination of the tonnage of a vessel is important since that figure is used as a basis for classifying the vessel under the marine safety laws and for the establishment of tolls, taxes, port charges, and similar items.

Under present law, the measurement of a commercial vessel is a complex and lengthy process. It requires the taking of numerous detailed measurements aboard the vessel and the use of complicated mathematical formulas.

For pleasure vessels, however, there is a simplified system that requires only the use of three dimensions of the vessel. The measurement of these dimensions can be made by the owner himself or taken from the vessel's plans or specifications. This simplified system of measurement allows the tonnage of a vessel to be determined in about one-eighth the time required for the more detailed system.

H.R. 1197 will allow certain small commercial vessels to use the simplified measurement system now available for use only by pleasure vessels. By so doing, it will greatly simplify and speed up the measurement process for those vessels. It will also reduce the number of Government employees required to measure these vessels.

This simplied measurement system was applied to pleasure vessels in 1966 and has proved to be highly successful. It is now time to take the next step and apply it to the smaller commercial vessels.

H.R. 1197 involves no additional cost to the Government. It has the support of the administration and was unanimously reported by the Committee on Merchant Marine and Fisheries. I urge its adoption.●

Mr. LENT. Mr. Speaker, we have no further requests for time.

Mr. BIAGGI. Mr. Speaker, we have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill, H.R. 1197, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LINES OF DEMARCATION

Mr. BIAGGI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1198) to clarify the authority to establish lines of demarcation dividing the high seas and inland waters, as amended.

The Clerk read as follows:

H.R. 1198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended (33 U.S.C. 151), is amended to read as follows:

"SEC. 2 (a) The Secretary of the department in which the Coast Guard is operating shall establish appropriate identifiable demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, for the purpose of determining the applicability of special navigational rules in lieu of the International Regulation for Preventing Collisions at Sea.

"(b) The Secretary shall also establish appropriate identifiable lines dividing inland waters of the United States from the high seas for the purpose of determining the applicability of each statute that refers to this section or this section, as amended. These lines may not be located more than twelve nautical miles seaward of the base line from which the territorial sea is measured. These lines may differ in position for the purposes of different statutes.

"(c) For the purposes of this section, the term 'United States' includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other Commonwealth, territory, or possession of the United States.".

SEC. 2. Section 10 of the Act of May 28, 1908 (35 Stat. 428), as amended (46 U.S.C. 395), is further amended by adding a new subsection to read as follows:

"(d) A seagoing barge means a barge which in the usual course of its employment proceeds outside the line dividing the inland waters from the high seas, as defined in section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended (33 U.S.C. 151).".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York (Mr. BIAGGI) will be recognized for 20 minutes, and the gentleman from New York (Mr. LENT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BIAGGI).

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the enactment of H.R. 1198, a bill to clarify the authority to establish lines of demarcation dividing the high seas and inland waters. This bill will accomplish several purposes. First, it will clarify the law by giving the Coast Guard explicit authority to establish two separate sets of lines of demarcation. One set would be for the purpose of determining the dividing line between those waters where the international rules of the road apply and those where the inland rules apply. The other lines would be for the purpose of determining the applicability of various marine safety statutes including the Bridge to Bridge Communications Act and the Coastwise Load Line Act.

This change will give the Coast Guard a firm legal foundation for establishing separate sets of lines of demarcation for the two separate purposes for which they are used. It will recognize that different considerations are involved in the two different purposes the lines are used for.

Second, the bill will limit the placement of the lines for marine safety purposes to not more than 12 nautical miles offshore. In the past, the Coast Guard had placed some of the lines as far as 25 miles offshore.

H.R. 1198, by limiting the Coast Guard's flexibility in placing these lines, will insure that the intent of Congress in enacting the affected marine safety

statutes, will be more closely adhered to, since those statutes were originally enacted, for the most part, at a time when the demarcation lines were close inshore.

While the bill will limit the Coast Guard's flexibility in how far offshore it can place the lines, it will at the same time give the Coast Guard greater flexibility in another area. It will allow the lines to differ in position for the purposes of different statutes. Thus the Coast Guard will be able to tailor the placement of the lines to the requirements of the particular statute. This should allow more precise application and effective enforcement of these statutes.

The final matter addressed by H.R. 1198 is that of seagoing barges. At present there is no definition in law of the term "seagoing barge." The bill would remedy that by defining a seagoing barge as one that passes outside the marine safety line of demarcation.

This would bring the Seagoing Barge Act into conformity with its companion statute, the Seagoing Motor Vessel Act and with other marine safety statutes that use the line of demarcation as a jurisdictional base. It would also insure that shallow-draft drilling barges would not be subject to the requirements for seagoing barges.

H.R. 1198 is supported by the affected industries and by the administration. It will not increase the regulatory burden on the merchant marine or the public. Instead, it should contribute to safety by allowing the Coast Guard to take local conditions and safety factors into consideration in establishing the various lines of demarcation.

The bill received wide bipartisan support during the deliberations of the Committee on Merchant Marine and Fisheries and is worthy of continued support. I, therefore, urge enactment.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with the unanimous support of my committee colleagues in urging passage of H.R. 1198.

This is another of three bills brought to the floor today by the Committee on Merchant Marine and Fisheries in a regulatory reform effort. It involves no additional costs and essentially clarifies Coast Guard authority to establish lines of demarcation dividing the high seas and inland waters to determine the applicability of navigational rules and of various marine safety statutes.

Under existing statutes, the Coast Guard has authority to establish such lines of demarcation which, originally, were used only where inland navigation rules began and where international ones ended. Subsequent statutes used this same dividing line to mark where various inspection and manning requirements for seagoing vessels were to apply.

Recently the United States signed an international convention, agreeing that the line of demarcation, for navigational purposes should conform as nearly as possible to a line that marked the territorial sea with the result that the preexisting lines of demarcation were moved landward.

This action left in abeyance action on lines established for the purpose of manning and inspection statutes. The Coast Guard has agreed that clarifying legislative authority is needed, since it was unclear whether a line could be moved for one purpose and not for the other.

The bill makes it clear that the Coast Guard can establish different lines for these purposes but prevents dividing lines for manning and inspection purposes from being located more than 12 miles from the baseline from which the territorial sea is measured.

The bill will, in addition, amend the Seagoing Barge Act, which, unlike other inspection statutes, had not been tied to lines of demarcation, to provide a needed and conforming definition for such vessels. This also relieves the inspection standards plight of certain classes of barges that operate in shallow waters and generally inside the line dividing the inland waters from the high seas.

Again, I commend the subcommittee chairman and urge the passage of this bill.

● Mr. MURPHY of New York. Mr. Speaker, H.R. 1198 concerns the lines of demarcation that divide the high seas from the inland waters of the United States. These lines have two purposes. One purpose is to determine the applicability of the rules of the road that are followed by vessels in order to prevent collisions. Seaward of the lines of demarcation, ships follow the international regulations for preventing collisions at sea. Inside of those lines, they follow the inland rules of the road.

This purpose was the one for which Congress originally authorized the establishment of lines of demarcation. Starting in 1908, however, Congress created a new purpose for the lines. It authorized their use as a basis for determining the applicability of various marine safety statutes. In effect, it used those lines to divide the more protected inland waters, where lesser safety standards could apply, from the open ocean where more rigorous safety standards were prescribed.

Whereas Congress authorized only one set of lines of demarcation, the Coast Guard has in the past few years created two separate sets—one for each purpose. The Coast Guard has also over the years moved the lines out beyond the territorial sea, with the result that high seas were being treated as inland waters for marine safety purposes. The authority of the Coast Guard to take these actions is in considerable doubt. In fact, that Service has itself recognized the weakness in the legal arguments it used as a basis for these actions. It is the purpose of H.R. 1198 to remove the doubt engendered by the Coast Guard's actions and to both clarify and limit its authority as to the placement of lines of demarcation.

Enactment of H.R. 1198 will eliminate troublesome questions of law and give the Coast Guard clear and precise authority regarding the lines of demarcation. It will insure a closer adherence by the Coast Guard to the original intention of the Congress in enacting the various marine safety statutes that are tied to those lines.

The reported bill has the support of the administration and the affected industries. It deserves the support of the House.●

Mr. LENT. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

Mr. BIAGGI. Mr. Speaker, we have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. BIAGGI) that the House suspend the rules and pass the bill, H.R. 1198, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

□ 1340

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries may be permitted to sit on tomorrow, Tuesday, September 18, 1979, during the 5-minute rule, for the purpose of holding a hearing, and a hearing alone, on H.R. 1645 and H.R. 5164, bills related to the inspection and manning of small commercial vessels.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON COAST GUARD AND NAVIGATION OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO MEET TOMORROW IN MARKUP SESSION

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Coast Guard and Navigation of the Committee on Merchant Marine and Fisheries be permitted to sit on tomorrow, Tuesday, September 18, 1979, while the House is in session in order to complete subcommittee markup of H.R. 4310, Federal Boat Safety Act amendments.

This will permit the full Committee on Merchant Marine and Fisheries to consider the bill in markup session on Wednesday.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FUELS TRANSPORTATION SAFETY AMENDMENTS ACT OF 1979

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 51) to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas and liquefied petroleum gas, to provide standards with respect to the siting, construction, and operation of liquefied natural gas facilities, and for other purposes, as amended.

The Clerk read as follows:

H.R. 51

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Fuels Transportation Safety Amendments Act of 1979".

(b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References to Natural Gas Pipeline Safety Act of 1968.

TITLE I—FUELS TRANSPORTATION GENERALLY

Sec. 101. Hazardous pipeline facilities.
Sec. 102. Coverage of pipeline transportation of liquefied petroleum gas.
Sec. 103. Pipeline safety program standard.
Sec. 104. Exemption from standards.
Sec. 105. Coverage of gas distributed in connection with rental or lease of real property.
Sec. 106. Pipeline safety inspectors.
Sec. 107. Technical Pipeline Standards Committee.
Sec. 108. Cost-benefit analysis of increased fuels transportation safety regulation.
Sec. 109. Appropriations authorization.
Sec. 110. Effective date; interim standards.

TITLE II—SITING AND SAFETY OF LNG FACILITIES

Sec. 201. Definitions.
Sec. 202. Siting and safety standards.
Sec. 203. Financial responsibility.
Sec. 204. Enforcement of standards and financial responsibility requirements.
Sec. 205. Intervention by the Secretary in safety proceedings.
Sec. 206. Appropriations authorization.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Willful destruction of interstate pipeline transmission or LNG facilities.
Sec. 302. Appointments of Director of Pipeline Safety Operations and Director of Materials Transportation Bureau.
Sec. 303. Simplification of filing requirements.
Sec. 304. Technical, clerical, and conforming amendments.

REFERENCES TO NATURAL GAS PIPELINE SAFETY ACT OF 1968

SEC. 2. Except as otherwise expressly provided, whenever in this Act, any reference, amendment, or repeal is expressed in terms of a reference or amendment to, or repeal of, a section or other provision, it shall be considered to be made to a section or other provision of the Natural Gas Pipeline Safety Act of 1968.

TITLE I—FUELS TRANSPORTATION GENERALLY

HAZARDOUS PIPELINE FACILITIES

SEC. 101. (a) Section 8 is amended by redesigning subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b)(1) If the Secretary finds, after reasonable notice and an opportunity for hearing, that any pipeline facility is hazardous to life or property, he shall, by order, require the person operating the facility to take necessary corrective action. Such corrective action may include physical inspection, testing, repair, replacement, or other action, as appropriate.

"(2) The Secretary may find a pipeline facility to be hazardous under paragraph (1)—

"(A) if under the fact and circumstances he determines the particular facility is hazardous to life or property, or

"(B) if the pipeline facility or a component thereof has been or is proposed to be constructed or operated with any equipment, material, or technique which he determines is hazardous to life or property, unless the operator involved demonstrates to the satisfaction of the Secretary that under the particular facts and circumstances involved such equipment, material, or technique is not hazardous to life or property.

"(3) In making a determination under paragraph (2), the Secretary shall consider—

"(A) the characteristics of the pipe and other equipment used in the pipeline facility involved, including its age, manufacturer, physical properties (including its resistance to corrosion and deterioration), and the method of its manufacture, construction, or assembly;

"(B) the nature of the materials transported by such facilities (including their corrosive and deteriorative qualities), the sequence in which such materials are transported, and the pressure required for such transportation;

"(C) the aspects of the areas in which the pipeline facilities are located, in particular the climatic and geologic conditions (including soil characteristics) associated with such areas, and the population density and population and growth patterns of such areas;

"(D) any relevant recommendations of the National Transportation Safety Board issued in connection with any investigation conducted by the Board under other provisions of law; and

"(E) such other factors as the Secretary may consider appropriate.

"(4) The Secretary may waive any requirements for hearing and a period of reasonable notice and provide for expeditious issuance of an order under this subsection in any case in which he determines that the failure to do so would result in the likelihood of serious harm to life or property.".

(b) Section 3(b) is amended by striking out the fourth sentence.

(c) The first sentence of section 5(a) is amended by striking out "the fourth sentence of section 3(b)," and inserting in lieu thereof "section 10(b),".

COVERAGE OF PIPELINE TRANSPORTATION OF LIQUEFIED PETROLEUM GAS

SEC. 102. (a) Section 2(3) is amended—

(1) by striking out "Transportation of gas" and inserting in lieu thereof "Pipeline transportation"; and

(2) by inserting after "interstate or foreign commerce" the following: ", or the transmission or distribution (but excluding the gathering) of liquefied petroleum gas by pipeline, in interstate or foreign commerce".

(b) Section 2 is amended by redesignating paragraphs (3) through (10) as paragraphs (4) through (11), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) 'Liquefied petroleum gas' means propane, butane, any related product, or any mixture or combination thereof;".

(c) Section 2)(2) is amended by inserting ", but such term does not include liquefied petroleum gas" after "toxic or corrosive".

(d) Section 2(4), as amended and redesignated, is further amended by inserting after "distribution of gas" the following: "(whether in a gaseous or nongaseous state)".

(e) Section 2 is amended by inserting "(a)" after "SEC. 2." and by adding at the end thereof the following new subsection:

"(b) Any storage facility, or category of storage facilities, physically connected to any pipeline facility, or facilities, used for the transmission or distribution of liquefied petroleum gas shall be included by the Secretary, by regulation, within the meaning of subsection (a)(5) if—

"(1) the Secretary finds that such inclusion would further the purposes of this Act; and

"(2) such facility has a storage capacity of 30,000 gallons or more, is used in connection with one or more other storage facilities at the same site which have, in the aggregate, a storage capacity of 30,000 gallons or more.".

(f)(1) The heading for section 4 is amended by striking out "COMMITTEE" and inserting in lieu thereof "COMMITTEES".

(2) Section 4(a) is amended by—

(A) inserting "(1)" after "(a)";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(C) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall establish a Technical LPG Safety Standards Committee. The Committee shall be appointed by the Secretary, after consultation with public and private agencies concerned with the technical aspect of transportation and storage relating to liquefied petroleum gas or the operation of pipeline facilities relating to liquefied petroleum gas, and shall be composed of fifteen members each of whom shall be experienced in the safety regulation of such transportation and facilities or technically qualified by training, experience, or knowledge in one or more fields of engineering applied in such transportation or operation to evaluate safety standards relating to liquefied petroleum gas, as follows:

"(A) Five members shall be selected from governmental agencies, including State and Federal governments, two of whom shall be selected from State governments;

"(B) Four members shall be selected from the liquefied petroleum gas industry after consultation with industry representatives, not less than three of whom shall be currently engaged in the active operation of liquefied petroleum gas pipelines; and

"(C) Six members shall be selected from the general public."

(3) Section 4(b) is amended by—

(A) by striking out "the Committee" where it appears in the second sentence and in each succeeding place it appears and inserting in lieu thereof "either Committee"; and

(B) by striking out "The Committee" the first place it appears and inserting in lieu thereof "With respect to matters under their jurisdiction, each Committee".

(4) Section 4(c) is amended by striking out "the Committee" the first and third places it appears and inserting in lieu thereof "either Committee".

(g) Section 3 is amended by adding at the end thereof the following new subsection:

"(f) Any standard under this section applicable with respect to liquefied petroleum gas shall take account of the distinguishing characteristics and different properties of gas and liquefied petroleum gas and shall be established separately from those applicable with respect to gas unless specific reasons exist for the standard to be common to both, and those reasons are set forth when the standard is prescribed or made applicable to liquefied petroleum gas.".

(h)(1) the following provisions are amended by striking out "the transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a) (5) and (9), as redesignated by subsection (a);

(B) section 3(b) and (e);

(C) section 4(b);

(D) section 8(a);

(E) section 11;

(F) section 12(a);

(G) section 13(b); and

(H) section 14(a) (4).

(2) The following provisions are each amended by striking out "transportation of gas" each place it appears and inserting in lieu thereof "pipeline transportation":

(A) section 2(a) (10), as redesignated by subsection (a);

(B) section 5(b) (3), and

(C) section 10(a).

(3) The following provisions are each amended by striking out "gas pipeline" each place it appears and inserting in lieu thereof "pipeline":

(A) section 3(e); and

(B) section 14(b).

(4) Section 2(a) (4), as redesignated and amended, is further amended by striking out "or its storage" and inserting in lieu thereof ", or its storage in connection with such gathering, transmission, or distribution.".

(5) Section 5(c) (1) is amended—

(A) by striking out "gas safety programs" and inserting in lieu thereof "pipeline safety programs", and

(B) by striking out "date of enactment of this section." and inserting in lieu thereof the following: "date of enactment of the Fuels Transportation Safety Amendments Act of 1979.".

(6) The short title set forth in the first section is amended to read as follows: "Fuels Transportation Safety Act".

PIPELINE SAFETY PROGRAM STANDARD

SEC. 103. (a) Section 3(b) is amended by inserting "(1)" after "(b)", by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), and by adding at the end thereof the following new paragraph:

"(2) Not later than 12 months after the date of the enactment of the Fuels Transportation Safety Amendments Act of 1979, the Secretary shall provide that the Federal minimum safety standards established under this section include a requirement that any operator of pipeline facilities—

"(A) participate in any public safety program—

"(i) which provides for notice to pipeline facility operators of proposed demolition excavation, tunneling, or construction near or affecting such facility;

"(ii) which requires such operators to identify specific pipeline facilities which may be affected by the proposed demolition, excavation, tunneling, or construction, for the purpose of preventing damage to such facilities; and

"(iii) which the Secretary determines is being carried out in a manner adequate to assure protection against the hazards to that operator's pipeline facilities created by such demolition, excavation, tunneling, or construction; or

"(B) to the extent that such a program is not available, take such steps as the Secretary shall prescribe to provide services to the public with respect to that operator's pipeline facilities which are comparable to those which would be available to the public under such a program.".

(b) Section 5(a) (4) is amended by striking out "excavation" and inserting in lieu thereof "demolition, excavation, tunneling, or construction".

(c) Certification and information requirements established by regulation under the amendments made by subsection (a) shall not apply with respect to annual certifications under section 5 during the 2-year period which begins on the effective date of such regulation.

EXEMPTION FROM STANDARDS

SEC. 104. (a) Section 3(e) is amended by inserting "(1)" after "(e)" and by adding at the end thereof the following new paragraph:

"(2) Upon application by any person engaged in pipeline transportation or the operation of pipeline facilities or LNG facilities, the Secretary may, after notice and opportunity for hearing and under such terms and conditions and to such extent as he deems appropriate, exempt any person or category of persons from all or part of the requirements from any standard established under this Act if the Secretary determines that—

"(A) the financial and administrative burdens of being covered by such requirements are not justified by the benefits resulting from that coverage; and

"(B) the costs to such person or persons by being covered by such requirements would significantly increase consumer rates or charges and such exemption would not endanger the public health or safety.

The Secretary shall state in writing his reasons for any such exemption.".

(b) Section 7 is amended by inserting "or exemption" after "waiver".

(c) Section 14(a) (3) is amended by striking out "waiver granted under section 3(e)" and inserting in lieu thereof "waiver or exemption granted under section 3(d)".

COVERAGE OF GAS DISTRIBUTED IN CONNECTION WITH RENTAL OR LEASE OF REAL PROPERTY

SEC. 105. Section 2, as amended, is amended by inserting at the end thereof the following new subsection:

"(c) (1) Unless paragraph (2) applies, there shall be included within the meaning of subsection (a) (3) any pipeline distribution of gas by any person in connection with the rental or lease of real property by that person to others, whether or not—

"(A) a separate charge is made for such gas;

"(B) the distribution to each rental or lease unit is separately metered; or

"(C) the person distributing such gas is otherwise treated as being engaged in local distribution of gas.

"(2) The Secretary shall, by regulation, provide that the provisions of paragraph (1) not apply in cases in which the public health and safety are adequately protected by reason of the existence and enforcement of appropriate building or housing codes or similar laws.".

PIPELINE SAFETY INSPECTORS

SEC. 106. (a) (1) Section 3(b), as amended, is amended by adding at the end thereof the following new paragraph:

"(3) Not later than 12 months after the date of the enactment of the Fuels Transportation Amendments Act of 1979, the Secretary shall provide that the Federal minimum safety standards established under this section which relate to inspection and other enforcement shall set forth minimum training and educational requirements for pipeline inspectors.".

(2) Section 5(c) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary may not make any payment under this subsection to a State agency for any calendar year beginning after December 31, 1982, unless such State agency has demonstrated that from the payments to such agency for such year funds will be applied for the training and education of pipeline safety inspectors of such State agency in order to enable them to better perform their responsibilities. The amounts to be applied for such purposes are to be adequate to assure that the pipeline safety inspectors maintained by such State agency comply with any standards established under section 3(a) for training and education of pipeline inspectors.".

(3) Certification and information requirements established by regulation under the amendments made by paragraph (1) shall not apply with respect to annual certifications under section 5 during the 2-year period which begins on the effective date of such regulation.

(b) Section 5(f) is amended to read as follows:

"(f) (1) The Secretary shall determine, after reasonable notice and opportunity for hearing, the minimum number of pipeline safety inspectors which must be maintained by a State agency in order to assure adequate monitoring of compliance with applicable safety standards within such State.

"(2) No State agency shall be considered to meet the requirements for certification under subsection (a), nor may the Secretary enter into any agreement under subsection (b) or allow a State to act as his agent with respect to interstate transmission facilities, unless the State agency involved has demonstrated that such agency has and will continue to maintain no less than the minimum number of pipeline inspectors determined by the Secretary under paragraph (1) to be required for such State.".

TECHNICAL PIPELINE STANDARDS COMMITTEE

SEC. 107. (a) Section 4(b) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The Secretary shall submit to the appropriate Committee or Committees any proposed standard under this Act, or any proposed amendment to a standard under this Act, for their consideration. Within 90 days after receipt by a Committee of any proposed standard or amendment, the Committee shall prepare a report on the technical feasibility, reasonableness, and practicability of such standard or amendment. The Secretary may prescribe a final standard or final amendment to a standard at any time after the 90th day after its submission to the appropriate Committee or Committees, whether or not they have reported on such standard or amendment.";

(2) by inserting after "published by the Secretary and" the following ", if timely made,"; and

(3) by inserting before the last sentence thereof the following new sentence: "Each Committee shall meet with the Secretary (or his designee) not less frequently than once every 6 months.".

(b) Section 4(c) is amended by striking out "not to exceed $100 per diem" and inserting in lieu thereof "not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5, United States Code, for each day".

COST-BENEFIT ANALYSIS OF INCREASED FUELS TRANSPORTATION SAFETY REGULATION

SEC. 108. (a) Within 12 months after the date of the enactment of this section, the Secretary of Transportation, after affording an opportunity for consultation and comment by persons operating pipeline facilities, State and local regulatory authorities with jurisdiction over pipeline safety, and consumers shall conduct and complete a cost-benefit analysis to determine whether additional Federal legislation on pipeline safety is beneficial and submit a report of his findings to the Congress.

(b) As part of the cost-benefit analysis required by subsection (a), the Secretary of Transportation shall conduct a study of the adequacy and effectiveness of existing pipeline safety regulations. In addition to existing pipeline safety regulations, the study shall address the following issues:

(1) whether pipeline safety could be significantly enhanced in a cost-effective manner by regulations requiring pipeline facility operators to—

(A) prepare and maintain a general description of their pipeline facilities, including—

(i) the location of the pipeline and the pipeline facilities;

(ii) the type, age, manufacturer, and method of construction of such pipeline and facilities;

(iii) the nature of the materials transported, the sequence in which they are transported, and the pressure at which they are transported; and

(iv) the climatic, geologic, seismic, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas;

(B) prepare, maintain, and submit to State and local entities authorized to approve demolition, excavation, tunneling, or construction activities in the areas in which the pipeline facilities are located a detailed description of the pipeline's location;

(2) the cost-effectiveness of public safety programs of persons operating pipeline facilities which have been established voluntarily or under State or local law or regulation, under which—

(A) notice is required to be provided to pipeline facility operators of proposed demolition, excavation, tunneling, or construction near or affecting such facility; and

(B) such operators are required to identify specific pipeline facilities which may be affected by the proposed demolition excavation, tunneling, or construction, for the purpose of preventing damage to such facilities;

(3) the cost-effectiveness, feasibility, and potential benefits of establishing in the Department of Transportation a program for use in an electronic data-processing system, which would be used to process and maintain pipeline-safety information obtained under existing and future Federal laws and regulations;

(4) whether it is necessary and cost-effective to amend existing Federal law and regulations on the reporting of pipeline leaks to require the reporting of any such future leak which—

(A) the person owning or operating the pipeline facility knew or reasonably should have known existed;

(B) was not caused by operation, inspection, or adjustment procedures which were properly carried out; and

(C) posed a threat to public health or safety, property, or the environment; and

(5) whether it is necessary and cost-effective to amend the provisions of the Act to include any type or class of facility or equipment used in the transportation on land of gas or liquefied petroleum gas, in interstate or foreign commerce, or storage in connection with such transportation.

APPROPRIATIONS AUTHORIZATION

SEC. 109. Section 15 is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 15. (a) For the purpose of carrying out the provisions of this Act (other than provisions for which funds are authorized to be appropriated under subsection (b)), there are authorized to be appropriated—

"(1) $6,000,000, for the fiscal year ending September 30, 1980;

"(2) $7,000,000, for the fiscal year ending September 30, 1981; and

"(3) $8,000,000, for the fiscal year ending September 30, 1982.

"(b)(1) For the purpose of carrying out the provisions of section 5(c) of this Act, there are authorized to be appropriated—

"(A) $4,500,000, for the fiscal year ending September 30, 1980;

"(B) $5,500,000, for the fiscal year ending September 30, 1981; and

"(C) $6,500,000, for the fiscal year ending September 30, 1982.".

EFFECTIVE DATE; INTERIM STANDARDS

SEC. 110. Section 3 is amended by adding at the end thereof the following new subsection:

"(g)(1) Except as expressly provided otherwise, standards, or amendments to standards, required under this section by reason of the enactment of the Fuels Transportation Safety Amendments Act of 1979 shall be prescribed not later than thirty six months after the date of the enactment of such Act.

"(2) As soon as practicable but not later than 3 months after the enactment of such Act, the Secretary shall, by order, adopt interim minimum Federal safety standards for pipeline facilities and pipeline transportation to the extent not covered by this Act immediately before the date of the enactment of the Fuels Transportation Safety Amendments Act of 1979. Such standards shall, to the extent the Secretary determines appropriate, be—

"(A) the State standards regulating pipeline facilities and pipeline transportation within such State on such date of enactment; or

"(B) the standards in effect under part 195 of title 49, Code of Federal Regulations, on the date of the enactment of such Act, in any case in which no such State standards are in effect on such date or the State standards in effect on such date are less stringent than the standards under such part 195.

Interim standards shall remain in effect until amended or revoked pursuant to this section. Any State agency may adopt such additional or more stringent standards for pipeline facilities and pipeline transportation not subject to Federal ratemaking or safety jurisdiction under the Natural Gas Act, the Interstate Commerce Act, or chapter 39 of title 18, United States Code, as are not incompatible with the Federal minimum standards, but may not adopt or continue in force after the interim standards provided for above become effective any such standards applicable to interstate transmission facilities.".

TITLE II—SITING AND SAFETY OF LNG FACILITIES

DEFINITIONS

SEC. 201. Section 2(a), as redesignated, is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following new items:

"(12) 'LNG' means natural gas in a liquid, semisolid, or solid state;

"(13) 'LNG facility' means any storage tank, pipeline, or other structure or equipment used for the transportation or storage of LNG, or for LNG conversion, in interstate or foreign commerce, but does not include any structure or equipment (or portion thereof) located in navigable waters (as defined in section 3(8) of the Federal Power Act (16 U.S.C. 796(8)));

"(14) 'LNG conversion' means conversions of natural gas into LNG (liquefaction or solidification) or the conversion of LNG into natural gas (vaporization);

"(15) 'Construction' means construction, reconstruction, or erection, and, with respect to any LNG facility, any act which the Secretary, by regulation, determines would result in the creation or substantial increase of capacity of such facility for transporting or storing LNG or for LNG conversion;

"(16) 'Existing LNG facility' means any LNG facility for which an application for the approval of the siting, construction, or operation of such facility was filed before March 1, 1978, with—

"(A) the Department of Energy or any predecessor organization of the Department, or

"(B) the appropriate State or local agency, in the case of any facility not subject to the jurisdiction of the Department of Energy under the Natural Gas Act,

except that such term does not include any facility the construction of which commences on or after the date of the enactment of this paragraph and such construction is not pursuant to such an approval;

"(17) 'New LNG facility' means any LNG facility other than an existing LNG facility;

"(18) 'LNG accident' means any release, burning, or explosion of LNG resulting from—

"(A) a rupture or other failure of a storage tank, pipeline, or other LNG facility;

"(B) natural hazards (including earthquakes, hurricanes, and high winds);

"(C) sabotage; or

"(D) any other cause;

other than any such release, burning, or explosion which, as determined in accordance with regulations prescribed by the Secretary, does not pose a threat to public health or safety, property, or the environment; and

"(19) 'Interstate or foreign commerce' means any trade, traffic, transportation, exchange, or other commerce—

"(A) between any State and any place outside of such State, or

"(B) which affects any trade, transportation, exchange, or other commerce described in subparagraph (A).".

SITING AND SAFETY STANDARDS

SEC. 202. (a) The Act is amended by redesignating sections 6 through 17 as sections 8 through 19, respectively, and by inserting after section 5 the following new section:

"STANDARDS FOR LNG FACILITIES

"SEC. 6. (a)(1) Not later than 180 days after the date of the enactment of this section, the Secretary shall establish, by regulation—

"(A) minimum safety standards for determining the location of any new LNG facility which is to be stationary, and

"(B) minimum standards for the construction of any new LNG facility.

"(2) After the date standards first take effect under this section, no new LNG facility may be constructed unless such construction is in accordance with the applicable standards prescribed under this section. The Secretary shall ensure that the facility will be constructed and operated in compliance with such standards.

"(3) No new LNG facility may be operated unless the person operating such facility has previously submitted a contingency plan which sets forth those steps which are to be taken in the event of an LNG accident and which is determined to be adequate by the Department of Energy or the appropriate State agency, in the case of any facility not subject to the jurisdiction of the Department under the Natural Gas Act.

"(b)(1) The Standards under subsection (a) shall not apply in the case of siting or construction with respect to which an application for approval was filed March 1, 1978, with—

"(A) the Department of Energy or any predecessor organization of the Department; or

"(B) the appropriate State or local agency, in the case of any facility not subject to the jurisdiction of the Department under the Natural Gas Act.

"(2) Nothing in this section shall preclude—

"(A) the application of standards under section 3 to pipeline facilities (other than LNG facilities) associated with LNG facilities;

"(B) the application of standards under section 3 in effect as of the date of the enactment of the Fuels Transportation Safety Act Amendments of 1979 to new LNG facilities until such time as standards are established under this section; or

"(C) the application of section 3(a).

"(c) Not later than 270 days after the date of the enactment of this section, the Secretary shall establish minimum standards to be maintained with respect to the operation of any LNG facility.

"(d) In prescribing general safety standards under subsections (a) and (c), the Secretary shall take into consideration—

"(1) with respect to standards relating to the location of any stationary new LNG facility—

"(A) the nature of the use of the facility;

"(B) criteria to be used in determining the number and characteristics of other sites to be considered as alternative locations for such LNG facility;

"(C) the existing and projected population and demographic characteristics associated with each location considered;

"(D) the existing and proposed land uses near each such location;

"(E) the meteorological, geological, topographical, seismic, and other natural physical aspects of each such location;

"(F) the medical, law enforcement, and fire prevention capabilities existing near each such location to cope with risks created by such a facility;

"(G) the costs of constructing and operating such LNG facility at each such location, including the costs to the United States and to State and local governments which are associated with such construction and operation; and

"(H) the need to encourage remote siting;

"(2) with respect to standards applicable to the construction of any new LNG facility—

"(A) the thermal resistance and other characteristics of materials to be used in the construction of such facility as compared to alternative materials;

"(B) design factors (such as multiple diking, insulated concrete, and vapor containment barriers);

"(C) the characteristics of the LNG to be stored or converted at, or transported by, such facility (for example, whether it is to be in a liquid, semisolid, or solid state); and

"(D) the public safety factors of the design as compared to alternative designs (particularly the ability under such a design to prevent and contain an LNG spill); and

"(3) with respect to standards for the operation of any LNG facility—

"(A) the conditions, features, and type of equipment and structures which comprise, or which are used in connection with, such facility;

"(B) the fire prevention and containment equipment at such facility;

"(C) the security measures to be used with respect to the operation of such facility for the prevention of sabotage or other intentional acts which could cause an LNG accident;

"(D) maintenance procedures and equipment;

"(E) the training of personnel with respect to the equipment, structures, measures, and procedures described in subparagraphs (A), (B), (C), and (D); and

"(F) other factors and conditions relating to the safe handling of LNG.

"(e) At any time after the effective date of standards initially prescribed under subsections (a) and (c), the Secretary shall, on his own motion or on the motion of any person, amend such standards to the extent he considers necessary to reflect changes in technology or to otherwise carry out the purposes of this section.

"(f) Any standards prescribed under this section, and amendments thereto, shall become effective 30 days after the date of issuance of such standards unless the Secretary, for good cause recited, determines an earlier or later effective date is required as a result of the period reasonably necessary for compliance and such date is specified in the order establishing or amending such standard.

"(g) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to all orders establishing, amending, or revoking, any standard established under this section. The Secretary shall afford interested persons an opportunity to participate fully in the establishment of such safety standards through submission of written data, views, or arguments with opportunity to present oral testimony and argument.".

(b)(1) Section 2(a)(4) (definition of pipeline transportation), as redesignated, is amended by striking out "or affecting".

(2) Section 2(a) (9) and (10) (definitions of interstate and intrastate transmission facilities), as redesignated, is amended by inserting ", LNG facilities," after "pipeline facilities" the first place it appears therein.

(3) Section 3(d)(1) (relating to waiver of standards), as redesignated, is amended—

(A) by inserting "or LNG facilities" after "pipeline facilities"; and

(B) by inserting after "in the same manner" the following: "and to the same extent".

(4) Section 4(b) (relating to Technical Safety Committees) is amended by inserting ", LNG facilities," after "pipeline facilities".

(5) Section 9 (relating to cooperation), as redesignated, is amended—

(A) by inserting "or LNG facility" after "affected pipeline facility" and after "gas pipeline"; and

(B) by inserting "or LNG facilities" after "pipeline facilities".

(6) Section 10 (relating to compliance), as redesignated, is amended by inserting "or LNG facilities" after "pipeline facilities".

(7) Section 13 (relating to injunction and jurisdiction), as redesignated, is amended by inserting after "pipeline facility" the following: "or LNG facility".

(8) Section 14 (relating to inspection and maintenance plans), as redesignated, is amended—

(A) by inserting after "facilities" the following: "or LNG facilities" each place it appears;

(B) by striking out "pipeline safety" each place it appears and inserting in lieu thereof "pipeline and LNG facility safety"; and

(C) by inserting in paragraph (2) after "pipeline transportation" the following: "or LNG facility".

(9) Section 15 (relating to records, etc.), as redesignated, is amended by inserting after "pipeline facilities" each place it appears the following: "and LNG facilities".

(10) Section 17(a)(2) (relating to annual report), as redesignated, is amended by inserting after "pipeline" the following: "or LNG facilities".

(11) Section 17(a)(4) (relating to annual report), as redesignated, is amended by striking out "and pipeline facilities" and inserting in lieu thereof ", pipeline facilities, and LNG facilities,".

FINANCIAL RESPONSIBILITY

SEC. 203. The Act, as amended by section 202 of this Act, is further amended by inserting after the new section 6 the following new section:

"FINANCIAL RESPONSIBILITY FOR CERTAIN LNG ACTIVITIES; STUDIES

"SEC. 7. (a) Not later than 270 days after the date of the enactment of this section, the Secretary shall—

"(1) conduct a study of—

"(A) the risks associated with the production, transmission, and storage of LNG;

"(B) the risks associated with the production, transmission, and storage of liquefied petroleum gas;

"(C) the methods of assuring adequate financial responsibility for those engaged in any such activity; and

"(2) prepare and transmit to each House of the Congress a report on the results of such study, together with the recommendation of the Secretary for such legislative or administrative action as he considers appropriate.

"(b)(1) Whenever the Secretary has reason to believe that any operator of an LNG facility is not maintaining adequate insurance or otherwise does not have adequate financial responsibility with respect to such facilities, he shall issue and serve upon such operator notice thereof, together with a statement of the amount of the financial responsibility that the Secretary would consider adequate.

"(2) Any person issued notice under paragraph (1) shall have a right to hearing on the record in accordance with section 554 of title 5, United States Code, to be held not later than 30 days after notice under paragraph (1), at which such person has the right to show cause as to why an order should not be issued by the Secretary requiring such person to demonstrate and maintain financial responsibility at or above the amount indicated in the notice under paragraph (1).

"(3) After an opportunity for hearing under paragraph (2), the Secretary may, if he determines it is justified in the public interest, order the person issued notice of such hearing to demonstrate and maintain financial responsibility at or above an amount determined appropriate by the Secretary, taking into account any information, data, and views presented in such hearing.

"(4)(A) Any person aggrieved by an order issued under paragraph (3) may seek judicial review of such order only by filing a petition for review in the appropriate court of appeals of the United States within 60 days after such order is issued.

"(B) Upon receipt of notice of the filing of such petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code. Upon such filing, the court may affirm, modify, remand, or set aside the order of the Secretary, and may enforce the order to the extent that such order is affirmed and issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(C) The judgment and decree of the court shall be final, except that such judgment and decree shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

"(c) For purposes of subsection (b) of this section, financial responsibility may be maintained by any one of, or a combination of, the following methods acceptable to the Secretary:

"(1) evidence of insurance,

"(2) surety bonds,

"(3) qualification as a self-insurer, or

"(4) other evidence of financial responsibility.".

ENFORCEMENT OF STANDARDS AND FINANCIAL RESPONSIBILITY REQUIREMENTS

SEC. 204. (a) Section 11(a) (relating to civil penalty), as redesignated by section 202 of this Act, is amended by inserting "(1)" before "Any person" and by adding at the end thereof the following new paragraph:

"(2) Any person who violates the provisions of section 6 or any order under section 7(b) shall be subject to a civil penalty of not to exceed $50,000, which penalty shall be in addition to any other penalties to which

such person may be subject under this subsection.".

(b) The Act is further amended by redesignating sections 12 through 19 (as redesignated) as sections 13 through 20, respectively, and by inserting after section 11 the following new section:

"CRIMINAL PENALTY

"SEC. 12. Any person who willfully and knowingly violates the provisions of section 6 or any order issued under section 7(b) shall, on conviction thereof, be punished by a fine or not more than $50,000, or by imprisonment for not more than five years, or both.".

INTERVENTION BY THE SECRETARY IN SAFETY PROCEEDINGS

SEC. 205. (a) Section 16, as redesignated, is amended by adding at the end thereof the following new subsection:

"(e) The Secretary may as a matter of right intervene or otherwise participate in any proceeding before the Federal Energy Regulatory Commission, or any State agency, which involves safety requirements relating to LNG facilities. The Secretary shall comply with rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with rules of procedure of general applicability governing the conduct thereof.".

(b) Section 16(a), as redesignated, is amended by striking out "section" and inserting in lieu thereof "subsection".

(c) Section 16(b), as redesignated, is amended by inserting ", or any appropriate State agency," after "Commission".

APPROPRIATIONS AUTHORIZATION

SEC. 206. Section 18(b) (relating to appropriations authorization), as redesignated, is amended by adding at the end thereof the following new paragraph:

"(2) For the purposes of carrying out sections 6 and 7 of this Act, there are authorized to be appropriated—

"(A) $2,000,000, for the fiscal year ending September 30, 1980; and

"(B) $2,000,000, for the fiscal year ending September 30, 1981.".

TITLE III—MISCELLANEOUS PROVISIONS

WILLFUL DESTRUCTION OF INTERSTATE PIPELINE TRANSMISSION OR LNG FACILITIES

SEC. 301. Section 12 (as added by section 204 of this Act) is amended by inserting "(a)" after "SEC. 12." and by adding at the end thereof the following new subsection:

"(b) Any person who willfully injures or destroys, or attempts to injure or destroy—

"(1) any pipeline facility for the interstate transmission of gas, liquefied petroleum gas, or petroleum, including any facility or equipment covered under this Act under section 2(b), or

"(2) any liquefied gas facility to which section 6 applies,

shall be fined not more than $15,000 or imprisoned not more than fifteen years, or both.".

APPOINTMENTS OF DIRECTOR OF PIPELINE SAFETY OPERATIONS AND DIRECTOR OF MATERIALS TRANSPORTATION BUREAU

SEC. 302. (a) Notwithstanding any other provision of law—

(1) no individual may serve for more than 180 days (in the aggregate) in an acting capacity in a position the principal duties of which were identified as of March 1, 1978, as assigned to the Director of the Office of Pipeline Safety Operations, Department of Transportation, or may serve as the Acting Director of the Materials Transportation Bureau, Department of Transportation, and

(2) if a person is not appointed to such position within 180 days after a vacancy occurs in that position, the Secretary shall personally carry out the functions of such position until an appointment is made to that position, and all delegations of authority under the Fuels Transportation Safety Act shall be suspended until such appointment is made.

(b) In the case of any vacancy in such positions on the date of the enactment of this Act, periods of service before the date of enactment shall not be taken into account for purposes of subsection (a).

SIMPLIFICATION OF FILING REQUIREMENTS

SEC. 303. (a)(1) The first sentence of section 14, as amended and redesignated, is amended by striking out "shall file with the Secretary or, if a certification or an agreement pursuant to section 5 of this Act is in effect, with the appropriate State agency, a plan for inspection and maintenance" and inserting in lieu thereof "shall establish, and maintain at such office or offices of that person as the Secretary determines appropriate, a plan for inspection and maintenance".

(2) The second sentence of such section 14 is amended by striking out "file such plans" and insert in lieu thereof "similarly establish and maintain such plans".

(b) Section 10(a)(2) as amended and redesignated, is amended by striking out "file and comply with a plan of inspection and maintenance required by section 14" and insert in lieu thereof "establish and maintain a plan of inspection and maintenance required by section 14 and comply with such plan".

TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS

SEC. 304. (a) Section 2(a)(8) (relating to the national organization of State commissions), as redesignated, is amended by striking out "part II of the Interstate Commerce Act" and inserting in lieu thereof "subchapter III of chapter 103 of title 49, United States Code".

(b) Section 3 (relating to standards), as amended, is amended by striking out subsection (a) and by redesignating subsections (b) through (g) as subsections (a) through (f), respectively.

(c) Section 3(b), as redesignated by subsection (b), is amended by inserting after "period reasonably necessary for compliance" the following: "and such date is specified in the order establishing or amending such standard".

(d) Clause (ii) of section 5(a) (relating to State certifications) is amended by inserting after "property damage exceeding $1,000" the following: "(whether or not sustained by a person subject to the safety jurisdiction of the State)".

(e) Section 5(a) is amended by striking out "; except that a State agency may file a certification under this subsection without regard to the requirement of injunctive and monetary sanctions under State law for a period not to exceed five years after the date of enactment of this Act".

(f) Section 11(a)(1) (relating to civil penalties), as redesignated, is amended by striking out ": *Provided*, That for a reasonable period of time, not to exceed one year after the date of enactment of this Act, such civil penalties shall not be applicable to pipeline facilities existing on such date of enactment".

(g) Section 17(a)(3) (relating to annual reports), as redesignated by sections 202 and 204 of this Act, is amended by striking out "section 3(e)" and inserting in lieu thereof "section 3(d)".

(h) The following provisions are each amended by striking out "Federal Power Commission" and inserting in lieu thereof "Federal Energy Regulatory Commission":

(1) section 2(a) (9) and (10), as redesignated;

(2) section 9 (relating to cooperation), as redesignated, including the section heading; and

(3) section 16(b) (relating to administration), as redesignated.

(i) Paragraphs (9) and (10) of section 2 (a), as redesignated, are each amended by inserting "or the Interstate Commerce Act" after "the Natural Gas Act".

(j)(1) Section 5(a) is amended by striking out "section 12(b)", "section 12", "section 11", and "sections 9 and 10" and inserting in lieu thereof "section 15(b)", "section 15", "section 14", and "sections 11 (other than subsection (a)(2) thereof) and 13", respectively.

(2) Section 5(a) is further amended by inserting "section 20," before "and except as otherwise provided in this section".

(3) Section 5(b)(2) is amended by striking out "section 11" and inserting in lieu thereof "section 14".

(4) Section 5(c)(2) is amended by striking out "section 15(b)" and inserting in lieu thereof "section 18(b)(1)".

(5) Section 10 (relating to compliance), as redesignated, is amended by striking out "section 11" and "section 12" and inserting in lieu thereof "section 14" and "section 15", respectively.

(6) Section 11(a)(1) (relating to civil penalty), as redesignated, is amended by striking out "section 8(a)" and inserting "section 10" in lieu thereof.

(7) Section 13 (relating to injunction and jurisdiction), as redesignated, is amended by striking out "section 9" each place it appears and inserting in lieu thereof "section 11 or 12".

(k) Section 17(a) (relating to annual report), as redesignated, is amended by striking out "March 17" and inserting in lieu thereof "June 1".

(l) Any reference in any other provision of law, rule, regulation, or order to the Natural Gas Pipeline Safety Act of 1968 shall be considered to refer to the Fuels Transportation Safety Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD of California. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MARKEY) will be recognized for 20 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pleasure that I rise in support of H.R. 51, the Fuels Transportation Safety Amendments Act of 1979. At the outset, I want to express my thanks and commendations to my good friend and subcommittee chairman, JOHN DINGELL. It has been an honor and an education for me to work with him on this bill. I also want to thank our distinguished committee chairman, HARLEY STAGGERS, and the committee staff who over the years have worked tirelessly and creatively on this legislation: Michael Barrett, Michael Kitzmiller, Christopher Dunne, and Peter Hunt.

The bill before us today, H.R. 51, is the product of over 2 years of work by the Energy and Power Subcommittee and the Interstate and Foreign Commerce Committee. In May of 1977 I joined with Chairman DINGELL in sponsoring H.R. 6844, the Liquefied Natural Gas Facility Safety Act. Subsequently, that bill was incorporated into H.R. 11622, which we introduced on March 16, 1978, and which was passed by the House last year. The legislation before you today is the version introduced this year which is a combination of the previous bills and has been the subject of over 50 hours of hearings before the Energy and Power Subcommittee.

In both subcommittee and full committee markups of this bill, a great many changes were made. The bill before you today is thus truly the result of careful consideration and compromise.

As a result of that consideration and compromise, I believe that H.R. 51 is a consensus bill with broad support. It was reported by a vote of 40 to 2 by the Interstate and Foreign Commerce Committee. I might also note that several industry spokesmen have continued to visit me to express their support of H.R. 51 and to inquire what they might do to help facilitate its passage.

H.R. 51 is a very significant measure. First, the bill authorizes appropriations for the pipeline safety activities of the Department of Transportation and its Office of Pipeline Safety Operations (OPSO). Second, it seeks to coordinate the safety regulation activities of OPSO into a coherent package and to close existing gaps in these safety regulations. The importance of so doing can easily be seen from the following: In 1976 alone, 63 people were killed, 366 injured, and millions of dollars of property damage occurred as a result of fires and explosions along the more than 1.4 million miles of a natural gas, petroleum, and petroleum product pipelines in this Nation. H.R. 51 establishes mechanisms which seek to prevent such accidents from occurring. I believe its passage will save lives.

In addition, H.R. 51 mandates strict national safety standards with respect to the location, design, construction, operation, and maintenance of liquefied natural gas facilities. LNG is a very useful source of energy, but, as our hearing record clearly shows, it is also a very serious hazard. Several witnesses testified as to the failure of the Federal Government to develop a coordinated LNG policy to protect the public safety. As energy supplies get tighter in this country LNG will become a more important factor in our supply strategy. We currently have three facilities receiving LNG imports in the United States and 121 "peak shaving" facilities that liquefy and store natural gas for use during energy demand peaks. For this and many other reasons, I believe that Congress can and must provide vitally needed national leadership in this area of public health and safety through the enactment of H.R. 51.

I would also like to note that in the hearings this bill was strongly supported by both the Office of Technology Assessment and the General Accounting Office.

I would like to share with my fellow Members some short background information on liquefied natural gas (LNG). In 1944, 130 persons were killed by a series of fires which followed the rupture of an LNG storage tank in Cleveland. Federal studies of that accident led to recommendations that future LNG facilities be located away from populated areas. Thirty-five years later, no such action has been taken. It is time for us to take that action.

LNG is created by supercooling natural gas to a temperature of −260° F. At that temperature, natural gas is compressed in volume over 600 times, thus making possible its storage as well as its marine and truck transportation.

If an LNG truck or storage tank were ruptured, however, a cloud of LNG vapor would be created. This vapor cloud would hug the ground, go down into the sewers, subways, and basements through any available opening. Widespread explosions and fires could easily be ignited, since the vapor is so combustible that it could be set off even by the spark generated by an automobile horn.

Under the provisions of this legislation, the Department of Transportation will be required to establish standards regulating the siting and design of any new LNG facility or any construction at an existing facility. These standards would require remote siting to the maximum extent possible. In addition, all LNG facilities will be required to comply with strict new operating standards covering areas such as antiterrorist security and firefighting capabilities.

Mr. Speaker, the hazards associated with LNG, LPG (liquified petroleum gas) and natural gas pipeline transportation are clear. The public has a right to expect that Congress will require that the Federal Government develop a coordinated policy to assure the greatest possible safety in the transportation and storage of these fuels. The public has a right to expect that Congress will pass H.R. 51, for its enactment will mean a significant enhancement of the public health and safety.

As the Christian Science Monitor once stated in an editorial:

> Congress ought not to wait for a disaster to drive them to enact these needed precautions.

Mr. Speaker, I urge passage of this vital legislation.

Mr. Speaker, I yield 5 minutes to the distinguished chairman of the Subcommittee on Surface Transportation, which shared jurisdiction over this legislation, the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 51. The Committee on Public Works and Transportation received a sequential referral of H.R. 51 after the Committee on Interstate and Foreign Commerce reported it on May 15, 1979. The referral was for approximately 5 weeks. During that time hearings were held, and the bill was reported by the committee. The bill as reported is identical to the one reported by the Committee on Interstate and Foreign Commerce.

As reported, the bill affects many changes in the Natural Gas Pipeline Safety Act. It expands coverage of that act to commodities other than gas. For example, the act would now cover liquefied petroleum gas lines and some liquefied petroleum gas storage tanks. In addition, the bill directs the Secretary to establish and enforce standards specifically for liquefied natural gas facilities. In that connection, it provides a mechanism for providing financial liability coverage for accidents which might occur.

The bill imposes new safety programs for pipeline operators and adds requirements which the States must meet in order to qualify for participation in the Federal grant-in-aid program.

The bill imposes additional civil penalties for violations of the act. For the first time, criminal penalties are imposed for violation of the act, and the Secretary is given the authority to order corrective action to protect life and property.

Finally, it provides spending levels for carrying out the provisions of the act.

Mr. Speaker, I believe the bill provides for better safety conditions in the pipeline transportation industry, and urge the passage of H.R. 51.

At this time, I would like to commend Chairmen STAGGERS and DINGELL for their excellent work and for their outstanding presentations in support of this bill.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 51, the Fuels Transportation Amendments Act of 1979. This bill is a result of careful negotiations between various groups interested in the safe transportation and storage of natural gas and LNG. As a result of these careful negotiations, H.R. 51 represents a reasonable compromise between several legitimate, but yet competing, viewpoints on regulation in this area.

As originally introduced, H.R. 51 would have required LNG and natural gas pipeline operators to gather and report massive amounts of useless information at great expense to the consumer. Fortunately, several amendments were adopted during markup of H.R. 51. As a result, the legislation is now greatly improved over the originally introduced version.

This bill, among other things, now requires the Secretary of Transportation, within 1 year after enactment, to complete a cost-benefit analysis to determine whether additional Federal legislation on pipelines should be required. The study must also address whether pipe-

line safety could be significantly enhanced in a cost-effective manner by requiring pipeline operators to prepare and maintain a general description of a facility, including the location, type, age, manufacturer, and method of construction of the pipeline. The study is also required to address whether it would be beneficial for the DOT to establish electronic data processing systems to process and maintain pipeline safety information obtained under existing and future laws and regulations.

This cost-benefit study eliminated the mandatory information gathering and reporting requirements which were originally contained in H.R. 51. This information would have been very expensive to compile and would have been of little use to the Federal or State Governments involved. In this respect, H.R. 51 has been significantly improved.

Title 2 of the legislation before us would direct the Secretary of the Department of Transportation to establish and enforce standards with respect to the siting, construction, and operation of liquefied natural gas facilities. In addition, the Secretary would be required to conduct a study of the risk associated with the production, transmission, and storage of liquefied natural gas, and of the method of assuring the financial responsibility of those engaged in such activities.

Mr. Speaker, liquefied natural gas which is natural gas which has been reduced in temperature until it becomes a liquid, will play an increasingly important role for the United States in helping meet its natural gas needs. In my home State of California, there is at least one major import terminal planned as well as several existing peak shaving facilities. This bill, by rationalizing the conflicting nature of State and Federal regulations over LNG facilities should help to insure that this facility and other facilities are constructed in a safe manner. In addition, by firmly establishing responsibility in the Department of Transportation for the establishment of LNG safety standards, this bill will help clarify the existing regulatory scheme which consists of a maze of State, local, and Federal regulations.

Mr. Speaker, overall, I feel that this legislation, although far from perfect, is a reasonable compromise. For this reason, I support this legislation and urge my colleagues to vote for it on final passage.

□ 1350

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 51, the fuels transportation safety amendments act of 1979.

The basic purpose of H.R. 51 is to improve the protections afforded the public against risks associated with the transportation of natural gas, liquefied natural gas, and liquefied petroleum by pipeline. It does not affect the transportation of these materials by any other mode.

The bill does a number of things. First, it makes a number of improvements in the Natural Gas Pipeline Safety Act.

Second. It expands and strengthens the authority of the Secretary to require the correction of hazardous conditions.

Third. It expands the scope of the Natural Gas Pipeline Safety Act to include liquefied petroleum gas.

Fourth. It directs the Secretary of Transportation to establish and enforce standards with respect to siting, construction, and operation of liquefied natural gas (LNG) facilities.

Fifth. It adds criminal penalties for willful and knowing violations of standards for LNG facilities or for orders issued under new section 7, financial responsibility, and for willful destruction or injury of pipeline facilities for the interstate transmission of gas or petroleum or a liquefied gas facility.

Sixth. It authorizes a total of $41.5 million for fiscal years 1980, 1981, and 1982, for the Department of Transportation's pipeline safety activities and for grants in aid to federally certified State pipeline safety programs.

Mr. Speaker, my support for H.R. 51, however, should not be construed to mean that I do not have reservations about it, because I do. For example, testimony before our committee indicated that liquefied petroleum gas and other hazardous liquids would be more effectively regulated in a separate act rather than trying to shoehorn them into the Natural Gas Act. Another reservation I have concerns the provisions relating to State safety programs. I think the bill goes too far in telling the States exactly how to run their programs.

On balance, however, H.R. 51 is a good bill and heads us in the right direction. I, therefore, urge my colleagues to support it.

Mr. MOORHEAD of California. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. I thank the gentleman from California for yielding.

Mr. Speaker, I rise in opposition to the Fuels Transportation Safety Amendments Act of 1979. We have had this same over regulation type of legislation up year in and year out. It is one of those fields that has a tremendous appeal because we are all interested in safety. But, on the other hand, we realistically know that there are accidents that do occur. When you have 220 million people in this country you are going to have some type of fatalities. I do not have the actual number of fatalities that occurred last year. I might ask the gentlemen over here: Do you know how many fatalities occurred on pipelines last year in 1979? Are those figures compiled yet?

They do not have those. Let me just tell the Members what they were for 1976 and 1977 because they are a matter of record. In 1977 there was a total of 36 fatalities. In 1976 there was a total of 63 fatalities. In other words, in 1977, the last year of record, it had dropped from 63 to 36 fatalities. If there is any industry in America that is safer or has a better record than that, I do not know what it is. There are more kids killed on bicycles than there are on this pipeline safety. There are more people killed on motorcycles.

This is a very, very small number of accidents. That still does not mean we are not concerned with them, but we are doing every thing we can for safety within industry. Let's review how big this business is. It is tremendous—pipeline safety. There are currently in the United States about 1.7 million miles of pipelines that transport these hazardous gases and liquids. They consist of approximately 1,443,000 miles of natural gas gathering, transmission, distribution, and service lines and 225,000 miles used at one time or another to transport liquefied petroleum products. We are talking about a lot of pipeline. We are talking about a lot of accident exposure. These companies are all interested in safety. They are as interested in safety as anyone can be. But when you superimpose these regulations we will add to American industry, it is going to mean the cost of gas is going up. When you take what is a normal, prudent, and absolutely essential safety program and then add on all of these inspectors and all the paperwork that they are going to require, it means that gas bills all over America are going to skyrocket, and it means that little companies, these small companies from coast to coast, are going to have an unusually heavy burden put upon them.

There are so many phases of this bill that require attention.

Mr. Speaker, one of the issues which was not focused upon clearly by the committee during consideration of H.R. 51, was that of DOT regulation of LPG processing and refining storage facilities.

Liquified petroleum gas is produced by extraction from natural gas and by refining from crude oil. There are more than 750 natural gas processing plants and nearly 300 petroleum refineries in the United States involved in this production and which have associated storage facilities necessary for their operation. Most all of these facilities are located in rural areas. Their safety record is excellent and there has been no demonstrated need to extend Federal regulations to them.

However, under the provisions of H.R. 51 regarding storage facilities, their size and the language pertaining to their being connected to broadly defined "pipeline facilities," it is possible that some future Secretary of Transportation could decide that production, processing or refining storage facilities could come under pipeline-type regulation, whether or not they are connected directly to a pipeline. Such extension of Federal transportation regulation to what is an industrial or manufacturing situation should be prevented—especially since there is no demonstrated safety need intended by the committee to be addressed.

The gas processing and refining storage facilities to which I refer are general-

ly above-ground steel tanks of 30,000 gallon or greater capacity. They are generally used to batch raw materials for fractionation or to collect products from continuous operations. They should not be confused with underground storage caverns or other facilities associated with pipelines and which should be treated separately in any legislative or regulatory consideration.

The facilities I sought to bring to the attention of the committee to have excluded from coverage of H.R. 51 are already designed and constructed to meet numerous codes such as the ASME code for "unfired pressure vessels" and ANSI codes for chemical plant and petroleum refinery piping. They must also meet appropriate OSHA LPG standards. As an example of the safety procedures already in place, a typical natural gas processing plant is inspected regularly by company safety experts and technical representatives, by contracted nondestructive testing firms which may use ultrasonic or other devices to inspect piping, and by insurance representatives.

Mr. Speaker, as we review this bill today and as we in turn will meet in conference with the Senate, I hope that this body will turn to the Senate for leadership in deliberations. I have been much more impressed with the other body's conclusions than I have been with our own.

I am always reminded when we are talking about safety that never has this body introduced a bill on safety that would have to do with drunk drivers. If we really want to seriously discuss safety, let us do something about DWI, because out of the 50,000 people killed in automobiles every year—50,000 killed—25,000 of them are drunk and intoxicated. We never seem to worry about 25,000 drunk drivers, but we are sitting here today figuring out how to legislate on less than 50 people who were killed on pipelines. In nearly all of these cases they were killed in the line of work.

This bill is not going to solve human error. All it is going to do is mean additional paperwork, additional regulations, additional costs for the poor taxpayer and higher gas costs for the poor consumer in America.

Mr. MOORHEAD of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON) chairman of the Committee on Public Works and Transportation.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 51, the Fuels Transportation Safety Amendments Act of 1979.

I want to commend my colleagues on the Commerce Committee for their work on this bill, and in particular the gentleman from Michigan (Mr. DINGELL) the distinguished chairman of the Energy and Power Subcommittee, and the gentleman from Massachusetts (Mr. MARKEY) the primary sponsor of the bill.

I appreciate the considerable time and effort which these gentleman have spent working on this legislation.

Both of them spent many hours in hearings, particularly in the last Congress, developing this legislation, and also during the last Congress brought to successful passage in the House the bill H.R. 11622, legislation very similar to the bill presently under consideration.

Mr. Speaker, I know that the members of the Committee on Public Works and Transportation believe that these gentlemen should be commended for their efforts.

Early in this Congress, the Committee on Public Works and Transportation decided to examine this legislation because of its effect on overall national transportation safety policy.

Before the Committee on Interstate and Foreign Commerce acted on H.R. 51, I became aware of the impact of H.R. 51 on overall hazardous transportation policy and, therefore, sought sequential referral of the bill to the Public Works and Transportation Committee.

After being so referred on May 15, 1979, the committee's Subcommittee on Surface Transportation, which had already held hearings on the overall hazardous materials transportation issue held an additional hearing on June 8, 1979, to receive testimony on H.R. 51 and the LNG facility issue.

On June 21 the committee ordered the bill reported and it was reported the following day, June 22.

Although the Committee on Public Works and Transportation might have proceeded in a different fashion than the Commerce Committee, after careful review of the legislation reported by the Interstate and Foreign Commerce Committee, our committee decided to adopt their approach because of our satisfaction with the substantive policy which they had developed.

Mr. Speaker, H.R. 51 clarifies the authority of the Secretary of Transportation to regulate liquid petroleum gases such as propane, and butane (LPG) and liquid natural gas (LNG) through the Natural Gas Pipeline Safety Act of 1968.

In addition, H.R. 51 strengthens and expands the regulatory mechanisms available to the Secretary under that act to regulate the pipeline transportation and related storage and handling of natural gas and other toxic, explosive, and corrosive gases whether in a gaseous or nongaseous state.

Finally, H.R. 51 establishes specific statutory authority for the Secretary of Transportation to regulate the siting, construction, and operation of LNG facilities, including certain storage tanks, pipelines, and other structures and equipment used in connection with LNG storage and transportation.

The Committee on Public Works and Transportation has along, and I believe a successful history in advancing legislation for both the construction of large transportation and energy facilities and in advancing progressive legislation for the protection of the environment.

It is our experience that large capital projects which improve our energy distribution system can be developed in a manner which is consistent with and actually enhances the quality and safety of our environment.

By working together with all those involved we can and will make progress in alleviating our energy crisis.

In my own State of California, and throughout the Nation, we have had to resolve many problems regarding the environment raised in the course of making such capital improvements.

H.R. 51 provides the framework whereby these projects can be advanced without sacrificing the safety of our citizens.

I commend the bill to the House as a progressive measure which will assure personal safety and environmental integrity while permitting the expeditious development of LNG delivery systems and other liquid gas transportation facilities.

● Mr. DINGELL. Mr. Speaker, thank you for the opportunity to explain the contents and purposes of H.R. 51, the Fuels Transportation Safety Amendments Act of 1979.

Since 1968, the Department of Transportation has been overseeing the safety of natural gas pipelines throughout the United States. This program enlists the assistance of the several States in the conduct of safety inspections of over 1 million miles of natural gas pipelines and the implementation of a number of safety-related programs. This is done through a grant-in-aid program in which the Federal Government may match State expenditures for qualified programs. Every State but Alaska is now actively participating in this joint Federal-State program.

The purposes of H.R. 51 include:

First. Authorizing appropriations for pipeline safety programs;

Second. Expanding and strengthening the authority of the Secretary of Transportation to study and gather information about the safety—or lack thereof—of pipeline operations and related facilities; and

Third. Extending the grant-in-aid program to cover pipelines carrying LPG—that is, propane and butane.

As we know from the terrible tragedies which occurred last year in Waverly, Tenn., and in Spain and Mexico, LPG is extremely dangerous. However, the regulations covering these very hazardous LPG pipelines are worse than inadequate because they give the appearance but not the reality of safety. States cannot have a consistent LPG safety program supported by matching Federal funds without this bill.

The bill, H.R. 51, also represents the first major Federal effort at addressing the problems and hazards associated with liquefied natural gas (LNG). One LNG accident alone caused more than 130 deaths and over $100 million in property damage in Cleveland in 1944.

This one catastrophe slowed the further use of this fuel nearly another 20 years. However, the General Accounting Office and administration officials now have provided the committee with data showing that LNG will become an increasingly important factor in our Na-

tion's future energy needs—estimates range from 8 to 20 percent of our national gas consumption by 1985.

As the Cleveland incident demonstrated and as other evidence before our committee has shown, LNG is an extremely dangerous fuel requiring special care and handling. H.R. 51 would permit the establishment of safety regulations before any more of these hazardous facilities are constructed. It also provides a mechanism for insuring that all LNG facilities will be operated and maintained safely. Incorporating this within the pipeline inspection program of DOT allows the widest range of inspection, either through the existing grant-in-aid program or through direct Federal inspection. But it will be done. We are also requiring that the DOT actually approve—in advance—the safe construction and operation of all new facilities.

The bill, H.R. 51, represents the first major review and legislative revision of the pipeline safety program since it was enacted in 1968. It is based upon extensive hearings by the Subcommittee on Energy and Power in 1976, 1977, 1978, and 1979.

During this 4-year period, subcommittee members and staff investigators spent many hours with the DOT officials responsible for administering the program. They have interviewed numerous pipeline construction and operating personnel. They have met with State officials associated with the program.

Finally, the subcommittee held hearings in all of those years on the pipeline safety program and since February of last year, we conducted extensive hearings on this legislation. We received testimony from nearly 100 witnesses. These included gas company officials, both from interstate pipeline companies and local distribution companies, and gas producers and various industry trade associations.

We heard testimony from the National Fire Prevention Association, and State and local fire chiefs and the National Association of Regulatory Commissioners. Environmental groups, such as the Environmental Policy Center and the Friends of the Earth, participated as well as various State and local officials. The General Accounting Office and the Office of Technology Assessment also appeared as experts during those hearings.

The General Accounting Office recently completed a thorough review of the Department of Transportation's pipeline safety program and made a number of recommendations, including more complete and effective pipeline safety regulations, strengthened State pipeline safety programs, improved compliance efforts, more effective data analyses, and increased attention to staffing requirements. H.R. 51 covers all these points. In addition, the GAO issued a report on liquefied energy gases safety. H.R. 51 provides a regulatory mechanism within the Department of Transportation for implementing the recommendations of that report.

The result is a good bill that will improve the operation of our Nation's natural gas and LPG pipelines and insure the safety of LNG facilities as more and more of them are constructed. The bill is timely. It is not unduly burdensome. Further delay could mean that additional LNG plants will be constructed before we have adequate legislation and regulations to protect the public safety.

My distinguished colleague from New York (Mr. MURPHY) cannot be here at the moment but has asked me to address some questions about certain provisions in H.R. 51.

The gentleman offered an amendment in committee to address a particular problem in his district with respect to the operation of the two largest prestressed concrete LNG tanks in the world. These tanks, which were constructed more than 4 years ago and have never been placed in operation, seriously threaten the lives of the citizens of Staten Island and are an immediate danger to property and to the environment of that area.

He pointed out that it is inconceivable that such facilities could be approved under new and modern standards for siting and operation. However, they were built with the owners full awareness of the risks involved in siting them in an area of high density.

During our committee discussions, I indicated my awareness and sympathy for the problem related to these LNG tanks. I addressed the situation, in part, in the committee report where it is noted that—

> . . . a liquefaction facility which was added to an existing LNG facility which lacked liquefaction capability would be treated as new and must meet . . . standards for new facilities.

The gentleman from New York has asked whether this means that the new standards would apply to any additional facility added to the Staten Island site.

I would note that the gentleman is correct. It is the intent of the bill to apply the new standards to any facility which is constructed, even if it is constructed at a site with existing facilities.

The gentleman from New York has also asked whether, in an area of dense population, rigid and strong standards are necessary to protect the lives of those living in an urban area?

I would agree with the gentleman and would add that the situation in his district is of such magnitude that the Secretary should consider the advisability of adding any new facilities to it. Clearly, the location of volatile LNG facilities in an area of high density must be very carefully analyzed. I would also note that, under the legislation, the Secretary is asked to consider whether "remote siting" is necessary.

Finally, the gentleman asked whether I would agree to add additional language to the conference report to clarify this stated intent with respect to the LNG facilities in Staten Island.

I would note that I will be happy to work with the gentleman and with the Public Works Committee on acceptable language to be inserted in the statement of managers in the conference report to address this most serious situation.●

Mr. MOORHEAD of California. Mr. Speaker, I have no further requests for time and yield back the remainder of my time.

Mr. MARKEY. Mr. Speaker, I have no further requests for time, and yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts (Mr. MARKEY) that the House suspend the rules and pass the bill, H.R. 51, as amended.

The question was taken.

□ 1400

Mr. KRAMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 111, PANAMA CANAL ACT OF 1979

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill H.R. 111, to enable the United States to maintain American security and interests in the Panama Canal, for the duration of the Panama Canal Treaty of 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

STATUS OF CONGRESSIONAL BUDGET FOR FISCAL YEAR 1979

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, as we begin consideration on the floor today of the second budget resolution, the House Budget Committee today is notifying the Speaker of the House on the status of the 1979 budget. This report compares current levels of congressional action on the budget to the spending ceilings and revenue floors established by the revised second budget resolution for fiscal year 1979. In order to keep Congress advised of the effect of its spending and revenue actions compared to the overall totals set in the most recently adopted budget resolution, periodic reports are required by section 308(b) of the Budget Act. Under the Budget Act a point of order lies against any measure that would cause the spending ceiling or the revenue floor established by a concurrent resolution to be breached.

This report includes changes to the 1979 estimates resulting from analysis of the President's midsession review submitted July 12 and revised July 31, 1979, and actual spending trends.

The aggregates as compared to the revised second budget resolution are:

First. Budget authority: $556,057, $3,143 million below the resolution ceiling;

Second. Outlays: $496,197 million; $1,747 million over the resolution ceiling.

Third. Revenues: $466,400 million, $5,400 million over the revenue floor.

Revenues have been estimated to be higher than assumed in the revised second budget resolution. Outlays have increased at a faster rate than previously anticipated. Poor performance in the economy accounts for substantial increases in activities and programs which are directly responsive to economic conditions. Higher unemployment, inflation, and interest rates have pushed spending up for such programs as unemployment compensation, social security, and interest on the public debt.

In view of such increased spending, any further congressional actions to increase fiscal year 1979 spending would be subject to a point of order under provisions of the Budget Act.

These estimates of current levels included in this report cover all enacted budget authority, the 1979 supplemental appropriations bill, and the energy-water development appropriation bill for fiscal year 1980, which the Congress has recently cleared for the President's signature.

A copy of my letter to the Speaker and of the committee's report are attached.

COMMITTEE ON THE BUDGET,
Washington, D.C. September 17, 1979.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting the status report under H. Con. Res. 107, the revised Second Budget Resolution for FY 1979. This report reflects the resolution of May 24, 1979, and estimates budget authority, outlays and revenues based on all completed action on spending and revenue measures as of close of legislative business September 10, 1979.

Sincerely,

ROBERT N. GIAIMO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1979 CONGRESSIONAL BUDGET ADOPTED IN HOUSE CONCURRENT RESOLUTION 107

(Reflecting completed action as of Sept. 10, 1979)

[In millions of dollars]

	Budget authority	Outlays	Revenue
Appropriate level	559,200	494,450	461,000
Current level	556,057	496,197	466,400
Under resolution	3,143		
Over resolution		1,747	5,400

BUDGET AUTHORITY

Any measure providing budget or entitlement authority that is not included in the current level estimate and that exceeds $3,143 million for fiscal year 1979, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 107 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority that would add to fiscal year 1979 outlays, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 107 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $5,400 million for fiscal year 1979, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 107.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 14, 1979.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the budget. This report for fiscal year 1979 is tabulated as of close of business September 10, 1979.

This report includes changes to 1979 estimates resulting from analysis of the President's mid-session budget reviews, and actual spending trends. Also since my last report, the President has signed the 1979 Supplemental Appropriations Bill, Public Law 96-38 and H.R. 4388, the 1980 Energy and Water Development Appropriations Act, which includes 1979 supplemental appropriations, has been cleared for the President's signature.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	556,004	496,197	466,400
2. Enactment authority and other mandatory items requiring further appropriation action			
3. Continuing resolution authority			
4. Conference agreements ratified by both Houses	53		
Current evel	556,057	496,197	466,400
Second Concurrent Resolution	559,200	494,540	461,000
Under resolution	3,143		
Over resolution		1,747	5,400

Sincerely,

ALICE M. RIVLIN,
Director.

Parliamentarian status report supporting detail, fiscal year 1979 as of close of business September 10, 1979

[In millions of dollars]

	Budget authority	Outlays
I. Enacted:		
Permanent appropriations and trust funds	$271,855	$247,892
Previously enacted (95th Congress, 2d session)	339,576	307,668
Offsetting receipts (including amounts generated by current appropriation action)	−67,435	−67,435
Enacted this session:		
Sale of silver dollars (P.L. 96-2)	−20	−20
Deferral resolution (S. Res. 50)	--	1
First rescission bill, 1979 (P.L. 96-7)	−724	−34
Supplemental appropriations, 1979 (P.L. 96-38)	13,622	8,756
Effect of supplemental appropriations on foreign military sales program	−870	−630
Total enacted	556,004	496,197
II. Entitlement authority and other mandatory items requiring further appropriation action	--	--
III. Continuing resolution authority	--	--
IV. Conference agreements ratified by both Houses: Energy and water development appropriations, 1980 (H.R. 4388)	53	--
Total current level, as of September 10, 1979	556,057	496,197
Concurrent resolution of May 24, 1979	559,200	494,450
Over ceiling	--	1,747
Under ceiling	3,143	--

NOTE.—Detail may not add due to rounding.

CORRECTING TITLE OF HOUSE CONCURRENT RESOLUTION 186

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the title of the concurrent resolution (H. Con. Res. 186) revising the congressional budget for the U.S. Government for the fiscal year 1979, be corrected to read as follows: "Revising the congressional budget for the United States Government for the fiscal year 1980."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

SECOND CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1980

Mr. GIAIMO. Mr. Speaker, pursuant to section 305(a), title 3, of Public Law 93-344, the Congressional Budget Act of 1974, and the order of the House of September 13, 1979, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 186) revising the congressional budget for the United States Government for the fiscal year 1980.

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, pending that motion, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous matter

during consideration of House Concurrent Resolution 186.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut (Mr. GIAIMO)?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution, House Concurrent Resolution 186, with Mr. NATCHER in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. Without objection, the first reading of the concurrent resolution will be dispensed with.

There was no objection.

The CHAIRMAN. Pursuant to section 305(a), title 3, Public Law 93-344, as amended, of the Congressional Budget Act of 1974, the gentleman from Connecticut (Mr. GIAIMO) will be recognized for 5 hours, and the gentleman from Ohio (Mr. LATTA) will be recognized for 5 hours.

The Chair now recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today we begin consideration of a very serious matter, the budget of the U.S. Government.

As is known, we must adopt a budget in House and Senate which we tentatively adopted in the springtime as a tentative budget. We have now had an opportunity to evaluate the economy of the United States, to evaluate the economic assumptions which will cover the budget in fiscal year 1980 which will start the 1st of October 1979 and which involves tremendous amounts of money.

Mr. Chairman, I rise in strong support of the second budget resolution for fiscal year 1980, House Concurrent Resolution 186.

The resolution was drafted during a period of great economic uncertainty. Inflation remains unacceptably high while the economy slows down and unemployment creeps upward. As members of the Budget Committee, we have had to determine what budget policies are appropriate to these circumstances. Some have advocated tax cuts or huge spending increases to stimulate the economy. Others have urged drastic spending cuts to slow down the economy even further.

However, a majority of the committee has decided, wisely in my opinion, to resist either of the extremes. Now is not the time to signal a retreat from the position of responsible fiscal restraint we advocated in the first budget resolution. On the other hand, even in a period of tight budgetary policies we cannot ignore pressing national need in areas such as energy and defense nor can we close our eyes to the impact of the economic slowdown on employment and our urban areas and on our people.

Thus the second budget resolution for fiscal year 1980 recommends a policy of fiscal restraint tempered by compassion. We recommend spending increases of only 1.8 percent in real terms over 1979, including additions made for energy, defense, and refugee assistance. Compare that with a 5-year average real growth for spending of 3.4 percent which is what we have had up to now. Indeed, aside from national defense, energy, and entitlement programs that are driven by the economy, there is no growth in this budget.

The resolution projects a budget deficit of $29.2 billion—higher than many of us would like, much higher. But it does show a continuing decline in deficits from the binding budget resolutions adopted in previous years. And it should enable us to achieve an early balanced budget provided that the economy does not plunge into a deep and prolonged recession.

The committee has resisted massive spending cuts, not only because of the urgent needs of the Nation, but because they could plunge us into that kind of recession. The committee has also resisted stimulus because this would merely worsen inflation, which remains our biggest problem and a threat to our national well-being.

Why do we have a deficit of $29 billion? The simple answer is, because of the economy.

Together with the Congressional Budget Office, our economists have developed assumptions about the economy and where it is going. They tell us that the economy is doing what we anticipated in the first budget resolution. It is slowing down while inflation remains strong and while unemployment is beginning to rise. Inflation is, however, worse than we had anticipated, worse than anyone had anticipated, largely due to the tremendous increases in the cost of imported oil.

We believe that the business slowdown will end by the beginning of next year and begin a period of recovery. We believe that the current slowdown will bring some relief from the dangerously high rate of inflation.

□ 1410

We believe that unemployment will continue to rise, lagging behind the slowdown by some 3 months, as it usually does. So inflation adds to spending; unemployment adds to spending. Just since the First Budget Resolution was adopted this year, it has been necessary to add $1.7 billion in outlays during 1980 for social security payments alone, since these are tied to increases in the cost of living, no policy change, just an increase because of inflation.

Our estimates for unemployment compensation are $1.2 billion under those of the first resolution; again no policy change because of higher inflation.

Food stamp outlays are up $700 million, again because of inflation and the higher cost of food purchases.

Medicaid and medicare are up $800 million.

Interest on the national debt, another victim of the economy, is up $2.5 billion over what we estimated earlier this year.

Construction and procurement contracts and such programs as highways and national defense are spending out at faster rates than had been anticipated. These kinds of programs add another $3 billion to the deficit through accelerated inflation.

In all, the economy is responsible for $10 billion of the $16.17 billion of increased outlays in the second resolution compared to the first.

Think of it, think of those numbers, $16.7 billion in increased outlays for fiscal year 1980 over what we had assumed in the first resolution. The economy is responsible for $10 billion of that. Increased outlays are responsible for the balance and the remainder comes from a series of limited policy changes that address compelling national needs.

In other words, there are very few, but very significant policy needs that we have added in the Second Budget Resolution because of their absolute essentiality.

What are they? Higher cost of military readiness due primarily to higher fuel costs, currency fluctuations and additional pay increases for the military, new energy initiatives that will enable the Congress to provide a beginning in the comprehensive program of conservation, alternative fuels, mass transit, synthetic fuels, and fuel assistance to the poor.

You all heard the President's program this summer. You all heard of the commitment which we as a Nation and as a Government are making to make a breakthrough in the area of energy and to lessen our dependence upon offshore energy sources. This is it. This is the new initiative which we have to begin to make provisions for in this budget.

Targeted fiscal assistance designed to assist communities that are the hardest hit by unemployment. I told you earlier that unemployment is rising. I told you that inflation is rampant. I told you that we have resisted stimulus programs. We do not want to heat up the economy in order to bring down the unemployment rate, knowing full well that if we have stimulus programs or tax cuts which will heat up the economy that we will further feed the flames of inflation and it is essential that we get inflation down, but not having stimulus programs, not having tax cuts and having at the same time compassion for those who are unemployed, it is essential that we have some specifically targeted programs, some specifically designed programs which will try to reach in a very narrow focus those who are suffering the most from unemployment and from high inflation. We can do this through targeted fiscal assistance programs and we have made provision for that.

Another new initiative is the aid for refugees. That is not a popular subject, but this has always been the land of compassion. America earned the respect of the world not only in this century but in the past century for having a heart, for having compassion and for reaching out to the unfortunates from all over the world and helping them in life, helping them here in this great new land that was and is the promised land. This

was true of my parents. It was true of my grandparents. It was true of the parents and grandparents of many of us who came from all over the world to this Nation and made it the great Nation that it is and we are not going to turn our backs on refugees today because it costs money. We are going to be careful and frugal how the money is spent, but we are still the one great Nation of compassion that worries about people in other parts of the world. We have acted in this way because of that saving refugees program increase in the budget for 1980 for which we have had to take account here.

Finally, the funding of a pay raise of 7 percent for all Federal employees and the military, reflecting a higher cost of living adjustment than was provided for in the first budget resolution as recommended by the President. You will recall that just several days ago the President changed the recommendation that he had originally made of a 5.5-percent cost-of-living increase for Federal employees. That 5.5-percent cost-of-living adjustment for Federal employees was made much earlier in time.

It was made when the budget was originally put together and shortly thereafter when the economic assumptions of inflation were more optimistic than perhaps they had a right to be. They did not think inflation was going to be as high as it was and is now projected to be. Because of the realities of inflation being so high, it would be inequitable that the Federal employees and the military be limited to a 5.5 cost-of-living adjustment, and the President wisely recognized this and just several weeks ago recommended a 7-percent increase. The funding of that increase from 5.5 percent as assumed in the first resolution to 7 percent as assumed in the second resolution adds a significant amount of money to our budget; so it just made sense. The first resolution reflected two basic decisions, to face the economic facts of life and to provide for them in the budget and to give priority to the most urgent needs that were not provided for in the first resolution.

The chief new initiative is in the field of energy. The resolution provides $17.6 billion in budget authority and $2.6 billion in outlays for a comprehensive energy program, such as recommended by the President. This should enable the appropriate committees of the Congress to work their will on the proposals and to provide sufficient funding for a strong start toward energy self-sufficiency.

All the functions of Government have been examined carefully in this budget. Where possible, cuts have been made. In the committee markup, $740 million was taken from budget authority and more than $1 billion from outlays.

Revenues also are up from the first resolution. They are $10.5 billion over those projected earlier. This reflects higher inflation also along with higher corporate profits due to increased fuel prices. The new revenue figures also include revised estimates of legislation passed or expected to be passed including fuel windfall profits tax, foreign tax credits and cash management initiatives.

□ 1420

In the report accompanying this resolution, Members will see that the Budget Committee has begun to provide multiyear planning and a multiyear perspective to spending and revenues. This will enable us to better manage fiscal affairs in the Congress and should help us balance the budget.

Attention to the years to come is but one way to move toward balance. Another is to enact legislative savings—changes in existing law that will cut down on unnecessary spending. This year some legislative savings have been enacted, and more are assumed and recommended in this second resolution. If they are not enacted, another $2 billion will have to be added to the budget and to the deficit. That is how important these legislative savings are.

Now, let me pay some tribute to those who have helped the Budget Committee with its assigned tasks.

First, to the Members of the House who have shown spending restraint and who have made the first necessary steps to a real comprehensive energy program by passing oil windfall profits taxes and by passing a synfuels program.

Second, to the members of the Committee on Appropriations who have reported almost every spending bill within the targets of the first budget resolution.

Third, to the members of the Budget Committee who have worked diligently on these matters.

Let me say a special word about the task force chairmen, all of whom have done Herculean work—most especially, the gentleman from Illinois, Mr. PAUL SIMON, and his inflation task force, the gentleman from California, Mr. LEON PANETTA, and his legislative savings task force, the gentleman from California, NORMAN MINETA, and his budget process task force, the gentleman from Texas, JIM MATTOX, and his defense and international affairs task force, and the gentleman from Ohio, Mr. LUD ASHLEY, and those who worked with him to develop our energy recommendations.

Let me also pay tribute to the minority and to the ranking minority member, the gentleman from Ohio, DEL LATTA, who has served together with me, I believe, since the inception of this Budget Committee. DEL LATTA and I do not always agree on our economic assumptions. We do not always agree on the direction which our budget should take, but I think DEL and I both recognize the seriousness of this work. We are both trying to do the best we can for our Nation and for the economy of our Nation.

Without the cooperation of the gentleman from Ohio, DEL LATTA, and his Republican members, I do not think we would have had as good a budget resolution and we would not be able to bring it to the Members in as expeditious a fashion as we would like. Having served with DEL for about 20 years, I do want to pay my respects to him, and let me say to the gentleman, "DEL LATTA, you are a fine person to work with, and even though I do not agree with you from time to time, there are many areas where we do agree, and it is a pleasure working with you. That does not mean you cannot put your gloves on in the next few days, but you can hit away, and we will argue out the issues."

Mr. Chairman, as the members know, the Budget Committee postponed its markup of the second budget resolution in order to have available all possible information on the changing economy. The Members will recall that we were to have marked this bill up before the August recess. We should have brought it up on the floor immediately upon coming back from the August recess, because under the rule in the Budget Act, both we and the Senate should have acted on this resolution and had it in place by September 15.

Today is September 17. We are just beginning to bring it up today. The other body has not started to bring it up as yet, but they undoubtedly will some time this week.

We are late, but we were late for a purpose. Because the economy was in a state of great change during the months of June and July, we thought it would be better to let the dust settle and get a clearer picture of our assumptions of what the economy would be looking like in the fiscal year starting October 1 and throughout 1980. As a result, we delayed, but we think as a result of the delay we have a better picture and a clearer understanding—at least as best as we can ever have—of economic assumptions. We can never be perfect, because if we were perfect, then we could solve all the problems of the economy, and we could bring the unemployment rate down, bring the inflation rate down, and have prosperity in the land for all time.

But as a result of the delays, we are caught in a time bind. Normally we would have completed this action, as I told the Members, and had it in place by September 15.

Today we begin general debate. It is my hope that we can complete general debate today.

As I understand the leadership's position, we will not handle this debate tomorrow, on Tuesday. We will come back to it on Wednesday, when we will begin the consideration of amendments, and we will proceed to complete that consideration.

It is my hope—and I say this with all the fervor that I can generate and with all the pleading that I can put into my voice—that we will complete work on the resolution as expeditiously as possible, and that we will not string out this debate as we did, for example, on the first budget resolution when I think we were 9 days on the floor in actual consideration of amendments.

There are very few significant changes, as I said, from the first resolution. We should be able to proceed expeditiously. It is my hope that we can complete work on the resolution by Wednesday or Thursday in order that we may proceed to conference with the other body as soon as possible and have this budget in place by October 1, the beginning of fiscal year 1980. I ask and I plead for the

understanding of the Members and for their cooperation in attaining this goal.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Connecticut (Mr. GIAIMO) has consumed 21 minutes.

The Chair now recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, at the outset of my remarks let me pay tribute to our good committee chairman.

As the gentleman from Connecticut (Mr. GIAIMO) indicated earlier, he and I came to the Congress together and have served many, many years together. We came on the Budget Committee at the same time.

We certainly disagree on several of the issues. We disagree even on what we mean by "restraint" sometimes. Restraint is one thing to the gentleman from Connecticut, and to me it might be something else.

But I do not know of any Member in the House that I would sooner serve with as chairman of this committee than the gentleman from Connecticut (Mr. GIAIMO). He is eminently fair and is doing his level best to reduce this budget. He has a tremendous task when we consider that we are dealing with $549 billion worth of expenditures.

I just want to pay tribute to the committee chairman and to the Members, not only on the majority side but on the minority side, who worked very diligently and put in long hours to formulate this budget.

I also want to pay tribute to the staff on the majority as well as the minority side. They, too, have worked many, many hours, and without their help we would not be considering this budget resolution here today.

Mr. Chairman, I rise once again to say that I will have to oppose this second budget resolution as reported by the House Budget Committee. This resolution does not contain the principle of fiscal austerity nor provide for the investment incentives which most economists recommend for our present faltering economy. Rather, it prescribes for the Nation an enormous 11.1-percent increase in both Government spending and taxes over 1979 and gives no real assurances of achieving a balanced budget in 1981.

I recognize the difficulties the gentleman from Connecticut faces on his side of the aisle in engineering the passage of any budget resolution. Various agencies, and special interest groups clamor for more money for their favorite programs and the chairman must reconcile these requests with the budget aggregates. The budget recommendation before us, unfortunately, reveals too great a capitulation to these demands rather than a reasoned, decisive fiscal policy. Let us look at what is recommended in this resolution:

Government spending would increase from $495 billion in 1979 to 549 billion in 1980, a staggering $54 billion increase;

Budget authority, the driving force behind spending would increase by 13.1 percent;

Taxes would rise by more than $53 billion, from $466 billion in 1979 to $519 billion in 1980;

The deficit would remain at the 1979 level of $29 billion thereby eliminating the possibility of a balanced budget in 1981; and

The debt subject to limit would have to be raised to $886 billion by the end of September, an increase of $56 billion over the level adopted last March.

These recommendations do not strike me as fiscally conservative.

At a time when the need for fiscal responsibility is so widely known and so universally sought, it is alarming that the majority of the Budget Committee would report out another expansionary budget. I am concerned that the congressional budget process is not functioning to set budget aggregates which conform with our Nation's economic needs. In 1977–79, the first 3 years of the congressional budget process Government spending increased by an average of 10.4 percent per year. Defendants of the lack of real restraint in the budget justified the abnormally large spending increases on the grounds that the stimulus was necessary for sparking economic growth. In fiscal year 1980 we have an inflationary situation which more than ever calls out for fiscal restraint. Yet the product of the majority of the Budget Committee's work is another budget containing large spending increases. In my view, if the budget process is to work, the committee must stop merely adding up and accommodating all spending requests and start applying some real restraints to this runaway spending.

The vote on the budget resolution which will come later this week will be a crucial test of the ability of the Congress to adapt the Federal budget to meet our country's macroeconomic needs. If the resolution reported out of the Budget Committee is adopted, the Congress will have shown that it is incapable of trimming its sails even when our economic conditions cry out for it to do so. On the other hand, if we adopt a budget recommending fiscal restraint and needed tax relief we will have shown the courage to overcome our parochial, shortrun desires for the sake of the longrun health of the economy.

The current state of the economy is particularly bleak. Inflation has been running at 13.2 percent in 1979 and another negative growth quarter is expected to follow the second quarter decline of 2.4 percent. Unemployment will be up from 5.7 percent to above 7 percent by the end of 1980 according to recent predictions. Productivity growth continues to be insufficient to dampen inflationary pressures, rising by only 0.4 percent in 1978 and actually declining in the first half of 1979. In my opinion, the fiscal policies pursued by the Congress over the past several years are a major cause of our current economic stagflation. Since the congressional budget process went into operation in 1977 our fiscal policy choices have been particularly misguided. I would like to recall some of the spending trends in our budget that help to explain why we are where we are today.

In 1955, the Federal budget called for spending of only $69 billion. By 1960, Federal spending had risen to $92 billion, or 18.5 percent of GNP. Between 1960 and 1970 the Federal budget more than doubled with 1970 spending of $197 billion or 20.5 percent of GNP. Now we are considering a budget resolution for 1980 that would spend $549 billion, almost triple the amount spent in 1970. Approximately 22 percent of this Nation's GNP would be spent by the Federal Government in 1980. The Federal Government would be spending at a rate of $1,044,000 per minute, up from a $128,000 per minute rate in 1955. I for one feel that the Government has gone too far in attempting to control the lives of all Americans and that its constant meddling in the American economy has retarded economic growth and added to our ravaging inflation.

Spending in the last 3 years has increased at an exorbitant rate. President Carter's budgets and the majority-approved budget resolutions have allowed spending increases of 9.9, 11.9, and 9.7 percent for the years 1977–79. During a time of strong growth in the private sector, these increases were completely unwarranted. It is no wonder that inflation is currently surging at 13 percent.

Taxes have also been steadily increasing. In 1960, taxes absorbed 18.6 of this Nation's GNP. By 1970, 20.2 percent of this Nation's GNP was taxed away by the Federal Government and the budget resolution proposes a further increase in this tax burden to 20.8 percent in 1980. The trend toward a greater withdrawal of funds from the private sector helps explain our declining rate of productivity growth and the shift in our priorities. Excessive taxation is choking off incentives in the private sector to work, save, and invest.

At a more individual level, taxes are absorbing a greater and greater share of the taxable personal incomes of Americans. In 1955, 10.4 cents of every dollar of taxable personal income was taken by the Federal Government. By 1960 this figure increases to 10.9 cents per dollar and by 1970 it had risen further to 12.7 cents per dollar. Under the budget proposal before us this personal tax burden would rise to an unprecedented 13.7 cents per dollar in 1980. If we were to apply the same rate of taxation in 1980 that existed in 1955, each American family would have $980 in taxpayments in 1980.

Despite this rise in the tax burden over the last 25 years, our national debt has surged continuously upward. Whereas the Federal debt was only $274 billion in 1955, the budget resolution before us proposes a 1980 level subject to limit of about $886 billion. From 1975 to 1980 the debt will climb by a staggering $377 billion. The amount of the national debt expected in 1980 translates into about $4,050 of debt for each man, woman, and child in the United States and over $15,000 for each American family. This tremendous debt is being passed on to our children and grandchildren since we

are not paying off any of the debt being accumulated—only paying its huge service or interest costs.

Interest is now the third largest function in the Federal budget, behind only income security and national defense. In 1980 it is expected to absorb $58 billion of our Nation's resources, or 10.6 percent of our budget. Interest on the national debt has risen as a percentage of outlays from 9.3 percent in 1955 to 10.3 percent in 1970 to an expected 12.0 percent in 1980. In 1980, this interest payment would translate to $1,124 for each American family.

The reason for the steady upsurge in the national debt is the inability of the Congress to balance the budget. Not once in this decade have we produced a budget with a surplus. And since the congressional budget process has been in operation, our fiscal condition has worsened rather than improved. At this stage of the business cycle, before anti-recessionary government spending is triggered off, the deficit is generally at its low point. Such was the case in 1970 and 1974 when we ran deficits of $2.8 and $4.7 billion respectively. In 1979, however, we are expected to run a deficit of $29 billion and as we move further into the recession, pressure to increase the deficit will become increasingly stronger.

The budget resolution reported by the Budget Committee does nothing to reverse the disturbing trends that I have just reviewed. Spending under this proposal would be increased by 11.1 percent, enough to allow for real growth in government spending. Tax relief made necessary by the combined $60 billion burden of increased OPEC oil prices, higher social security taxes and inflation-induced tax increases would not be contained in this recommendation. The deficit would be maintained at the same $29 billion level achieved in 1979, meaning that no progress at all would be made towards balancing the budget and beginning to pay off our astronomical national debt.

In conclusion, the budget resolution before us represents no change from the fiscal policies of the past few years, policies which have drastically weakened our economy and worsened inflation. If this resolution is adopted, the Congress will have demonstrated that it is incapable of carrying out the real purpose of the Budget Act. This act was passed in order to establish control over Federal expenditures and to make congressional spending decisions conform with overall fiscal objectives. The resolution before us clearly does not rein in Federal expenditures; more importantly it recommends a fiscal policy that does not fit present economic conditions. We need a budget for fiscal 1980 which will help in the creation of permanent jobs in our private sector, give relief from inflation driven tax increases, and slow the growth of Federal expenditures. During the amendment period of this debate I will be offering a Republican substitute to this resolution which will fulfill these needs.

□ 1440

The CHAIRMAN. The gentleman from Ohio (Mr. LATTA) has consumed 17 minutes.

The Chair now recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair now recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, the second budget resolution for 1980 offered to us by the Budget Committee majority is a balloon pumped up with high inflation and taxation.

This budget promises more inflation and economic stagnation, more income redistribution instead of more production, more welfarism instead of more jobs.

Here is a spending increase of more than $50 billion with a similar inflation-driven leap in tax revenues. Here is a budget deficit of almost $30 billion, about the same as this year's level, and off-budget agencies will add another $12 billion to the deficit. The true deficit will exceed $40 billion.

There is no hope in this resolution for balancing the Federal budget in 1981, and really no chance for a balanced budget in any future year if the majority fulfills its spending plans.

It has been argued that a deficit is necessary and unavoidable during recession, but the majority spends its way to huge deficits every year. In the economic growth years of 1977 and 1978, the liberal Democrats who control this Congress gave us inflationary budget deficits of $45 and $48 billion.

If there is anything our economy does not need, it is a $50-billion tax increase, but that is the poison prescribed by the majority. It is delighted to take the government windfall profit generated by the higher tax rates imposed on cost-of-living pay raises.

The average American family is in a losing struggle against raging inflation and rising taxes, but the Budget Committee majority is proposing more of the same. Here is a budget that not only reduces people's disposable income, but also cuts their ability to save and invest.

The overwhelming majority of the American people are angry about the outrageous raids by Government on their earnings. Most Members of this Congress campaigned last year on promises of frugality with the public purse. Today I ask the majority Members: "Whatever became of those promises you made?"

We on the minority side are offering an alternative budget that gives you an opportunity to keep faith with the voters who sent you here.

Our substitute budget reduces the deficit by almost $10 billion from the committee recommendation. We have also allowed for a $20-billion tax cut for the 1980 calendar year, although the revenue impact would apply to only three-fourths of the fiscal year.

We offer a budget of hope and opportunity to the American people. We propose to balance the budget in 1981 with lower taxes.

And we propose to provide more funding for our most important responsibility: National defense. It is the one responsibility consistently shortchanged by the majority as it pours funds into rapidly expanding social welfare programs.

Adjusted for inflation, the Defense budget shows no real growth in the 10-year span of 1969 to 1979. Spending on social programs shows real growth of about 250 percent.

Our military strength is in a condition of dangerous decline relative to that of our adversaries; the world perceives American weakness, and our national security is threatened.

Before President Ford left office in January 1977 he presented Congress with a 1978 budget and a 5-year plan with realistic commitments for defense. His projections for the 1980 Defense budget were:

[In billions]

Budget authority	$145.9
Outlays	136.3

In the proposed second budget resolution for 1980, the House Budget Committee recommends the following sums for national defense:

[In billions]

Budget authority	$138.2
Outlays	128.6

This is a cut of $7.7 billion, more than 5 percent, from the realistic projections made less than 3 years ago by the Defense Department and the Office of Management and Budget.

President Ford was not known as a big spender. In fact, the record shows his determination to limit spending, but he carefully weighed defense needs against the hundreds of other programs in the budget.

If we had staved on the track he proposed we would have had some tax reduction every year and a budget surplus in fiscal 1980. Here is a chart comparing the Ford administration budget projections for 1978, 1979, and 1980 with our actual experience in this free-spending Congress.

In 1980, the Budget Committee majority proposes to spend $52 billion more than the sum projected by the Ford administration for that year:

HOW THE MAJORITY WRECKED RESPONSIBLE BUDGETING

[In billions]

	Ford administration budget plan	The reckless Congress	Difference
1980	$496.6	[1] $548.7	+$52.1
1979	466.0	[2] 496.2	+30.2
1378	440.0	450.8	+10.8

[1] House Budget Committee recommendation.
[2] OMB estimate, July 12, 1979.

Mr. LATTA. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, my main concern with this final and legally binding budget resolution is that it shows absolutely no constraint in the nondefense spending areas.

If this resolution is passed by the House at its recommended levels, nondefense spending by the Federal Government will increase a further 10.5 percent over current 1979 expenditures.

This is on top of more than a threefold increase in Federal nondefense spending over the past 10 years between 1969 and 1979.

This proposed budget resolution would increase social welfare programs apart from social security an additional 17.2 percent over 1979 levels.

This is real growth of more than 7 percent for such welfare programs as housing subsidies, nutrition programs, and aid for families with dependent children (AFDC).

It is a gigantic increase in the food stamp program.

No one is opposed to essential welfare assistance to help the poor. But these particular programs have increased almost sixfold in the 10-year period since 1969.

Welfare programs just under the income security function of this budget resolution will comprise about $69 billion, or $10 billion more than the current 1979 level.

Income transfer programs throughout the budget will total almost $275 billion.

The proposed 1980 outlay for food stamps alone under this resolution is $8.2 billion.

This program started out in 1965 at a modest $34 million. Its estimated level for 1980 last year was $6.3 billion.

Now, because of the failure of Congress to take responsible action to curb this subsidy program, so that only truly needy citizens benefitted from it, food stamp outlays have more than quadrupled in cost just since 1972, and almost doubled since 1975.

Mr. Chairman, I was most encouraged by the joint efforts of our distinguished minority whip, the Honorable BOB MICHEL of Illinois, and my colleague on the Budget Committee, RALPH REGULA of Ohio, to require all committees of the Congress to recommend ways to control the growing cost of so-called entitlement programs under the budget—and where necessary to reform their method of funding—in language that was added to this budget resolution in committee.

This is perhaps the most worthwhile action taken on this resolution. I hope that it will result in a meaningful effort to counter and reduce the spending for Federal handout programs.

Social welfare programs of the Federal Government are primary evidence of the excessive and irresponsible Government attitude that led to proposition 13 and the movement to require a balanced Federal budget.

It has become apparent that the political motivation of many welfare program supporters, who refuse to help efforts to cut unnecessary spending in these nondefense areas of the budget, is to build a permanent recipient class of citizens through Government handouts.

The political motivation appears to be an effort to provide these taxpayer-supported benefit programs to the new "recipient class," so that the beneficiaries will in turn show their gratitude by reelecting the big spenders to office.

Working citizens and taxpayers have become aware that welfare programs are being misused to "buy votes" of program recipients, rather than to help the truly needy in our society.

Unless Congress takes resolute action to restrain and cut back Federal spending for extravagant and wasteful programs, public confidence in our Government and democratic processes will be further eroded.

Moreover, lasting damage will be done to our people's productive incentive and commitment. This welfare abuse, unless stopped, will also see a growing cynicism among our citizens, and lasting damage to our humanitarian spirit, which will be a great loss to our national character.

Mr. Chairman, of great concern to many Americans is the essential need to provide adequately for our national defense under this budget resolution.

In constant dollars, we are spending less today for our Nation's defense than we spent in 1961.

Some talk of the need to provide for at least 3 percent real growth in our defense budget over the 1979 level, in order to increase our force modernization efforts in light of provisions of the proposed SALT II treaty.

There are many who believe that 3 percent real growth, in light of past defense budget reductions over the years, is not sufficient.

A good case can be made for a 5-percent real growth in the 1980 defense budget, in order to provide adequately for our national security.

This issue of real growth in the defense budget was addressed in my additional views in the committee report accompanying the second concurrent budget resolution.

Those views are included at this point in the RECORD.

ADDITIONAL MINORITY VIEWS OF HON. ELDON RUDD ON THE SECOND CONCURRENT BUDGET RESOLUTION FOR 1980

The President has made a solemn commitment to our NATO allies that the 1980 U.S. defense budget will be increased at least 3 percent in real terms over the current 1979 levels.

This proposed Second Concurrent Budget Resolution for 1980 does not uphold the President's commitment.

As shown by the following table, a 3 percent real growth in the defense budget would require $141.79 in budget authority and $130.74 billion in outlays for defense. The Committee mark would allow only a 0.3 percent real increase in budget authority, and only a 1.3 percent real increase in outlays for the national defense function (050).

TABLE 1.—REAL GROWTH IN DEFENSE SPENDING

[In millions of dollars]

	Fiscal year 1979	No growth, fiscal year 1980 [1]	House Budget Committee Mark Second resolution, 1980		3 percent real growth, fiscal year 1980	5 percent real growth, fiscal year 1980
			Amount	Percent		
Budget authority	[2] $127,000	$137,660	$136,156	+0.3	$141,790	$144,5[illegible]0
Outlays	[3] 117,100	126,936	128,587	+1.3	130,7[illegible]4	133,2[illegible]0

[1] Based upon 8.4 percent overall inflation rate for defense spending, assuming 9.3 percent inflation for purchases (50 percent of budget) 7 percent increase for payroll (40 percent of budget), and 10 percent increase for retired pay based upon the Consumer Price Index (10 percent of budget).

[2] Third Concurrent Budget Resolution, fiscal year 1979.

[3] Latest Congressional Budget Office estimate.

There are many who believe, in light of the substantial Carter Administration cuts amounting to $45.8 billion from the five-year U.S. defense plan that was in place when the President took office, that our 1980 defense budget should be increased at least 5 percent in real terms in order to start recovering from dangerous constraints imposed by these cuts since FY 1978 on essential force modernization programs.

The following table documents the cuts averaging $9.1 billion each year which resulted from Carter Administration reductions in the previous Ford Administration's existing five-year defense budget.

TABLE 2.—COMPARATIVE 5-YR DEFENSE BUDGETS

[In billions of dollars]

	Fiscal years—						1978–82 difference Carter/Ford
	1977	1978	1979	1980	1981	1982	
Ford administration [1]	$116.9	$123.1	$135.4	$145.8	$156.7	$166.8	
Carter administration		[2] 117.9	[3] 124.5	[4] 138.2	[5] 145.7	[5] 155.7	—$45.8

[1] Department of Defense Report to Congress, fiscal year 1978.

[2] Actual.

[3] Department of Defense estimate, Sept. 13, 1979.

[4] Estimate based upon the President's announcement of Sept. 12, 1979.

[5] Department of Defense Report to Congress, fiscal year 1980.

Approximately 85 percent of the Carter Administration cuts have been from the defense procurement account, which provides for modernization of our existing military forces and equipment. The cuts have been roughly 60 percent/40 percent between general purpose and strategic forces, with the Navy absorbing about 55 percent of the cuts, the Air Force 30 percent, and the Army 15 percent.

FORCE MODERNIZATION

Since the Navy is suffering more than half of the procurement cuts under the current Administration's revised five-year defense plan, it is in the shipbuilding and Naval aircraft area where force levels and modernization are most threatened.

The most recent Library of Congress projection of current Naval shipbuilding under the Carter plan states that "the size of the fleet will begin to decline because retirements for age will exceed new ship deliveries. A continuation of the present shipbuilding policy for ten years or more would result in a Navy of about 350 ships." [1]

Our current ship inventory includes 497 vessels of all types. (This does not include the Naval Reserve force and underway replenishment ships of the Military Sealift Command.) The Library of Congress study shows that we will have to build 339 new ships at an average annual cost of $7.98 billion (FY 1980 dollars) for the next 20 years, just to sustain our fleet at its present size and composition through the year 2005.

Our average annual shipbuilding appropriations for the past 10 years have only been $5.63 billion (FY 1980 dollars). Therefore, just to maintain the current sizes and capability of our fleet for the next 25 years, our annual shipbuilding investment must be increased 41.6 percent, rather than decreased further.

The following three tables from the Library of Congress study summarize the current Naval fleet levels, shipbuilding requirements to sustain those levels through 2005, and the projected costs of $167.6 billion over the 20-year period compared with the FY 1970–79 level of Congressional appropriations.

[1] "Naval Shipbuilding Costs: A Projection," by Edmund J. Gannon and Alva M. Bowen (Library of Congress, Foreign Affairs and National Defense Division, June 28, 1979).

TABLE 3.—SUMMARY OF SHIPBUILDING REQUIRED TO SATISFY FORCE LEVEL OBJECTIVES, 1980 TO 2005

[Fiscal years]

Type ship	Inventory at end of fiscal year 1979	Force level objective	Deficit	Retirements through fiscal year 2005	Additions through fiscal year 2005	Authorized as of end of fiscal year 1979	New authority required fiscal year 1980–2000
Ballistic submarines	41	27	(14)	41	27	7	20
Attack submarines	[1] 80	90	17	78	95	23	[2] 76
Aircraft carriers	13	12	(1)	6	5/9SLEP	1/1	4/8
Cruisers and destroyers	[3] 128	102	(26)	101	75/10SLEP	11/0	64/10
Frigates	65	126	61	69	130	34	96
		91	26				[7] 61
Amphibious warfare ships	[4] 68	65	(3)	54	51/14SLEP	1/0	50/14SLEP
Replenishment ships	[5] 48	52	4	25	29	5	24
Support ships	[6] 97						65
Total	540						339

[1] Includes 7 diesel powered SS.
[2] Includes 4 SSN needed to replace ships retiring after 2005.
[3] Includes 28 Wo ld War II destroyers in Naval Reserve Force.
[4] Includes 1 LKA and 2 LPA Naval Reserve Force.
[5] Includes 12 UNREP ships operated by Military Sealift Command.
[6] For the composition of this group see page 53.
[7] Assumes a reduced frigate force level objective.

TABLE 4.—SUMMARY OF PROJECTED SHIPBUILDING COSTS, 1980–2000 [1]

Type	Number	Unit cost (millions)	Total cost (millions)
Ballistic missile submarines	20	$1,277.4	$25,548.0
		(958.1)	[2] (19,161.0)
Attack submarines	76	473.0	35,948.0
		(354.8)	[2] (26,961.0)
Aircraft carriers	4		
	8 SLEP	1,624.0	6,496.0
		515.7	4,125.6
Cruisers/destroyers:			
DDG-47	11	820.2	9,022.2
Other DD	53 DDX	475.0	25,175.0
	10 DDG-2 SLEP	183.4	1,834.0
Frigates	96	200.7	19,267.2
	(61)		[3] (12,242.7)
Amphibious ships	50	360.0	18,000.0
	14 SLEP	([4])	3,300.0
Replenishment ships	24	245.0	5,880.0
Support ships	65	200.0	13,000.0
Total	399		157,596.0
			(145,197.0)

[1] Expressed in fiscal year 1980 dollars.
[2] Assumes the construction of less capable and 25 percent less costly submarines than now in series production.
[3] Assumes force level objective is 91 vice 126.
[4] See analysis.

TABLE 5.—SHIPBUILDING AND CONVERSION, NAVY FISCAL YEARS 1970–79

	Request (millions) (new ships/conversions)	Funding (millions) (new ships/conversions)	Funding (millions) (in fiscal year 1980 dollars [1])
1970	$2,631.4 (16/17)	$2,490.3 (10/5)	$5,161.7
1971	2,728.9 (14/15)	2,465.4 (15/10)	4,928.7
1972	3,327.9 (17/9)	3,005.2 (16/9)	5,885.5
1973	3,564.3 (20/9)	2,970.6 (8/3)	5,636.1
1974	3,778.9 (14/8)	3,492.9 (14/5)	5,785.6
1975	3,562.6 (30/4)	3,059.0 (22/4)	4,376.2
1976 [2]	5,980.2 (23/0)	4,324.2 (15/0)	5,838.9
1977	7,263.5 (21/0)	6,195.0 (17/6)	7,872.5
1978	5,751.2 (22/0)	5,760.5 (18/0)	6,786.2
1979	4,712.4 (15/0)	[3] 3,759.6 (15/0)	[3] 4,071.7
1980	6,173.8 (15/1)		

[1] Based on Department of Commerce (Bureau of Labor Statistics) "Machinery and Related Equipment" deflators.
[2] Includes 3-mo transition quarter (making it a 15-mo fiscal year).
[3] Estimated dollar figure.

Neither the American people nor a majority of the Congress would likely settle for only maintaining the size and capability of our current Naval fleet for the next 25 years. Even the Department of the Navy's contracted study, *Sea Plan 2000*, indicated that the U.S. must have a force level of 535 to 585 vessels in order to maintain minimum Naval capability across the spectrum of possible strategic circumstances, or to have a high degree of versatility throughout the world, in light of the obvious and growing Soviet threat.

THE SOVIET THREAT

Several facts should be clear about the Soviet threat: Since 1963, the Soviets have increased the resources devoted to its military establishment by 4 to 5 percent every year, thus doubling its military budget in real terms over the past 15 years.

Our U.S. defense budget, in constant dollars, is less than it was in 1961.

Soviet military spending now exceeds ours by 20 to 40 percent in real terms. The Soviets are outspending us by about 75 percent in military procurement and weapons research and development.

The Soviets have spent about 250 percent more than the U.S. on strategic forces for the duration of the 1969–1979 SALT decade.

This spending has included development and production of an entire new force of intercontinental strategic Backfire bombers, now numbering around 150 already in operation with additional production running at around 30 a year.

The Backfire's unrefueled range enables it to attack large population centers in the

United States, as well as our military bases along the East and West coasts. Owing to the President's decision not to proceed with the counterpart U.S. B-1 bomber, the United States has no strategic counterweight to this additional Soviet threat.

U.S. NAVAL AIRCRAFT PROCUREMENT

A letter to members of the United States Senate from a distinguished bipartisan group of Senators on Sept. 10th succinctly summarized the serious deficiency of the Administration's FY 1980 defense budget, particularly in the Naval aircraft procurement area.

The letter was signed by Sens. Ernest Hollings, Henry M. Jackson, Sam Nunn, John Tower, Robert Packwood, and Orrin Hatch. It stated:

"One fact is clear: We are not enriching, we are playing catch-up ball. In the FY 1980 budget, the President asked for only 39 Navy combat aircraft, barely more than one-third of the replacements needed for the approximately 100 aircraft we lose annually."

In recent hearings of the Subcommittee on Defense Appropriations, our distinguished colleague Jack Edwards of Alabama noted that the Administration's current procurement of Navy combat aircraft is going to leave us with a 200 shortfall by 1984. The Navy officially responded that it agreed with this assessment, and blamed the serious shortfall on budgetary constraints.

The data inserted in the 1980 Defense appropriations hearing record by Congressman Edwards, and the Navy response, are as follows:

NAVAL AIRCRAFT REQUIREMENTS [1]

The Department of the Navy needs to procure at least 160 to 200 new fighter/attack aircraft each year merely to offset normal peacetime attrition so as to maintain the 12 active and 2 reserve carrier airwings and 3 active and 1 reserve Marine airwings at their authorized strength and with an average aircraft age of 7–8 years.

Procurement of fighter/attack aircraft, fiscal year 1970–79, Navy and Marine Corps

Fiscal year:	
1970	134
1971	110
1972	114
1973	147
1974	149
1975	92
1976	92
1977	93
1978	68
1979	69

In recent years, the Navy has procured far fewer than the required 180 new fighter-attack aircraft per year. In the last five budgets, as noted above, the Navy has procured an average of only 83 fighter/attack aircraft per year.

DELIVERIES COMPARED TO ATTRITION, FIGHTER/ATTACK AIRCRAFT, FISCAL YEAR 1970–78

NAVY AND MARINE CORPS

	1970	1971	1972	1973	1974	1975	1976	1977	1978
Deliveries [1]	354	211	131	112	140	166	186	99	83
Attrition [2]	259	226	203	193	158	258	199	198	241
Difference	+95	−15	−72	−81	−18	−92	−13	−99	−158

[1] Deliveries of new aircraft.
[2] Includes attrition due to damage and retirements of older aircraft.

During the 1970–1978 period, attrition exceeded deliveries by a total of 453 aircraft. With attrition exceeding deliveries by such a wide margin, the Navy has gradually absorbed excess aircraft that became available as the force was reduced from 17 to 12 carrier airwings. Those excess assets are now gone, and the latest estimates project that the Navy and Marine Corps will experience shortfalls of fighter/attack aircraft ——— over the next five years.

Funding for aircraft procurement, Navy and Marine Corps, fiscal years 1970–79

	Fighter/attack (millions)	Total (billions)
Fiscal year:		
1970	$444	$2.0
1971	882	2.5
1972	851	3.3
1973	811	3.0
1974	958	2.9
1975	847	2.8
1976	928	3.6
1977	902	2.9
1978	963	3.6
1979	1,400	4.4

While there is an increase of 25 percent between 1978–79, there was little or no growth in funding for naval aircraft procurement between 1973 and 1977.

Projected procurement of fighter/attack aircraft, fiscal years 1980–84, Navy and Marine Corps, excluding AV-8B

Fiscal year 1980: 39 aircraft—24 F-14s and 15 F/A-18s.

Fiscal year 1981: 72 aircraft—24 F-14s and 48 F/A-18s.

Fiscal year 1982: 120 aircraft—24 F-14s and 96 F/A-18s.

Fiscal year 1983: 132 aircraft—24 F-14s and 108 F/A-18s.

Fiscal year 1984: 210 aircraft—24 F-14s and 186 F/A-18s.

Totals: 573 aircraft—120 F-14s and 453 F/A-18s.

Projected funding for aircraft procurement, fiscal year 1980–84, Navy and Marine Corps, excluding AV-8B

Fiscal year: Fighter/attack	(Total billions)
1980: $1.4 billion	$4.0
1981: $2.1 billion	4.7
1982: $2.6 billion	5.2
1983: $2.7 billion	5.9
1984: $3.5 billion	6.9

Between 1980 and 1984, the five-year defense plan projects a 75 percent increase in funding for naval aircraft procurement, including about a 150 percent increase for fighter/attack aircraft. During the same period, funding for shipbuilding and conversion programs is projected to increase by 40 percent from $6.2 billion to $8.7 billion.

Projected procurement of fighter/attack aircraft, fiscal years 1980–84, Navy and Marine Corps, including AV-8B

Fiscal year 1980: 39 aircraft—24 F-14s and 15 F-18s.

Fiscal year 1981: 72 aircraft—24 F-14s and 48 F/A-18s.

Fiscal year 1982: 132 aircraft—25 F-14s, 96 F/A-18s, 12 AV-8Bs.

Fiscal year 1983: 156 aircraft—24 F-14s, 108 F/A-18s, 24 AV-8Bs.

Fiscal year 1984: 210 aircraft—24 F-14s, 132 F/A-18s, 54 AV-8Bs.

Totals: 609 aircraft—120 F-14s, 399 F/A-18s, 90 AV-8Bs.

Projected funding for procurement of fighter/attack aircraft, fiscal years 1980–84, Navy and Marine Corps

[Fiscal years]

Excluding AV-8B	Billions
1980	$1.4
1981	2.1
1982	2.6
1983	2.7
1984	3.5
Total	12.3

Including AV-8B [1]	
1980	1.4
1981	2.1
1982	3.0
1983	3.1
1984	3.6
Total	13.2

[1] Excludes AV-8B R. & D. costs of $606 million for fiscal years 1980–84.

Under the current five-year defense plan (1980–84), the Navy would procure 573 fighter/attack aircraft—120 F-14s and 453 F/A-18s, at a total estimated cost of $12.3 billion. Under a modified five-year plan, including the AV-8B, the Navy would procure 609 fighter/attack aircraft, 120 F-14s—399 F/A-18s—90 AV-8Bs, at a total estimated cost of $13.2 billion. The modified plan would cost an additional $900 million but would yield 36 additional fighter/attack aircraft. Under either plan, the procurement of fighter/attack aircraft would peak at 210 units in the FY 1984 budget and remain at that level indefinitely.

EXECUTION OF THE 5-YEAR PLAN

The current five-year plan calls for a very substantial increase in funding for naval aircraft procurement. If this plan were fully executed, Navy and Marine Corps aviations programs would be well on the way to recovery. However, for this to occur, there must be 3–4% real growth annually in overall funding for the Navy over the next five years.

EFFECTS OF NOT EXECUTING 5-YEAR PLAN

Assuming that the procurement of fighter/attack aircraft peaks at 60 instead of 210 units per year planned, and it should be noted that procurement of the F-14—the only Navy fighter in production today—peaked at 50 units per year in the 1974–75 budgets, Navy and Marine Corps force levels would decline rapidly.

According to Navy estimates, a cutback in planned fighter/attack procurement of this magnitude would yield a shortage of 5 fighter/attack squadrons in 1985—the number assigned to each carrier airwing—and a shortage of 11 fighter/attack squadrons by 1986—the equivalent of two carrier airwings.

[The Navy response follows:]

Admiral SPEER. We agree with the data provided for the record by Mr. Edwards; and cannot dispute the conclusions that may be drawn from these data. Mr. Edwards' tables show graphically the requirements versus funding dichotomy facing the Navy today. We have had to make some very difficult decisions regarding not only what we must do, but also what we can afford to do. We are trying to maintain a balanced, ready force; and we believe that we are doing as good a job as can be done in today's fiscal climate.

It is readily apparent from the foregoing data that neither the President's FY 1980 defense request of $138.2 billion, as amended on Sept. 12th by his additional request of $2.7 billion, nor this proposed Second Concurrent Budget Resolution for 1980, adequately provide for our defense needs.

The House must increase the defense function in real terms so that our Nation's military forces will not continue to be denied vital modernization efforts now required in order to meet the worldwide Soviet threat and prevent reduced force levels through obsolescence of our surface ships, submarines, and combat aircraft.

Failure by Congress to provide for at least a 3 percent, and preferably a 5 percent real growth in the national defense function to help redress these deficiencies in modernization programs will certainly further reduce the worldwide capabilities of our military forces in the immediate future.

The bipartisan Senate group quoted earlier put the issue into realistic perspective:

"While the Soviets build toward superior-

[1] Hearings, Department of Defense Appropriations for 1980, Part 7, pages 482–484.

ity, we allow our own strength and credibility to ebb. The need of the hour is to rebuild."

I share their view that our minimum duty is to provide a real increase of 3 percent over 1979 defense spending. To do otherwise will be a repudiation of our Nation's pledge to NATO and a dereliction of our duty.

The realities of our overall defense requirements—the need to improve military readiness, to increase the survivability of our ICBM and B-52 strategic forces, as well as to catch up with operational maintenance and force modernization—cry out for a 5 percent real growth in the defense budget in 1980.

Such an increase in defense expenditures is essential to protect our Nation, whether or not a SALT II treaty is approved.

Mr. LATTA. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. REGULA).

□ 1450

Mr. REGULA. Mr. Speaker, I will only take a few minutes. Obviously there is not a great level of interest in this Chamber, as evidenced by the number of Members here. Nevertheless, it is a very vital action that we are debating today.

The second budget resolution locks us in and sets the pattern for the Federal Government's fiscal activities for the next fiscal year. The ramifications of this budget are extensive, because it will affect the rate of inflation, it will affect the growth in productivity of this Nation and it will affect a lot of other matters that are very vital to our people.

We talk about programs to help the poor, to help the elderly, and yet the high rate of inflation, which this budget does not address, hurts these groups the most. They suffer the most from inflation. They have no way to shelter themselves and, therefore, we should be addressing the inflation issue, and we do not do it in this budget.

Many times I have met with senior citizens groups and they say to me "Will social security remain solvent?" "Will we get our social security checks?" I say to them "absolutely you will get your social security checks, absolutely the money will be there, because the full faith and credit of the United States Government stands behind the social security obligations."

The real issue is not whether people will get a check but whether that check will buy anything. I think, therefore, we need in budgeting to address ourselves to the problems of inflation, and obviously this budget does not do that. We cannot possibly be concerned about inflation and increase outlays over the first resolution by $17 billion. We cannot possibly be concerned about inflation and increase the budget authority by $28.5 billion.

Budget authority is the driving force that will increase the deficits down the road, that will continue to fuel inflation.

The chairman today is wearing a button that says "Hold the line." I salute the chairman because he made an effort in the committee to hold the line. I think in wearing that button in his lapel he is saying that he agrees that we need to hold the line. Nevertheless, the policies of the majority party made that very difficult, not only for the chairman but for the majority members of the Budget Committee. They did try to hold the line, but certainly with great difficulty and obviously not enough, as will be recognized when the Republicans offer the second resolution with outlays, with deficits and with budget authority substantially below that offered by the majority party.

We do have to hold the line. The people of this Nation are telling us that, they are telling us that they are expecting inflation down the road. Today we have an inflated real estate market, we have an inflated market for gold. Just this morning it was announced that the price is $350 an ounce for gold and it is continuing to go up. Some are predicting that it will go up to as high as $500 to $600 an ounce.

Why? People are saying at the gold window that we do not have confidence in the U.S. dollar. I was interested in watching a TV news show this morning where they were talking to some people that were in line to purchase gold, not sophisticated investors, but people that had drawn their savings out of the bank, or the savings and loan, or the credit union to go out and buy gold. The interviewer asked why. They said in effect "We do not believe that the dollar is going to continue to be good—we want something that is more secure, so we are buying gold."

I think the inflated value of gold today, or at least the increasing price, the tremendous leap in real estate values both reflect that the people of the United States have come to expect inflation as a way of life. Unless the Federal Government provides leadership and discipline in its own spending habits, we are not going to eliminate that feeling of insecurity, we are not going to eliminate that expectation that inflation will continue.

I think, therefore, we are exacerbating the problem in this budget by not addressing the problem of inflation.

Second, the Joint Economic Committee, the economists of this Nation and particularly the younger economists are saying that the action has to be in the private sector if we are to cope with the problems of productivity, with the problem of increasing the savings rate, one of the lowest in the United States of the major industrial nations, if we are going to solve the problem of capital investment. We must stimulate the private sector if we are to solve these problems. This budget does nothing to reverse the trend toward a government-controlled economy, and yet the economists are telling us this is the wrong way to go.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. LATTA. Mr. Speaker, I yield 6 minutes additional to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Speaker, lastly I want to briefly address the problem of the uncontrollables. It is not enough to lay this problem at the doorstep of the Budget Committees in the House and the Senate. The problem arises with the authorizing committees and it arises with the Appropriations Committees. It arises with the American people that have come to expect too much from the Government. Seventy-five percent of the budget today is uncontrollable, and these are programs that continually generate increased spending. Fifty percent of the budget results from entitlement programs authorized in the legislation adopted by the standing committees.

What I am simply trying to say is that it is going to take a total effort, an effort on the part of the American people to not demand so much from Government, a greater effort by the authorizing committees and the Appropriations Committees to control the spending. Only then will we diminish the inflationary trend in this country, only then will we enhance our productivity as a nation.

We are challenged.

Last week I heard the Labor Minister of the State of Bavaria in West Germany say whether we want to be or not the United States is the leader of the free world and we look to you for leadership. One of the ways we can be a leader is to demonstrate that we have a hold on our economy, that we are going to make budget decisions that will build a stable currency and that will reflect the stability of the United States Government.

My colleagues may say, well, we cannot do anything about it, and yet I would point out here that the minority staff has produced a report with a compilation of 71 different reports compiled by CBO and GAO outlining ways in which we can save money. It can be done and we have provided in this budget resolution language that says the authorizing committee "shall" make recommendations on ways in which we can reduce the entitlements, and thereby get a handle on the budget. The language is section 5 of the budget resolution and provides as follows:

SEC. 5. In 1980, each standing committee of the House of Representatives having jurisdiction over entitlement programs shall include in its March 15 report to the Budget Committee of the House of Representatives specific recommendations as to what changes, if any, would be appropriate in the funding mechanisms of such programs to enable Congress to exercise more fiscal control over expenditures mandated by these entitlements.

Within a reasonable period of time after March 15, 1980, the Budget Committee of the House of Representatives shall submit to the House such recommendations as it considers appropriate based on such reports.

If we fail to act carefully, we are leaving a legacy of despair for our children and grandchildren, despair because of the diminished confidence in the U.S. economy, despair because of a diminished confidence in the stability of the American dollar, despair because we will not act to check inflation, and perhaps most importantly, despair because of a diminished confidence in the ability of this Nation to produce that vast flow of goods that has given us the quality of life we enjoy today.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I would like to draw something to the attention of the people of this Nation and of this House. On the floor of the House at this minute, debating this budget, there are two Democrats and six Republican Members. What a lonely position for the chairman of the Budget Committee. He explains what is happening here this minute, today. Nobody is interested.

Are we really going to try to control inflation? Are we really going to do it? Do we mean it or is all of this a wordy exercise while the spending goes on, and on, and on, because nobody has the courage politically to do anything about it?

This is serious and nobody is taking it seriously. That is the problem. We have well seen how the ranking member and the chairman and the rest of the members of the Budget Committee struggle. What happens? The other Members come to the floor with supplementals. Fraud is shown in the programs proposed in the bill and the committee does not even make an effort to correct the fraud before bringing it, like blackmail, to the floor.

Vote for this or else.

□ 1500

It was well said the other day while we were faced with voting an extra $662 million for a certain program on top of $6,100 million, "Vote the supplemental or else—or else the poor and the sick and the hungry will be suffering."

Yes, I voted for it; I voted for it, too. But what kind of alternative is this? Why do not the committees of the Congress make some of the reforms that the GAO and Inspector General have shown are needed in these very programs? Because nobody cares or not enough. The chairman, yes; the ranking minority member on the Budget Committee, and the others yes—but the rest of the Members of the House, do they care? Not enough.

We are not getting the kind of reform in the programs that would save some of the money that is wasted in fraud and mismanagement. Nobody wants the poor to go hungry. Nobody wants people without housing to go homeless. We are not talking about that kind of thing here. We are trying to get some kind of prudence and honesty into the handling of other peoples' money.

Mr. Chairman and Members of this House, I got a letter from a constituent. it started off, "Mrs. Fenwick * * *"

The writer did not bother to say, "Dear Mrs. Fenwick."

It continued, "What the blank do you think you are doing down there?"

That is the way the public feels about this spending. What are we doing down here? Spending their money. This man was promised a $20 raise on Monday. What did he get on Friday? $8.67 extra. The raise was eaten into by the taxes and Social Security and everything else we have piled on the working people of this country, to say nothing of the industries also.

I do not know when it is going to be taken seriously. Why is this House not full when a budget resolution comes before the House? Why is it empty? What do the schoolchildren or the people in the galleries think when they see their business handled like this? I do not know when we are going to get some reality into the operations of this House, but I tell the Members that I think now is the moment.

I thank my colleague for yielding to me.

Mr. REGULA. I thank the gentlewoman for her contribution.

Mr. GIAIMO. Mr. Chairman, I yield myself 5 minutes. I take this time to respond to one of the ablest Members of the House of Representatives, the gentlewoman from New Jersey (Mrs. FENWICK). I think you made some very serious points, Mrs. FENWICK, which are worth considering and worth reflecting upon, but I do not think you should draw the wrong conclusion from the fact that there are not too many people on the floor here today. As you know, traditionally when we are on general debate in the House, the Members are busy in committees, or are busy in their offices. Fortunately, or unfortunately, with the advent of television now, I am sure that almost all of the Members who are not here, who are either in committee or back in their offices working, are looking at this debate on television.

You know full well that there is great interest in the budget resolution on the part of the membership. Witness the fact that we were on the floor of this House for 9 full working days last May, and I would hazard the guess that when we get on to the amendment process, which will undoubtedly start some time Wednesday, we will have a very large number of Members here. Certainly, when we debate some of the key issues—for example, the issue of whether or not there is enough money in defense in this budget, whether or not there should be a tax cut, whether or not there should be some stimulus programs—those issues will bring the membership out.

So, I would not draw the wrong conclusion from the fact that there are not many Members here. We can see this day after day in this House whenever we are on general debate on any bill, and we more than make up for it in the amendment process when we are here in large, loud, raucous numbers, and meet at times into the late evening hours. But, the gentlewoman does make a good point that I cannot help stressing, that we in Congress must take seriously this question of spending the peoples' money. I think we have gotten into a habit here of talking fiscal responsibility and then going out and voting for things, because they sound good.

I can tell the gentlewoman that I just came back from 3 days in Connecticut, and you know, I do not think I have done my political career or my elective career any good going up to Connecticut this weekend, and telling people I am opposed to the fuel assistance program, because we have not got the $400 million in the Federal budget or in the Federal till to give to them. While I have great compassion for people who will have difficulty paying their fuel bills this winter, I think it is a responsibility that should stay at the State and local level, because we literally have not got the money. Now, unfortunately, some of our colleagues have not learned this lesson as yet. It is hard to say no, and as the gentleman from Ohio (Mr. REGULA) mentioned we have very little control over 75 percent of the budget.

I mentioned some of the issues, some of the uncontrollable increases, such as $7 billion more from the spring estimates, through no policy change of yours or mine, in interest—automatic, more money for interest. There are $2.5 billion more for unemployment compensation—automatic. There are $1.2 billion more for social security—automatic. Federal aid to highways, up $250 million. It goes on and on and on.

The point is, in Congress we try but I do not think we have tried hard enough, and we cannot worry about the budget only when we bring the budget up on the floor. We have got to worry about it when we adopt entitlement legislation. We have got to worry about it when we pass an appropriations bill, and we have got to do something else we have not been willing to do. We have got to go back and look at those hundreds of programs we have passed throughout the years which are vested, and of which we say, "We cannot touch them, because they are entitlements."

We can touch them if we have the courage to do it. We can touch them if we will analyze these programs, have some sunset legislation attached to some of them so that we can get rid of some of the bad ones and perhaps then be in a better position to spend our money—or the taxpayers' money, if you will—wisely. But, I think Congress is concerned about it.

The CHAIRMAN. The time of the gentleman from Connecticut has expired.

Mr. GIAIMO. Mr. Chairman, I yield myself 1 additional minute.

I would not be offended by the fact that there are not many Members here on the floor during general debate. They will be here, and I am sure they are listening to what you and I are saying.

Mrs. FENWICK. They need to hear this, Mr. Chairman; they need to hear this, and so does the country. I think everybody honors you for the role and the responsibility that you have taken in this matter, and the ranking minority member also. It is a very serious matter, and we do not take it seriously enough. I thank the Chairman.

Mr. LATTA. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Chairman, what I say first of all is not what I took the floor to say. I will ask some questions of the chairman later on, but because of the exchange between the gentlewoman from New Jersey and the chairman of the committee, Mr. GIAIMO, it gives me an opportunity to say that perhaps the chairman and the committee do not recognize the degree of authority that the committee actually has, as that authority of the committee is recognized

outside of the Congress of the United States.

What I want to emphasize to the gentleman from Connecticut is that his committee is recognized as a very powerful committee, with probably growing authority, to accomplish a legislative mandate given it in 1974. Maybe you do not recognize that it can be used to solve the very problems that the gentlewoman from New Jersey brought up. Whether we visit with people that we know may be considered on the liberal end of the spectrum and want to spend more money for the human resource programs, or with people from the conservative end of the spectrum that maybe want to spend more money for military programs, it always comes up as to how scared those groups are of the Budget Committee, because they feel that the Budget Committee is actually making policy in the Congress of the United States.

I believe that is the reason the Budget Committee was set up, to determine those overall expenditures, but I think intimated in those comments is the point that the Budget Committee is the committee that can do something about the very problems that the gentlewoman from New Jersey brings up; to answer the problem of overspending in this country, bring this budget under control, and not be spending money for everything that comes along. So, I would only make the point and ask the gentleman from Connecticut to recognize this power and use it for those ends.

Now, for the purpose I came to the Chamber this afternoon: I wanted to ask the chairman of the committee what the status of an amendment is that was adopted in this first budget resolution back in May. It started out as the Panetta amendment, an amendment to reduce expenditures for personnel, for film production, for overtime pay and travel. Later on I offered as a substitute to the Panetta amendment what was the contents of the amendment offered by the Senator from Utah (Mr. HATCH), that he offered in the other body—that was defeated by a one-vote margin—which amendment would reduce the budget for a 1 percent reduction in Federal employment, a quarter of a billion dollars for reduction in film production; a quarter billion dollars in overtime pay, and I think $200,000 for travel by Federal employees.

□ 1510

That amendment was adopted by a very overwhelming margin in the House. It was sustained in the conference committee, so it was a part of the first budget resolution. What is the status of those policy decisions in this second budget resolution?

Mr. GIAIMO. If the gentleman will yield, if the gentleman will recall, that amendment provided for the reduction of a billion dollars and enumerated several areas where it was thought the saving could take place. We still have that billion dollar reduction included in the budget. I am very confident that when the Committee on Appropriations completes its work, it will have more than that billion dollars in reductions. They may not be in the specific areas that the amendment proposed or that the gentleman and I would like to see, but that flexibility remains with the Committee on Appropriations.

Remember that the budget in the spring was a target proposal, a target resolution. In effect what the Panetta amendment said was, "Committee on Appropriations, try and find a billion dollars in savings in these areas enumerated, or in other areas." I am confident that the committee will come up with the billion dollars or more in savings.

Mr. GRASSLEY. All right, then may I be a bit more specific regarding that amendment and speak about just that one part that was to call for a 1 percent reduction of Federal employment. The only reason I bring this point up—and I made the point back in May—is back on October 24, 1978, when the President suggested a lot of things that could be done to solve the inflation problem, including voluntary wage and price constraints, he suggested at that point that he was going to institute a 1½-percent reduction by attrition in Federal employment in the 1980 fiscal year. All right. He did not in January include that reduction in his budget as it was submitted to us.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LATTA. Mr. Chairman, I yield 5 additional minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. In other words, I think at that point there was a conscientious effort for the President not to go along with the policy decision he made back on October 24 of last year. So I felt as though the gentleman from California (Mr. PANETTA) and I, as we were offering an amendment and the substitute therefor, were making a decision on the floor of this House that Congress ought to force the President's hand and go along with that reduction in Federal employment. Is there going to be a 1-percent reduction in Federal employment?

Mr. GIAIMO. If the gentleman will yield, I am not in a position to tell the gentleman that there will be.

Mr. GRASSLEY. The gentleman is not in a position?

Mr. GIAIMO. I am not in a position to tell the gentleman that that will happen.

Mr. GRASSLEY. In very general terms the gentleman ought to be able to tell us whether that is part of the target or not.

Mr. GIAIMO. Part of the target was the dollar amount, as I mentioned to the gentleman earlier, and I am confident that the Committee on Appropriations is going to reach that dollar amount of savings. But I cannot be specific as to whether it will come out of the 1 percent reduction in Federal employees or somewhere else.

Mr. GRASSLEY. All right, I will accept the gentleman's response.

Mr. GIAIMO. That is beyond our jurisdiction, too, I might say.

Mr. GRASSLEY. All right. Then would the gentleman answer one more question, and this is in regard to the first 2 or 3 minutes of the gentleman's comments from the podium here.

Mr. GIAIMO. May I just say one other thing?

Mr. GRASSLEY. Yes.

Mr. GIAIMO. I can tell the gentleman that regarding the pay increases that have come along for the Federal employees and those in the military that the Committee on Appropriations has been making great effort to absorb a lot of that pay, and so is the administration, and so is OMB, to try and absorb a great deal of that increased pay, the cost-of-living increase. One of the ways in which we do absorb is through the means that the gentleman suggested, by shrinking the number of employees working and not filling the vacancies as quickly as we otherwise would.

Mr. GRASSLEY. All right. Then if the gentleman will permit me on my last point, in the remarks of the gentleman from Connecticut (Mr. GIAIMO) very early in this debate, he spoke in terms of and I quote "an early balanced budget," like in some future year. What is the Budget Committee's goal of a balanced budget in relationship to the President's projection for a balanced budget, which I do not know whether is still part of his projection for the next fiscal year or not?

Mr. GIAIMO. The question of a balanced budget, of course, as the gentleman knows, is going to depend upon what happens in the economy. If the economy comes out of its recession, if we are restored to recovery in 1980, if the economic projections that we have included, and the CBO has included, in this regard hold true and we come out of the recession—if it is a mild one as they are now saying and we have recovery in 1980—if we do not have a tax cut, we can reach it by 1981.

Mr. GRASSLEY. All right. In other words, the gentleman is saying that if this budget resolution is adopted the way the committee submitted it, with the corollary matters the gentleman just stated to the effect of a good economy and coming out of the recession in a reasonably early manner, the President can submit a balanced budget to this Congress next January?

Mr. GIAIMO. I think it would be possible. However, that would presuppose no tax cut. It would presuppose very few, if any, new initiatives.

Mr. GRASSLEY. All right. A balanced budget for fiscal year 1981 is still a possibility, as far as the gentleman is concerned?

Mr. GIAIMO. It is a possibility, but it depends, No. 1 and first and foremost, on the state of the economy. The economy would have to grow at a healthy rate. It also would have to depend upon what the inflation rate would be because that affects our revenues and our outlays also. It also would have to depend upon what the tax situation would be.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GIAIMO. Mr. Chairman, I have no further requests for time, and I reserve the remainder of my time.

Mr. LATTA. Mr. Chairman, I yield 7 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. I thank my distinguished leader for yielding.

Mr. Chairman, I rise to ask some questions of the distinguished Chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO). In August of this year the distinguished chairman, the gentleman from Connecticut, was quoted in the National Journal as saying:

> It wasn't shouted from the roof tops, but when the fiscal 1980 budget was put together, it was deliberately fashioned to slow the economy down.

Can the gentleman share with me his perspective as to how slowing down the economy is going to help whip inflation? Or is that not an accurate quotation, I ask my friend?

Mr. GIAIMO. If the gentleman will yield, that is an accurate quote. I know the gentleman is very much interested in economics and inflation. I know he has been putting a great deal of his attention in it. Far be it from me to try to persuade the gentleman, but I think it is a pretty clear rule of thumb in Government that one of the ways in which you slow down inflation is to slow down Government spending. As a matter of fact, that used to be quite a cardinal principle of the gentleman's party until quite recently. But most economists would advise us that if you slow down Government spending, it does have an effect in constricting the economic growth and in holding down inflation. Alternatively, if you increase Government spending and print more money, you are going to add to the inflationary growth and to the signs of inflation.

□ 1520

I think that is what the designers of the budget, the advisers to the President, the people in the Fed, the people in the Treasury, the people in the Council of Economic Advisers, economists throughout the land, I think that is what they were suggesting.

That is what I meant earlier in my statement when I said that this budget came up with a rate of real growth of 1.8 percent, contrary to other budgets, as the gentleman well knows, which, for the last 5, 6, or 7 years have come up with about 5 percent real growth in them at least.

If one looked at this year's budget when it was sent up with about 1.8 percent real growth, and if you realize that built into that—as the gentleman and I well know from having served on the Subcommittee on Defense of the Committee on Appropriations, there was about 3 percent real growth in the military. It meant that you had less than any real positive growth in the nonmilitary function of the budget.

It is an austere budget. Traditionally austerity, which means holding the line on Government programs, Government initiatives, and Government spending, traditionally that is the way in which you hold down inflationary expansion.

Mr. KEMP. I appreciate the spirit with which the gentleman answered my question.

Let me say parenthetically it might have been in the past a cardinal principle of the minority party and it might be today of the majority party but it is certainly not a cardinal principle of mine that slowing the economy is an effective way of fighting inflation. We have tried this strategy twice in the last decade and it has not worked. I would suggest the state of the economy is evidence today that slowing down the economy has done nothing to slow down inflation. I am a little bit disappointed, I would say to my friend.

I have a special interest in this question because newspapers in my Buffalo, N.Y., area and in New York City and I am sure in Connecticut and in other parts of the Northeast are warning us that any recession is going to hit the Northeast the hardest.

There was a lot of attention paid earlier in this session of Congress, especially in debating the first concurrent budget resolution back in May, about what was going to happen in New York City and New York State and other parts of the Northeast if we let unemployment rise.

Several recent articles show that unemployment in the Northeast is already going up much faster and much higher than in other parts of the country, because of the aging technology, the aging plant equipment in factories, and so forth.

My point is, if we are going to slow down the economy and permit unemployment to go up as an answer to inflation, can the gentleman tell me how much does the economy have to slow down before we will get some moderation in prices?

Mr. GIAIMO. Mr. Chairman, I cannot give the gentleman that figure. I can only say to the gentleman that now is not the time to get over to that supply side, as I know the gentleman is anxious to do and reduce the taxes on the theory that that will add a great incentive production on the supply side which will cure our ills.

I just disagree with the gentleman.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman's disagreement.

Mr. GIAIMO. I respect the gentleman's position.

Mr. KEMP. Mr. Chairman, the gentleman is very sincere and the gentleman has made it very clear that he disagrees that cutting taxes would help.

Mr. GIAIMO. Mr. Chairman, I do not think now is the time to do that.

Mr. Chairman, let me say this. While the gentleman says that used to be the position, had you listened to our witnesses day in and day out—not just now but in the spring—if the gentleman had listened to the advisers of business who came in to testify before our committee, constantly if there is one message that comes across from them and from the American Chamber of Commerce and others, constantly, it is heavy pressure to hold the line of Government spending.

Mr. KEMP. Mr. Chairman, I will back my time just long enough to suggest that I do not quarrel at all with people who want to hold the line on Government spending.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GIAIMO. Mr. Chairman, I yield the gentleman 5 minutes.

Mr. KEMP. Mr. Chairman, I have no quarrel with the gentleman in holding the line on spending. The gentleman and I need not wear our credentials on this issue on our sleeves to impress people. Frankly, I would match mine with those of the gentleman but I will give him credit; he has done an admirable job in holding the line on runaway Government spending. I would like to see that continued, as I think the gentleman from Ohio has suggested. What puzzles me is the notion that Federal spending is what prompts individual Americans to work, save, invest, and be enterprising—that is, what causes economic growth.

As for the chamber of commerce and the average businessman and the average economist, they have some illustrious company in endorsing the theory that has gotten us into this problem in the first place: High inflation, low rates of economic growth and increasing unemployment. This Congress must separate itself from that Phillips-curve theory that inflation is the answer to unemployment, and that unemployment or slow growth is the answer to inflation.

Let me read to my friend a quote from Prof. Kenneth Arrow of Harvard University, one of the most distinguished Keynesian economists in the country, a 1972 Nobel Prize winner.

Upon leaving Harvard several weeks ago, Professor Arrow confessed to a reporter that—

> The role of the liberal activist economists has been greatly injured by the fact that we are unable to reconcile full employment with price stability.

Here is the world's leading Keynesian economist, who spent a lifetime working on demand and consumption and borrowing and debt and stimulating the economy by deficits, suggesting at the end of his tenure at Harvard that he and his colleagues are unable to duplicate conditions which used to be commonplace in America—to reconcile a high-growth economy and price stability.

I cannot say that he speaks for the rest of the Keynesian economists but he seems to be saying something about the Keynesian model of the world, the model that the House Budget Committee is using. It simply cannot reconcile a healthy, growing, expanding, fully employed economy with price stability. In other words, they do not have an answer. Yet the predicate upon which this whole budget is being based, is that we must slow down the economy as an answer to inflation. I do not doubt that the National Association of Manufacturers and the Chamber of Commerce probably support the gentleman; the chief economist of the National Association of Manufacturers, George Hagedorn, was quoted in the Washington Post last March as saying there is no other way to stop inflation.

He said what the economy needs today is a good recession. Tell that to the unemployed people of Buffalo, N.Y., or Connecticut or any other part of this country. How can we tell them our plan to whip inflation is to sacrifice jobs of the American people by slowing down the economy? How are you going to suggest to people who want homes for themselves and their families that we are going to slow down housing construction in order to fight inflation in housing?

As we know, Mr. Chairman, the White House made a conscious attempt to reduce the supply of credit and capital going into housing under the assumption that if we reduced the number of new housing starts in 1979 from the all-time high of 2.2 million in 1978, somehow that was going to reduce inflation in housing. Well, they changed the interest rate on money market certificates, they pulled capital and credit out of the housing market, and housing starts in 1979 have been reduced on an annualized basis from 2.2 million starts in 1978 to 1.6 million. Terrific. Unfortunately, housing prices accelerated at the fastest pace since the last housing recession.

□ 1530

Do you want to go tell someone in your district that reducing the supply of housing lowers the price of housing? It is lousy politics and besides, it is barbaric economics.

We are doing the same with energy. How can you suggest that reducing the supply of energy is going to reduce the price of energy?

Excuse my passion on the subject, but business economists helped get us into this mess as far as I am concerned. They are not alone, however.

Mr. Miller, former Chairman of the Federal Reserve and now Secretary of the Treasury says we have to expect several years of "austerity" to cure inflation.

I am mentioning people, not to beat up on them personally or politically, but just to vent a little bit of my frustration at the economic policy of a budget that accepts 7.2 percent average unemployment in 1980 as an answer to inflation. Not only that, but the Budget Committee predicts that even 5 years from now, 400,000 more Americans will be out of work than today, under the policies they recommend.

The CHAIRMAN. The time of the gentleman from New York (Mr. KEMP) has expired.

Mr. LATTA. Mr. Chairman, I yield 5 additional minutes to the gentleman from New York

Mr. KEMP. Mr. Chairman, Margaret Bush Wilson of the NAACP has something to say about this issue. She has said that inflation is not caused by too many people working. How can it be said that people working is a cause of inflation? Suggesting that workers cause inflation or businesses cause inflation or consumers cause inflation is like saying that wet streets cause rain.

And yet our official anti-inflation strategy is that if we can get workers working less and producers less, consumers consuming less and American drivers driving their automobiles less, if we can just get every American to stop doing whatever it is he or she is doing, somehow inflation will drop. But let me tell you, it does not work. In May the Budget Committee estimated growth in nominal GNP in 1980 of 9.7 percent, divided between 2.1 percent real growth and 7.6-percent inflation.

Today, the Budget Committee estimates nominal GNP for 1980 at roughly the same rate, 10.1 percent; only now it is divided between less than 1 percent real growth, but more than 9 percent inflation.

In other words, the main result of a budget to slow down real growth and employment is higher inflation, given the same monetary growth. Everybody admits that the economy has slowed down. Unemployment has gone up 300,000, from 5.7 to 6 percent in a single year. That is going to cost the budget $6 billion over 1 year. Are we suggesting that another 1.2 million unemployed and its budgetary cost of $24 billion is going to do anything to lower the cost of living?

Last May I stood on the floor of the House with the gentleman from Ohio and the leader from Ohio (Mr. LATTA) rose; the gentlewoman from Maryland (Mrs. HOLT), the gentleman from Ohio (Mr. REGULA), and I am not, I hope, trespassing on anybody's sensitivities in mentioning any names, but at that point I tried to suggest that we could not afford to let unemployment rise from 5.7 percent, that maybe if we tried to reduce the tax burden on the American private sector through personal income tax rate reduction to encourage savings and more investment, if we would index the code to keep people from being pushed into higher and higher tax brackets, which you and I both know is costing individuals more than an $11 billion loss in real income a year, that we could fight both inflation and unemployment by encouraging economic growth. How can it be said that slowing down production is going to fight inflation? I made the point, I guess, but when I offered an amendment, it lost. I have been told that we ought to stop this effort because it is in the interest of balancing the budget.

Well, let me say with all due respect to those who want to balance the budget, I would like to balance the budget, too, but how are you going to balance it if the economy grinds to a halt?

Herbert Hoover tried to balance the budget in 1932. He stopped the economy dead in its tracks, at the cost of 25 percent unemployment, and a decline in the standard of living. Some people I guess in the Keynesian framework might debate what happened; but I do not think it takes a war to bring us out of recessions or depressions; but very frankly, there are a lot of people around who yearn to repeat that experiment in the 1940's when we had a controlled economy. Capital was allocated. Credit was allocated. There were wage and price controls, credit controls, capital controls, everything was controlled and, of course, we are told that the war was a cure to unemployment. It put everybody to work, but there were millions of Americans in the war and besides that the standard of living of the American people dropped in real terms. We began to make economic progress only after the war, the advent of Mr. Truman and a Republican Congress who started to reduce taxes after the war, cut spending, as the gentleman from Connecticut has mentioned, and I think wisely so. Having been critical of some of the economic policies of the last 10 years, it is only fair to say that I might do it a little bit differently. Anything is worth a try, but there is some empirical evidence to suggest that something different will work.

The CHAIRMAN. The time of the gentleman from New York (Mr. KEMP) has again expired.

Mr. LATTA. Mr. Chairman, I yield 2 additional minutes to the gentleman from New York.

Mr. KEMP. Mr. Chairman, this gentleman is deeply grateful.

Of course, we need fiscal restraint. Of course, we need, as Mr. VOLKMER is suggesting, monetary restraint; but both fiscal restraint and monetary restraint are really only operating on one side of the problem of inflation. Inflation is an imbalance between the supply of money and the supply of goods. The relative surplus of money causes a decline in the value of the currency.

Excessive growth of money fueled in part by excessive deficits contributes to inflation, but it is also caused by a decline in the supply side or the production of goods and services. To fight inflation you need tight fiscal policy as is being demonstrated today in the Senate and in the House. I give credit where credit is due, to the gentleman from Connecticut and the gentleman from Maine (Mr. MUSKIE), both of whom on the other side of the aisle have exercised, I think, some restraint and I applaud it.

I certainly have no disagreement with my friend, the gentleman from Ohio (Mr. LATTA) for his effort to reduce runaway spending and the runaway money supply.

I also recognize that we on the minority side are going to try to offer an amendment to cut taxes a bit, $20 billion. I applaud that.

The gentleman from New York, my Congressman contiguous to my district (Mr. CONABLE) has offered a bill to encourage investment in plant and equipment and in a higher level of economic activity and new technology and I support that. I think it is very healthy. I think many people on both sides of the aisle do. It is another thing to cut taxes $15 billion or $20 billion, but that will not even make up for the $22.5 billion in higher taxes that are going to take place in 1980.

I want to say that I am a little bit disappointed that we are going to accept a rate of unemployment at 7.2 percent in 1980 when in fact it did not work in 1969–71, and it did not work in 1974 and 1975. The recessions in both those periods did little to stop inflation. The way to stop inflation is to follow sound fiscal and monetary policies, but also to encourage investment and savings and thrift and initiative and higher levels of technology and more growth and more jobs, not less.

I am deeply worried about what is going to happen to the unemployment statistics and rates.

The CHAIRMAN. The time of the gentleman from New York (Mr. KEMP) has again expired.

Mr. LATTA. Mr. Chairman, I yield 1 additional minute to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I thank the gentleman.

I am deeply concerned that the rate of employment in New York City has already risen to 10 percent with worse yet to come. New York State's rate is well over 7 percent. This is not the time to contemplate an economic policy designed by the House Budget Committee that really believes slowing down the economy is an answer to inflation.

I hope that the Members of the Republican party and those on the Democratic side who still believe in a modicum of free enterprise in this country recognize that there is a better way to fight inflation than letting unemployment go up and slowing down the economy.

We need a healthy growing economy. We need a healthier investment climate. We need a healthier supply side of the economy. If we want to balance the budget, reduce the deficit, and stop inflation, cultivating this recession is not the way to do it. President Kennedy was correct when he said.

> Our present choice is not between a tax cut and a balanced budget. The choice, rather, is between chronic deficits arising out of a slow rate of economic growth, and temporary deficits stemming from a tax program designed to promote fuller use of our resources and more rapid economic growth . . . the purpose of cutting taxes, I repeat, is not to create a deficit but to increase investment, employment, and the prospects for a balanced budget.

□ 1540

Mr. GIAIMO. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Chairman, during consideration of the first budget resolution there was extended debate on the targets established for function 700, veterans benefits and services. Therefore, I shall not take the time to discuss details of the ceilings established in the second budget resolution since the chairman of the Budget Committee has provided an analysis of all functional categories. I think it is important to note the changes contained in the proposed second budget resolution from that adopted in the first budget resolution.

First, the resolution contains about $100 million more in new budget authority to provide an additional 3,800 FTEE—$76 million—to offset some of the personnel losses imposed by the Office of Management and Budget in veterans' health care programs during fiscal year 1979. In addition, the increase will enable the Veterans' Administration to proceed to implement the psychological readustment counseling and outpatient treatment program—$12.5 million—for Vietnam veterans and the expanded drug and alcohol treatment program passed by Congress earlier this year. The increases reflect the House-passed HUD-independent agencies appropriations for fiscal year 1980.

Second, the administration's budget projected a 7.8 percent increase in the Consumer Price Index for compensation and DIC benefit purposes. The Committee on Veterans' Affairs estimated, and the Committee on the Budget agreed, that an 8.3 percent increase was more likely and $577 million in new budget authority was included in the first budget resolution for such purpose. As we all know, the inflation rate has increased even higher than the projected 8.3 percent and the second budget resolution contains $745 million in budget authority to accommodate a higher inflation rate should the authorizing committees of the House and Senate agree to the higher cost figure.

Third, the proposed resolution reflects lower readjustment benefits costs of some $100 million.

Fourth, the first budget resolution included $262 million in "cost-savings" assuming that our committee would proceed to terminate or limit certain medical benefits and services now provided our Nation's veterans. These would include: First, charging non-service-connected veterans for care and treatment in VA health-care facilities to the extent of their insurance coverage with private insurance carriers; second, eliminating presumptive service-connection for dental treatment sought by veterans within 1 year following their discharge from service; third, eliminating the travel allowances for certain needy veterans who travel to VA facilities for treatment of their health problems; and fourth, terminating nonprescription medicine, drugs and medical supplies currently authorized for the treatment of certain needy non-service-connected disabled veterans.

The Committee on Veterans' Affairs, in its March 15 report to the Committee on the Budget, indicated it had considered several of these recommendations in prior years and specifically informed the Committee on the Budget of its intention not to proceed with the proposals proposed by the administration. That notwithstanding, the first budget resolution included these so-called "cost-savings" knowing full well that the authorizing committee would not favorably consider the legislation.

Members of the House should be aware that these "savings" are again included in the second budget resolution, although the "savings" are at a much lower level. The resolution includes $92 million in "savings" as compared with the $262 million in the first resolution—a difference of $170 million. The reduction is based on later effective dates. This action by the Committee on the Budget is contrary to the view of the Committee on Veterans' Affairs.

In a letter to the chairman of the Budget Committee dated July 12, 1979, the leadership of our committee let it be known that the committee had rejected the administration proposals and that the committee would not be reporting any of the measures, although we did suggest that possible alternative proposals may be considered during the next session of the Congress.

Mr. Chairman, I shall not offer an amendment to the second budget resolution to restore the $92 million proposed to be saved by the enactment of the ill-conceived medical proposals submitted by the administration. Medical care for veterans should not be based on the economic condition of the country. We must always fulfill the firm commitment we have made to veterans who serve in defense of our country. Although we strongly oppose the legislative proposals submitted by the administration and agreed to by the Committee on the Budget, we shall seek ways to come up with the $92 million in "savings" through other means. It will be difficult to do but we feel we can live with the amounts contained in the resolution by offsetting the "savings" in other areas. I want to assure my colleagues that our members will be very concerned should further reductions be made by the other body.

In closing, Mr. Chairman, I want to offer my congratulations to the chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO) to the ranking minority member of the committee, the gentleman from Ohio (Mr. LATTA) and to all members of the committee, whose tough job it is to bring to the floor a measure that will be acceptable to the House. As I have stated on many other occasions, it is a very difficult task and all of us appreciate their dedicated service. Although I disagree with the policy on occasion, and very strongly at times, I have never questioned the good intentions of the committee. I am most grateful to each of them for past considerations granted to all members of the Committee on Veterans' Affairs.

Mr. GIAIMO. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I just take this time to thank the gentleman from Texas (Mr. ROBERTS) for his cooperation with the committee, not just this year but in all the years past. The gentleman fights hard for the veterans, as well he should, and I commend him for it.

We do not want to hurt the veterans, and we try not to. But we do, as the Members know, differ over the amount of dollars from time to time. It is a pleasure to work with the gentleman from Texas (Mr. ROBERTS) because he is able to protect the interests of the veterans and at the same time help the Congress in formulating a good budget.

Mr. Chairman, I thank the gentleman for his cooperation, and I yield back the balance of my time.

Mr. Chairman, I yield 5 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, I want to thank the chairman of the Committee on the Budget, and I want to say that I appreciate all his dedicated and good work on this budget resolution.

The issue that the budget resolution intends to deal with is, of course, the most overriding issue in this Nation today. Rampant, dangerous inflation is

the issue this Congress must face head on.

We are deceiving ourselves and the American people with the sleight-of-hand budget tactics when we are addressing the issue of inflation. The truth is that imported oil and other high-cost energy is the real problem. Inflation has been caused by our Government printing money to cover the cost of our excessive use of sharply increased, high-priced energy. The American consumer has been allowed to continue to act as though oil were still $2 a barrel, not the $22 that is being paid today. Our Government allows the American consumer to do this; indeed it encourages inflationary excesses by lending out the money to pay for it, by printing money through deficit spending and in effect lending the consumer the money to continue to use oil as if energy prices had not gone up fourfold, sixfold, and eightfold.

That is what is causing the inflation we face today, and inflation is the single-most dangerous thing that can happen to any society or any economy.

Indeed our inflation rate is over 13 percent. Steps to revive a slipping economy such as a tax cut or increased Goverment spending will not only fuel this inflation further but also weaken the dollar further. Everything is at cross-purposes, for the simple reason that we are not dealing with the real problem.

I want to say to my very responsible and good friends on the minority side of the aisle that to throw Keynesian economics at this issue and argue that a tax cut would increase revenues is at this time an absurdity. I want to say that I have in the past supported their budget reductions because I thought we could not go on spending the money and printing the money as we have been doing. In the 5 years I have been in the Congress I have supported them, but what I cannot support is the reduced taxation that is in their substitute.

Unless that substitute were amended to increase revenues, it is to my mind just as inflationary as the recommended budget; it is actually more inflationary than the budget that the committee has worked so hard to bring out. Even though I believe the spending levels of the committee's budget are still too high, a tax cut at this time, putting more dangerous inflationary dollars into the economy, would be the height of feeding again exactly what we must stop, and that is the excessive use of high-priced energy and foreign oil.

If this Congress wishes to address the real problem and would tax energy today in a like amount, then I could certainly support a reduced tax on social security or on income, but we cannot continue to print the money through deficit spending or tax reductions to allow us to continue fostering what is the real root cause of inflation, and that is our excessive use of energy that has increased in price fourfold and sixfold.

Mr. Chairman, I thank the committee chairman and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GIAIMO. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

The CHAIRMAN. All time has been yielded back.

The Chair now recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ROBERTS) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 186) revising the congressional budget for the U.S. Government for the fiscal year 1980, had come to no resolution thereon.

□ 1550

SPONSOR DEVELOPMENT OF SYNTHETIC FUELS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, it has recently been brought to my attention that my name was inadvertently omitted from the cosponsor's list of H.R. 4514. This legislation is designed to amend the Comprehensive Employment and Training Act to make grants available to States and local agencies for the purpose of training individuals for employment in the synthetic fuel industry.

As an enthusiastic supporter of synfuel and other alternative energy research and development, I would ask that I now be added as a cosponsor of the bill.

Thank you.●

STATE DEPARTMENT HAS MISLED CONGRESS ON COST IMPLICATIONS OF SINAI AIR BASE REDEPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, a critical component of the effort to secure a lasting peace in the Middle East has been the Israeli-Egyptian peace treaty. The negotiation of this treaty has been a major watershed in the tumultuous history of the region. However, the treaty will be only so much rhetoric if its terms are not successfully implemented. To this end, a crucial feature of the settlement has been the ability of Israel to assume several important risks for peace, particularly from the perspective of Israel's military security. Following the 1967 conflict, Israel established two-major air bases west of her 1967 borders in the Sinai. These air bases have been described by American officials who visited them as the "finest" air bases in the West. Under the terms of the treaty, Israel is obliged to return all of the Sinai to Egypt including the two major air-bases now under Israeli control. These bases were built at considerable cost over a period of a decade by Israel to provide for the air defense of the country.

In order to make the risks of peace acceptable, new air bases have to be built within Israel to replace those she is abandoning in the Sinai. This is an objective the Congress has firmly supported for the redeployment of the Israeli air bases from the Sinai is the "cement" which makes the treaty itself hold together. During the administration's testimony before the Foreign Operations Appropriations Subcommittee of which I am a member, the witnesses assured the Congress that the funds requested, $800 million, would fully fund the air base redeployment. Evidence subsequently available makes it clear that the costs of the redeployment was very substantially underestimated; the redeployment could never have been executed at the level recommended by the State Department. The actual figure will be closer to $1.5 billion—the amount originally estimated by technical experts in Israel. Thus, Congressional intent to fully support the redeployment has been thwarted by the less than frank testimony of State Department officials. One can only speculate about the motives for the underestimate, but a plausible hypothesis is that it is being used as a "lever" to induce the Israeli's to come to terms on other issues. I hope the administration will reverse this policy and submit a revised—and accurate—budget estimate to the Congress on the Sinai redeployment.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I was in my district on official business on Friday, September 14, and was unable to vote on rollcalls Nos. 470, 471, and 472. If I had been present, I would have voted "no" on the amendment to strike the authorization for logistical assistance for the 1980 Olympic winter games; "yes" on the amendment to authorize an enhanced civil defense program; and "yes" on the final passage of H.R. 4040, the Department of Defense Authorization Act for fiscal year 1980.●

CONGRESSMAN WEAVER TO OFFER AMENDMENT TO EXPORT ADMINISTRATION ACT TO SET MINIMUM PRICES ON WHEAT, CORN, AND SOYBEANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. WEAVER) is recognized for 10 minutes.

Mr. WEAVER. Mr. Speaker, I would like to inform the House that tomorrow, if the Export Administration Act is taken up for House business, I intend to offer

an amendment which would set a minimum price on export of wheat, corn, and soybeans.

Mr. Speaker, the farmers today and this Nation today face a huge and abundant crop, a bumper bin-busting crop, and this may be to their very detriment, because this huge crop is so large and the task of storing it and shipping it is so large that it may mean depressed prices. Yet we know that the Soviet Union had a tremendous shortfall this year and will be buying our grain. So at a time when this huge crop is depressing prices to the American farmer and depressing our balance of payments, the Soviet Union will again be scooping up cheap grain, buying it up at less than it cost the farmers of this country to produce it. In other words, we will continue to subsidize the Soviet Union.

I meant to ask, in the debate on the defense bill last week, how long that I, as a Member, must be asked to vote billions and billions of dollars for defense against the Soviet Union when, at the same time, I continue to see our agricultural abundance subsidizing that very nation, allowing them, because of the reduced cost of food, to put more money into their weapons program.

I say that this is the height of absurdity, Mr. Speaker. Therefore, I have a national grain board bill—and I would hope that this House would act on it sometime in this session—which would set up a grain board which would set minimum prices for our grains on overseas markets.

But today action is called for immediately. That crop of ours in the Middle West and in the South is about to be harvested. The prices are about to fall, and the Soviet Union stands in the position to benefit.

So the amendment that I will offer to the Export Administration Act will say that no wheat, no corn, and no soybeans may be exported at less than 80 percent of parity. In other words, we export as much as we always have, we want to export our grain, we want to sell it overseas, but we must do it at a decent price. I do not think that 80 percent of parity is a decent price myself. And, by the way, Mr. Speaker, I do not represent a large number of farmers. I am not speaking for my home constituency. I am speaking for the American people who have been really the great losers in this in terms of our balance of payments, the weak dollar, because we have been willing to sell our grain at bargain-basement prices overseas, and buying oil at extremely high prices.

Ten years ago oil and wheat were the same price, $1.50 a barrel for oil and $1.50 a bushel for wheat. Today we buy the oil for $23 and $25 a barrel and sell our wheat for $4 a bushel. This certainly is not sound business, and this is supposed to be the greatest business country in the world.

So my amendment asks simply that we say to the nations overseas that are buying our grain, "Look, you at least must pay our farmers 80 percent of parity." That would be $4.72 for wheat, not very much, $3.33 for corn, again a rather low price, and $8.08 for soybeans, far too low, really, than what we should be getting, but probably higher than we would because of the possibility that this huge crop will depress prices.

So I say, Mr. Speaker: How much longer can we allow the Soviet Union to sell gold at $350 an ounce to buy our wheat at $4 a bushel?

Ten years ago, gold was only $40 an ounce.

And so, in effect, today the Soviet Union is buying our wheat and our corn for about 50 cents a bushel.

How much longer can we tolerate this? How much longer can our balance of payments tolerate this? How much longer can our farmers and our taxpayers tolerate this?

I ask the Members of the House to vote for my amendment as a first step in putting some sanity into our grain export field.

STATEMENT OF CHAIRMAN ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 4904, THE SOCIAL WELFARE AMENDMENTS OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, on September 13, 1979, the Committee on Ways and Means ordered favorably reported to the House H.R. 4904, the Social Welfare Amendments of 1979. This bill would make a number of important changes in the aid to families with dependent children (AFDC) and supplemental security income (SSI) programs. Changes in AFDC, such as the standardization of the work expense disregard, establishment of retrospective accounting and monthly reporting, and the coordination of AFDC and food stamp asset and income definitions, will improve and simplify program administration.

In addition, the bill establishes a nationwide AFDC minimum benefit standard; requires States to provide assistance to needy two-parent families with children; cashes out food stamps for most aged, blind, and disabled SSI recipients; assists the working poor by increasing the earned income tax credit (EITC); and assures some reduction in State and local government public assistance expenditures.

Pursuant to the rules of the Democratic Caucus, I take this occasion to advise my colleagues as to the nature of the rule that I will request for the consideration of H.R. 4904 on the floor of the House. The Committee on Ways and Means has specifically instructed me to request the Committee on Rules to grant a closed rule which would only provide for:

First, committee amendments which would not be subject to amendment;

Second, waiving all necessary points of order;

Third, two hours of general debate, to be equally divided; and

Fourth, one motion to recommit.

We intend to file the committee report on Thursday, September 20, 1979, and will request to be heard before the Committee on Rules as expeditiously as possible.●

HEARINGS ON H.R. 3685, RELATING TO TRADEMARK LAW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 5 minutes.

● Mr. KASTENMEIER. Mr. Speaker, the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice will hold hearings on October 17 and 18 on H.R. 3685, to amend the Lanham Trademark Act to deny the Federal Trade Commission authority to apply for the cancellation of registered trademarks solely on the ground that such trademarks have become the common descriptive names of articles or substances.

It is especially appropriate that the Judiciary Committee and its trademark subcommittee examine carefully at this time the issues raised in H.R. 3685, since they have found their way into other legislation not specifically directed at trademark policy, being processed by other committees which have not had experience with this rather technical area of the law.

The statute in question is part of the Lanham Trademark Act, which was enacted in 1946. The trademark law has historically fallen within the jurisdiction of the Committee on the Judiciary, as have the patent and copyright laws which also grant limited monopoly rights to creators of intellectual property.

Unlike the patent and copyright laws, the trademark law does not limit the number of times a particular mark can be renewed. Thus, trademarks may remain under monopoly control for extended periods. For this reason special provisions have been written into the trademark statute which permit cancellation of marks under certain circumstances. The right to petition for the cancellation of a mark is vested under 15 U.S.C. 1064 in "any person who believes that he is or will be damaged by the registration of a mark * * *". In writing the Lanham Act in 1946, the Congress understood that there may be cases in which specific individuals or corporate persons will not perceive sufficient damage to cause them to expend the time and money to seek to cancel a registration which no longer meets the requirements of the act. However, the general public interest may be adversely affected in these cases. For this reason, the Federal Trade Commission was empowered to act as a public counsel for the purpose of initiating review of a trademark registration under certain circumstances.

It is important to keep in mind that the Federal Trade Commission may not

itself cancel a trademark registration; it may merely initiate review of an existing trademark by the Patent and Trademark Office. In reviewing the validity of a mark, the Patent and Trademark Office must apply specific criteria set forth in the law.

Any limitation on the authority of the Federal Trade Commission to initiate review by the Patent and Trademark Office raises serious policy issues with respect to the structure of trademark law itself. For example, if the Federal Trade Commission is not properly performing its public counsel role, perhaps another Government agency should be assigned this task. It may be possible that the solution would be to place a definite limited term on trademarks, similar to the terms now a part of patent and copyright law.

These are all questions which fall within the unique jurisdictional expertise of the Committee on the Judiciary, which has historically exercised responsibility for patent, copyright, and trademark law. It is my hope that a serious examination of the issues raised in H.R. 3685 by the committee and its trademark subcommittee will assist Members of the House when trademark policy is raised in connection with legislation emanating from other committees. Inquiries with respect to the upcoming hearings should be directed to the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, 2137 Rayburn House Office Building, Washington, D.C. 20515, 202/225-3926.●

H.R. 4970 AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

● Mr. OBEY. Mr. Speaker, following are three amendments to H.R. 4970, the Campaign Contribution Reform Act of 1979, which I will ask to be made in order when that measure is considered by the House:

AMENDMENT NO. 1 TO H.R. 4970

On page 2, line 12, strike out "in any calendar year".

On page 2, line 14, strike out "$5,000" and insert in lieu thereof "$6,000 (but not more than $5,000 for one election)".

On page 3, line 1, strike out "$7,500" and insert in lieu thereof "$9,000".

On page 3, strike out lines 7 through 15.

On page 2, line 8, redesignate subsection (1)(1) as subsection (1), and redesignate subparagraphs (A) and (B) of such subsection as paragraphs (1) and (2), respectively.

On page 3, strike out line 20 and all that follows through line 22 on page 4, and insert in lieu thereof the following:

SEC. 3. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(1) inserting after paragraph (2) the following new paragraph:

"(3) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees shall not accept contributions from political committees, other than committees of a political party, aggregating more than—

"(A) $70,000 with respect to a general election and a primary election relating to such general election, and $70,000 with respect to a special election and a primary election relating to such special election, and $70,000 with respect to a runoff election and a primary or other prior election relating to such runoff election; or

"(B) $85,000 in the case of a candidate who is a candidate in a general election and both a primary election and a primary runoff election relating to such general election, and $85,000 in the case of a candidate who is a candidate in a special election and both a primary election and a primary runoff election relating to such special election.

For purposes of this paragraph, any contributions made after December 31 of a general election year or after 30 days following a special election shall be considered a contribution to such election only if the candidate at the time of receipt does not have sufficient funds to pay obligations incurred with respect to that election and the contribution is used to pay such an obligation."; and

(2) redesignating paragraphs (3) through (8) as paragraphs (4) through (9), respectively.

SEC. 4. Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(a)) is amended by—

(1) inserting after paragraph (9) as so redesignated by section 3 of this Act the following new paragraph:

"(10) Any contribution to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees that is made in the name of an individual and in a manner which creates the appearance that the contribution was made by or on behalf of a political committee shall be reported by such political committee as a contribution to such candidate and shall be treated as a contribution by such political committee for purposes of the limitations imposed by this section."

And redesignate the following sections accordingly.

AMENDMENT NO. 2 TO H.R. 4970

On page 5, line 2, strike out "paragraph" and insert in lieu thereof "paragraphs".

On page 5 strike out "for goods" on line 7 and all that follows through line 20, and insert in lieu thereof the following:

by a person (other than a broadcasting station, newspaper or magazine, and who is not otherwise prohibited from extending credit under this Act) providing goods or services in connection with preparing or purchasing advertising on broadcasting stations, in newspapers or magazines or other similar types of general public political advertising, if such extension of credit is beyond the normal period of credit extended by such person in the ordinary course of business or 60 days from the date on which such goods or services are provided, whichever is less;

"(6) means, with respect to a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress and his authorized committees, any extension of credit or advance of funds in connection with the preparation for mailing, or mailing, of any materials which solicit funds for the purpose of influencing the election of such candidate; but";

On page 5, line 24, strike out "(6)" and insert in lieu thereof "(7)".

AMENDMENT NO. 3 TO H.R. 4970

On page 6 before line 1, insert the following new section, to be designated appropriately:

SEC. . Section 320(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by—

(1) inserting after the last paragraph the following new paragraph, to be designated appropriately:

( ) No candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress shall use contributions to such candidate and his authorized committees aggregating more than $35,000 to reimburse himself for expenditures from his personal funds (including funds derived from loans or from the personal funds of his immediate family) made by such candidate and his authorized committees in connection with (i) a general election and any primary or runoff election relating to such general election and (ii) a special election and any primary election or runoff election relating to such special election. For purposes of this paragraph, the term "immediate family" means a candidate's spouse and any child, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate, and the spouse of such persons.

And redesignate the following sections accordingly.●

A TRIBUTE TO DAVID LLOYD KREEGER

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, I had the privilege this weekend of attending a dinner and concert in honor of David Lloyd Kreeger of Washington, D.C., on his 70th birthday.

The event was arranged by seven organizations: The Kennedy Center, the Arena Stage, the Corcoran Gallery of Art, the National Symphony Orchestra, American University, the Washington Opera Society, and the Jewish Community Center.

Mr. Kreeger has served as a former chairman, present board member or continuing contributor to the work of all seven of these organizations.

As part of the evening, several outstanding musicians led by Mstislav Rostropovich, music director of the National Symphony Orchestra and the outstanding cellist, gave a performance in honor of Mr. Kreeger.

Mr. Speaker, few citizens of our country have given so much of their time, energy and resources in support of the arts in American life as has David Lloyd Kreeger and I take this opportunity to join in paying tribute to him and wishing him happy birthday.●

A TRIBUTE TO LARRY STERN

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, last month, during the August district work period, an outstanding journalist died and I take this opportunity to pay tribute to him.

I refer, Mr. Speaker, to Laurence M. Stern, of the Washington Post.

Although, Mr. Speaker, I did not have much opportunity to see and talk to Larry Stern in the last 2 or 3 years, I regarded him as a friend and one of the ablest journalists and most delightful human beings I have met since coming to Washington.

A splendid writer, a witty conversationalist, and a man with great zest for and pride in his profession, Larry Stern earned the confidence of journalists all over the world as well as of those of us in public life who came to know him.

One of his enduring contributions is a book, "The Wrong Horse," concerning U.S. policy toward Greece and Cyprus.

Mr. Speaker, I believe that the words of his colleagues on the Washington Post, Richard Harwood and Richard Cohen, speak far more eloquently than can I about the life of Larry Stern, and I insert an article by each about him at this point in the RECORD:

[From the Washington Post, Aug. 12, 1979]

LAURENCE STERN, PRIZE-WINNING POST EDITOR, DIES AT 50

(By Richard Harwood)

Laurence Marcus Stern, reporter, editor and author, died of a probable heart attack yesterday while jogging at Martha's Vineyard, Mass.

He was 50 years old.

Stern, an assistant managing editor of The Washington Post, was vacationing with old friends—Ward Just, John Newhouse, Jonathan Randal and Jim Hoagland. They played tennis yesterday and then Stern and Newhouse went jogging.

As they were running, Stern bent over, grabbed his ankle and said he had been stung by a bee. He collapsed. Newhouse gave mouth-to-mouth resuscitation. It didn't work. Stern was taken to Martha's Vineyard Hospital, but he was dead when he arrived.

Stern had been a writer and editor for The Post since 1952, winning awards and cutting a wide swath in both American and international journalism.

Benjamin Bradlee, executive editor of The Post, issued this statement:

"His paper and his friends will be a long time getting over the loss of Larry Stern. He was a world class journalist. He wrote like a dream, with grace and precision. His commitment to excellence, to his staff, to his friends and to The Washington Post will be an example for all of us."

Stern was a newspaper child. His father, Augustus (Gus) Stern worked in Washington for many years as a copy editor for various local newspapers, the last being The Post.

Larry Stern followed his father. He served in the Army after World War II and got a taste of journalism working for the military newspaper, The Stars and Stripes.

Thereafter, he was educated at the University of Missouri and the New School for Social Research in New York. He worked briefly for the former United States Information Agency and joined The Post in 1952 as a reporter on the metropolitan staff.

He took off in that business like a great running back—national reporter, national editor, foreign correspondent, editor of Style, and, finally, assistant managing editor for national news.

He wrote a much-admired book, "The Wrong Horse," which dealt with the tragedy of Cyprus, and he contributed to several other books. He wrote magazine articles and, even as an editor responsible for a large staff, constantly looked for opportunities to write. He found them frequently.

Stern had another informal function at The Post. He was a bridge between this country and journalists from around the world. They sought him out always—Vietnamese, Englishmen, Frenchmen, Turks, Greeks. That was a tribute to his international understanding and to his personality.

His career had an interesting progression. He won many awards writing about politics and corruption in the Washington metropolitan area. He moved then into the national arena and was singularly successful in dealing with the social and political issues of American life. But in the last years of his life, it was really international questions that absorbed his interest and energies.

He became, early in the '70s, The Post's first "Dulles Airport correspondent," available day or night to fly anywhere in the world for the big story. The job took him to Vietnam, Cambodia and Laos for almost two years, where he observed in combat the collapse of the American effort. He covered the war in Cyprus, reported from the Middle East, from Italy, from London, from Paris, from Greece.

British journalists intrigued him most of all. Among them, his friends were legion. He admired, especially the Insight team of the Sunday Times of London and set up his own Insight unit at The Post in the late 1960s. There was an "Insight" project at the top of his list when he died yesterday.

Stern, one of his subordinate editors said yesterday, was "something of an enigma. It became something of a newsroom conceit, after Larry had had a dialogue with a colleague, to say, 'I don't know what he said. I don't speak Zen.' This never detracted from the fact that Larry knew exactly what a news article should say and how it should be said."

One reporter on the national staff of The Post who had worked for Stern for several years volunteered this observation:

"When Larry Stern was working on the national staff as a reporter, you could feel the whole atmosphere change. He was a reporter who made a difference—not only because of what he contributed to the paper under his own byline but because of the standard he set for everyone around him. Other reporters found themselves writing with more life and crispness because he was there doing it—pushing the rest of us."

There was a certain disorganization about his life. He made too many luncheon dates on the same day. He loved many women. Budgets never enthralled him. His checkbook was not often tidy. It was a legend at The Post that Stern mumbled ambiguous instructions, might or might not show up for this meeting or that and probably would forget where he had parked his car.

But when it came to the job, to getting things done, he had no superior. He could produce instant and rather profound workbooks, newspaper series, essays.

The honors his own profession gave him were impressive—the George Polk Memorial Award, the American Political Science Association Award, the Headliners Club Award, the Newspaper Guild Award, the fellowship of the Carnegie Endowment for International Peace. He was proud, for reasons his friends never knew, of having been one of the inventors of a game called "Influence," a political version of Monopoly.

His children, Catherine O'Brien, Marcus, Gunther and Christopher, shared that pride.

One of Stern's friends responded to his death with a fragment from a poem.

Oh, I have slipped the surly bonds of earth.
And danced the skies on laughter's silvered wings.
Sunward I've climbed and joined the tumbling mirth
Of sunsplit clouds, and done a hundred things you've not dreamed of . . . .
And while with silent, lifting mind I've trod,
The high untrespassed sanctity of space,
Put out my hand and touched the face of God.

[From the Washington Post, Aug. 13, 1979]

I WILL TELL YOU ABOUT LARRY STERN

(By Richard Cohen)

Did you know him? Of course not. He was one of us. Our little secret. A gem. We did not share him with the world. He wrote, it is true. He wrote newspaper stories and magazine articles and a book, but the bigger part of him was still our secret. The smile for instance. You could not read that smile. I will tell you about him. I will tell you about Larry Stern.

He was 50 years old. He was short and walked very fast and had bad teeth and you had to see him as women did to realize that he was attractive. This was something women knew right off and men learned after a while and it was one of the reasons for the smile. He was a lover and he was loved in return.

He had been abroad a lot. He had been to the Wars—Vietnam, for instance—and to islands in the Caribbean where English bobbies fought to maintain order with police whistles. Wherever he had gone, he made friends and when these friends came to America, they stayed with Larry Stern. They made his house a roost for semi-crazy, semi-nomadic writers. They ate his food and slept in his beds and there never were enough ashtrays. They came often with lovers and always with files and Larry just passed among them, smiling, understanding that they might be silly and that he, of course, was skeptical but they were also committed. He respected them for that.

Women came to live with him. They came with cats and plants and their own friends and sometimes they just sat on the stoop and cried. Larry would pass among them, too, smiling—always smiling—trying to let you know that he, too, thought that by his age he would have had all this under control. He was not oblivious to himself at all. He knew that by rights he had escaped the house in the suburbs for too long. He would be punished for all this.

He talked funny. He was hard to understand. There was an electric buzz about him because he thought so fast. He mugged his own sentences, jumping all over them with contradictions and addendums and thoughts that came in from the side streets of his mind. It was one big, mad intersection inside his head and he himself knew it. He laughed even before he said the joke and then thought he had said it and waited for a laugh. He read a lot, too, and he would ask you what you were reading—what besides the newspaper—and before you could answer he would say what he was reading.

There are funny stories and sad stories and stories about how he took a Mercedes to the front during the Vietnam war. He wrote that one and the war came home—a crazy, meaningless war in which a journalist could take a car to the front and record on the way the death and the dying and the stupidity of it all. There are stories, too, about his forgetfulness and about how he talked. But there are no stories—none—about cheating or selling out or being lousy to people. Go wherever journalists gather and ask about Larry Stern and they will tell you the stories and about his smile, but not one will have anything bad to say about him.

He was 50 in June. It was hard to tell. He looked 50 some 15 years ago. He jogged and played tennis to keep himself in shape. But he also smoked—he could not quit that. He went to SmokEnders but it was like a drunk at the Salvation Army—just someone in from the rain. He stopped for a day or so and then smoked other people's cigarettes and then, finally, he went back to outright smoking.

There was a party for him when he turned 50. Lots of people came and they were from all over the world. His friends were there and the British journalists he liked so much and the State Department-types who knew the differences between doctrine and reality. He walked among us all, this little man, and wherever he went, he had this smile and this warmth. People liked to be near him, to touch him and if there was ever a man to envy, it was Larry Stern that night.

For him, there were no regrets. More than most men, he lived his life—lived it full and hard, and always he had that smile. I know that smile. It is the smile of the ghetto fool, the smile of a wise man forced to deal with the pompous, a man amused all the time because in his head is a wonderful theater. Stern had that sort of smile and he had that theater, too, and now, in a phone call that comes in the night, he is dead.

Now it is time to cry.

CONFERENCE REPORT ON H.R. 111, PANAMA CANAL ACT OF 1979

Mr. MURPHY of New York submitted the following conference report and statement on the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977.

CONFERENCE REPORT (H. REPT. No. 96-438)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Panama Canal Act of 1979".

TABLE OF CONTENTS

Sec.
1. Short title.
2. Statement of purpose.
3. Definitions and recommendation for legislation.

TITLE I—ADMINISTRATION AND REGULATIONS

CHAPTER 1—PANAMA CANAL COMMISSION

1101. Establishment of Commission.
1102. Supervisory Board.
1103. Administrator.
1104. Deputy Administrator and Chief Engineer.
1105. Consultative Committee.
1106. Joint Commission on the Environment.
1107. Travel expenses.
1108. Defense of the Panama Canal.
1109. Joint Sea Level Canal Study Committee.
1110. Authority of the Ambassador.
1111. Security legislation.
1112. Code of Conduct for Commission personnel.
1113. Office of Ombudsman.

CHAPTER 2—EMPLOYEES

Subchapter I—Panama Canal Commission Personnel

1201. Definitions.
1202. Appointment and compensation; duties.
1203. Transfer of Federal employees.
1204. Compensation of individuals in the uniformed services.
1205. Deduction from basic pay of amounts due for supplies or services.
1206. Cost of living allowance.
1207. Educational travel benefits.
1208. Privileges and immunities of certain employees.
1209. Inapplicability of certain benefits to certain noncitizens.

Subchapter II—Wage and Employment Practices

1211. Definitions.
1212. Panama Canal Employment System; merit and other employment requirements.
1213. Employment standards.
1214. Interim application of Canal Zone Merit System.
1215. Basic pay.
1216. Uniform application of standards and rates.
1217. Recruitment and retention remuneration.
1218. Benefits based on basic pay.
1219. Salary protection upon conversion of pay base.
1220. Review and adjustment of classifications, grades, and pay level.
1221. Panama Canal Board of Appeals; duties.
1222. Appeals to Board; procedure; finality of decisions.
1223. Administration by the President.
1224. Applicability of certain laws.
1225. Minimum level of pay; minimum annual increases.

Subchapter III—Conditions of Employment and Placement

1231. Transferred or reemployed employees.
1232. Placement.

Subchapter IV—Retirement

1241. Early retirement eligibility.
1242. Early retirement computation.
1243. Retirement under special treaty provisions.
1244. Obligation of Commission for unfunded liability.
1245. Cash relief to certain former employees.
1246. Appliances for employees injured before September 7, 1916.

Subchapter V—Leave

1251. Leave for jury or witness service.

Subchapter VI—Application to related Personnel

1261. Law enforcement; Canal Zone Civilian Personnel Policy Coordinating

Subchapter VII—Labor-Management Relations

1271. Labor-management relations.

CHAPTER 3—FUNDS AND ACCOUNTS

Subchapter I—Funds

1301. Canal Zone Government funds.
1302. Panama Canal Company funds; Commission funds.
1303. Emergency fund.

Subchapter II—Accounting Policies and Audits

1311. Accounting policies.
1312. Reports.
1313. Audit by the Comptroller General of the United States.

Subchapter III—Interagency Accounts

1321. Interagency services; reimbursements.

Subchapter IV—Postal Matters

1331. Postal service.

Subchapter V—Accounts With the Republic of Panama

1341. Payments to the Republic of Panama.
1342. Transactions with the Republic of Panama.
1343. Disaster relief.
1344. Congressional restraints on property transfers and tax expenditures.

CHAPTER 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

Subchapter I—General Provisions

1401. Settlement of claims generally.

Subchatper II—Vessel Damage

1411. Injuries in locks of Canal.
1412. Injuries outside locks.
1413. Measure of damages generally.
1414. Delays for which no responsibility is assumed.
1415. Settlement of claims.
1416. Actions on claims.
1417. Investigation of accident or injury giving rise to claim.
1418. Board of Local Inspectors.

CHAPTER 5—PUBLIC PROPERTY

1501. Assets and liabilities of Panama Canal Company.
1502. Transfers and cross-screening) 1012*:
1502. Transfers and cross-servicing between agencies.
1503. Disposition of property of the United States.
1504. Transfer of property to Panama.

CHAPTER 6—TOLLS FOR USE OF THE PANAMA CANAL

1601. Prescription of measurement rules and rates of tolls.
1602. Bases of tolls.
1603. Calculation of interest.
1604. Procedures.
1605. Interim toll adjustment.

CHAPTER 7—GENERAL REGULATIONS

1701. Authority of President.
1702. Authority of Commission.

CHAPTER 8—SHIPPING AND NAVIGATION

Subchapter I—Operation of Canal

1801. Operating regulations.

Subchapter II—Inspection of Vessels

1811. Vessels subject to inspection.
1812. Foreign vessels.
1813. Regulations governing inspection.

TITLE II—TREATY TRANSITION PERIOD

CHAPTER 1—LAWS CONTINUED IN FORCE

2101. Laws, regulations and administrative authority.

CHAPTER 2—COURTS

2201. Jurisdiction.
2202. Divisions and terms of District Court.
2203. Term of certain offices.
2204. Residence requirements.
2205. Special District Judge.
2206. Magistrates' courts.

CHAPTER 3—ATTORNEYS

2301. Oath of attorneys.

CHAPTER 4—TRANSITION AUTHORITY

2401. Transition authority of President.
2402. Prisons; parole; pardons.

TITLE III—GENERAL PROVISIONS

CHAPTER 1—CEMETERIES

3101. Disinterment, transportation, and reinterment of remains.

CHAPTER 2—IMMIGRATION

3201. Special immigrants.

CHAPTER 3—REPORT; AMENDMENTS; REPEALS AND REDESIGNATION; EFFECTIVE DATE

3301. Report.
3302. Amendments.
3303. Repeals and redesignation.
3304. Effective date.

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide legislation necessary or desirable for the implementation of the Panama Canal Treaty of 1977 between the United States of America and the Republic of Panama and of the related agreements accompanying that Treaty.

DEFINITIONS AND RECOMMENDATION FOR LEGISLATION

SEC. 3. (a) For purposes of this Act—

(1) references to the Panama Canal Treaty of 1977 refer to the Panamal Canal Treaty between the United States of America and the Republic of Panama, signed September 7, 1977; and

(2) references to the Panama Canal Treaty of 1977 and related agreements refer to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America

and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979.

(b) Subject to the provisions of subsection (c) of this section, for purposes of applying the Canal Zone Code or other laws of the United States and regulations issued pursuant to such Code or other laws with respect to transactions, occurrences, or status on or after the effective date of this Act—

(1) "Canal Zone" shall be deemed to refer to the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements;

(2) "Canal Zone waters" and "waters of the Canal Zone" shall be deemed to refer to "Panama waters" and "waters of the Panama Canal", respectively;

(3) "Government of the Canal Zone" or "Canal Zone Government" shall be deemed to refer to the United States of America;

(4) "Governor of the Canal Zone" or "Governor", wherever the reference is to the Governor of the Canal Zone, shall be deemed to refer to the Panama Canal Commission;

(5) "Panama Canal Company" or "Company", wherever the reference is to the Panama Canal Company, shall be deemed to refer to the Panama Canal Commission;

(6) in chapter 57 of title 5 of the Canal Zone Code, "hospitals" and "Health Bureau" shall be deemed to refer, respectively, to the hospitals operated by the United States in the Republic of Panama after the effective date of this Act, and to the organizational unit operating such hospitals; and

(7) in chapter 57 of title 5 of the Canal Zone Code, in section 4784 of title 6 of such Code, and in section 2 of title 7 of such Code, "health director" shall be deemed to refer to the senior official in charge of the hospitals operated by the United States in the Republic of Panama after the effective date of this Act.

(e) Any reference set forth in subsection (b) of this section shall apply except as otherwise provided in this Act or unless (1) such reference is inconsistent with the provisions of this Act, (2) in the context in which a term is used such reference is clearly not intended, or (3) a term refers to a time before the effective date of this Act.

(d) The President shall, within two years after the Panama Canal Treaty of 1977 enters into force, submit to the Congress a request for legislation which would—

(1) amend or repeal provisions of law which in their present form are applicable only during the transition period prescribed in Article XI of that Treaty.

(2) repeal the Canal Zone Code, and

(3) contain provisions considered necessary and appropriate in light of the experience as of that time under that Treaty.

TITLE I—ADMINISTRATION AND REGULATIONS

CHAPTER 1—PANAMA CANAL COMMISSION

ESTABLISHMENT OF COMMISSION

SEC. 1101. There is established in the executive branch of the United States Government an agency to be known as the Panama Canal Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall, under the general supervision of the Board established by section 1102 of this Act, be responsible for the maintenance and operation of the Panama Canal and the facilities and appurtenances related thereto. The authority of the President with respect to the Commission shall be exercised through the Secretary of Defense.

SUPERVISORY BOARD

SEC. 1102. (a) The Commission shall be supervised by a Board composed of nine members, one of whom shall be the Secretary of Defense or an officer of the Department of Defense designated by the Secretary. Not less than five members of the Board shall be nationals of the United States and the remaining members shall be nationals of the Republic of Panama. No member of the Board who is a national of the United States other than the Secretary of Defense or his designee and one other member shall hold any other office in or be employed by the Government of the United States. Members of the Board who are nationals of the United States shall cast their votes as directed by the Secretary of Defense or his designee.

(b) The President shall appoint the members of the Board. The members of the Board who are United States nationals shall be appointed by and with the advice and consent of the Senate. Each member of the Board shall hold office at the pleasure of the President and, before assuming the duties of his office. Members of the Board shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act.

(c) The Board shall hold meetings as provided in regulations adopted by the Commission and approved by the Secretary of Defense. A quorum for the transaction of business shall consist of a majority of the Board members of which a majority of those present are nationals of the United States.

ADMINISTRATOR

SEC. 1103. There shall be an Administrator of the Commission, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office at the pleasure of the President.

DEPUTY ADMINISTRATOR AND CHIEF ENGINEER

SEC. 1104. (a) There shall be a Deputy Administrator and a Chief Engineer of the Commission, both of whom shall be appointed by the President. The Deputy Administrator and the Chief Engineer shall perform such duties as may be prescribed by the President.

(b) The Deputy Administrator and the Chief Engineer shall each be paid compensation at a rate of pay established by the President which does not exceed the rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

CONSULTATIVE COMMITTEE

SEC. 1105. (a) The President shall designate, and the Secretary of State shall coordinate the participation of, representatives of the United States to the Consultative Committee to be established under paragraph 7 of Article III of the Panama Canal Treaty of 1977.

(b) The Consultative Committee shall function as a diplomatic forum for the exchange of views between the United States and the Republic of Panama. The Committee shall advise the United States Government and the Government of the Republic of Panama on matters of policy affecting the operation of the Panama Canal. The Committee shall have no authority to direct the Commission or any other department agency of the United States to initiate or withhold action.

JOINT COMMISSION ON THE ENVIRONMENT

SEC. 1106. (a) The United States and the Republic of Panama, in accordance with the Panama Canal Treaty of 1977, shall establish a Joint Commission on the Environment thereinafter in this section referred to as the "Joint Commission" to be composed of not more than three representatives of the United States and three representatives of the Republic of Panama, or such other equivalent numbers of representatives as may be agreed upon by the Governments of the two countries. The United States members of the Joint Commission shall periodically review the implementation of the Panama Canal Treaty of 1977 with respect to its impact on the environment and shall, jointly with the representatives of the Government of Panama, make recommendations to the United States Government and the Government of the Republic of Panama with respect to ways to avoid or mitigate adverse environmental impacts resulting from actions taken pursuant to such Treaty.

(b) Representatives of the United States on the Joint Commission shall be appointed by the President and shall serve at the pleasure of the President. Such representation shall serve without compensation but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in accordance with section 1107 of this Act.

(c) Any Federal employee subject to the civil service laws and regulations who is detailed to serve with, or appointed by, the United States representatives on the Joint Commission shall not lose any pay, seniority, or other rights or benefits by reason of such detail or appointment.

(d) The United States representatives on the Joint Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, appoint and fix the compensation of such personnel as the representatives of the United States on the Joint Commission may consider necessary for the participation of the United States on the Joint Commission.

(e) The United States representatives on the Joint Commission may, in cooperation with the representatives of the Republic of Panama on the Joint Commission, establish rules of procedure to be used by the Joint Commission in conducting its affairs, subject to the approval of such rules by the Governments of the United States and the Republic of Panama.

TRAVEL EXPENSES

SEC. 1107. While away from their homes, regular places of business, or official stations in performance of services under this chapter, members of the Board of the Commission and the representatives of the United States on the Consultative Committee referred to in section 1105 of this Act and on the Joint Commission on the Environment referred to in section 1106 of this Act shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

DEFENSE OF THE PANAMA CANAL

SEC. 1108. In the event of an armed attack against the Panama Canal, or when, in the opinion of the President, conditions exist which threaten the security of the Canal, the Administrator of the Commission shall, upon the order of the President, comply with such directives as the United States military officer charged with the protection and defense of the Panama Canal may consider necessary in the exercise of his duties.

JOINT SEA LEVEL CANAL STUDY COMMITTEE

SEC. 1109. (a) The President shall appoint the representatives of the United States to any joint committee or body with the Republic of Panama to study the possibility of a sea level canal in the Republic of Panama pursuant to Article XII of the Panama Canal Treaty of 1977.

(b) Upon the completion of any joint study between the United States and the Republic of Panama concerning the feasibility of a sea level canal in the Republic of Panama pursuant to paragraph 1 of Article XII of the Panama Canal Treaty of 1977, the text of the study shall be transmitted by the President to the President of the Senate and to the Speaker of the House of Representatives.

(c) No construction of a sea level canal by the United States in the Republic of Panama shall be undertaken except with express congressional authorization after submission

of the study by the President as provided in subsection (b) of this section.

AUTHORITY OF THE AMBASSADOR

SEC. 1110. (a) The United States Ambassador to the Republic of Panama shall have full responsibility for the coordination of the transfer to the Republic of Panama of those functions that are to be assumed by the Republic of Panama pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b)(1) The Commission shall not be subject to the direction or supervision of the United States Chief of Mission to the Republic of Panama with respect to the responsibilities of the Commission for the operation, management, or maintenance of the Panama Canal, as established in this or any other Act or in the Panama Canal Treaty of 1977 and related agreements, except that the Commission shall keep the Ambassador fully and currently informed with respect to all activities and operations of the Commission.

(2) Except as provided in paragraph (1) of this subsection, section 16 of the Act of August 1, 1956 (22 U.S.C. 2680a), shall apply with respect to the activities of the Commission.

SECURITY LEGISLATION

SEC. 1111. It is the sense of the Congress that the best interests of the United States require that the President enter into negotiations with the Republic of Panama for the purpose of arranging for the stationing of United States military forces, after the termination of the Panama Canal Treaty of 1977, in the area comprising the Canal Zone before the effective date of this Act, and for the maintenance of installations and facilities, after the termination of such Treaty, for the use of United States military forces stationed in such area. The President shall report to the Congress in a timely manner the status of negotiations conducted pursuant to this section.

CODE OF CONDUCT FOR COMMISSION PERSONNEL

SEC. 1112. (a) Before assuming the duties of his office or employment, each member of the Board of the Commission and each officer and employee of the Commission shall take an oath to discharge faithfully the duties of his office or employment. All employees of the Commission shall be subject to the laws of the United States regarding duties and responsibilities of Federal employees.

(b) Not later than 60 days after all the members of the Board of the Commission have been appointed, the Board shall adopt a code of conduct applicable to the persons referred to in subsection (a) of this section. The code of conduct shall contain provisions substantially equivalent to those contained in part 735 of title 5 of the Code of Federal Regulations on the effective date of this Act. The code of conduct shall, at a minimum, contain provisions substantially equivalent to the following provisions of laws:

(1) the provisions of chapter 11 of title 18, United States Code, as amended, relating to bribery, graft, or conflicts of interest, as appropriate to the employees concerned;

(2) section 7352 of title 5, United States Code, as amended;

(3) sections 207, 208, 285, 508, 641, 645, 1001, 1917, and 2071 of title 18, United States Code, as amended;

(4) section 5 of the Act of July 16, 1914 (31 U.S.C. 638a), as amended;

(5) the Ethics in Government Act of 1978 (92 Stat. 1824), as amended; and

(6) those provisions of the laws and regulations of the Republic of Panama which are substantially equivalent to those of the United States set forth in this subsection.

(c) The Commission shall investigate any allegations regarding the violation of the code of conduct adopted pursuant to subsection (b) of this section. The Commission may recommend that the President suspend from the performance of his duties any member of the Board of the Commission or any officer or employee of the Commission, pending judicial proceedings by appropriate authorities concerning such allegations.

(d) The President shall negotiate suitable arrangements with the Republic of Panama whereby each nation shall agree to take all measures within its legal authority to assure that members of the Board of the Commission comply with the code of conduct established pursuant to subsection (b) of this section. Without prejudice to such jurisdiction as the United States may have with respect to members of the Board, the provisions of law enumerated in subsection (b) of this section shall be enforced with respect to members of the Board only in accordance with such arrangements.

OFFICE OF OMBUDSMAN

SEC. 1113. (a) There is established within the Commission an Office of Ombudsman, to be directed by an Ombudsman, who shall be appointed by the Commission. It shall be the function of the Office of Ombudsman to receive individual complaints, grievances, requests, and suggestions of employees (and their dependents) of the Commission and other departments and agencies of the United States, including the Smithsonian Institution, conducting operations before the effective date of this Act in the area then comprising the Canal Zone concerning administrative problems, inefficiencies, and conflicts caused within departments and agencies of the United States, including the Smithsonian Institution, as a result of the implementation of the Panama Canal Treaty of 1977 and related agreements.

(b) The Ombudsman shall make findings and render assistance with respect to the complaints, grievances, requests, and suggestions submitted to the Office of Ombudsman, and shall make appropriate recommendations to the Commission or any other department or agency of the United States, including the Smithsonian Institution.

(c) The establishment of the Office of Ombudsman shall not affect any procedures for grievances, appeals, or administrative matters in any other provision of this Act, any other provision of law, or any Federal regulation.

(d) The Ombudsman shall be a citizen of the United States.

(e) The Office of Ombudsman shall terminate upon the termination of the Panama Canal Treaty of 1977.

CHAPTER 2—EMPLOYEES

Subchapter I—Panama Canal Commission Personnel

DEFINITIONS

SEC. 1201. As used in this chapter—

(1) "Executive agency has the meaning given that term in section 105 of title 5, United States Code;

(2) "uniformed services has the meaning given that term in section 2101(3) of title 5, United States Code;

(3) "competitive service has the meaning given that term in section 2102 of title 5, United States Code; and

(4) "United States, when used in a geographic sense, means each of the several States and the District of Columbia.

APPOINTMENT AND COMPENSATION; DUTIES

SEC. 1202. (a) In accordance with this chapter, the Panama Canal Commission may appoint without regard to the provisions of title 5, United States Code, relating to appointments in the competitive services, fix the compensation of, and define the authority and duties of, officers, agents, attorneys, and employees (other than the Administrator, Deputy Administrator, and Chief Engineer) necessary for the management, operation, and maintenance of the Panama Canal and its complementary works, installations, and equipment.

(b) Individuals serving in any Executive agency (other than the Commission) or the Smithsonian Institution, including individuals serving in the uniformed services, may, if appointed under this section or section 1103 or 1104 of this Act, serve as officers or employees of the Commission.

TRANSFER OF FEDERAL EMPLOYEES

SEC. 1203. (a) The head of any agency may enter into agreements for the transfer or detail to the Commission of any employee of that agency serving under a permanent appointment. Any employee who so transfers or is so detailed shall, upon completion of the employee's tour of duty with the Commission, be entitled to reemployment with the agency from which the employee was transferred or detailed without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had the employee not been so transferred or been so detailed.

(b) For purposes of this section, the term "agency" means an Executive agency, the United States Postal Service, and the Smithsonian Institution.

(c) The Office of Personnel Management shall prescribe regulations to carry out the purposes of this section.

COMPENSATION OF INDIVIDUALS IN THE UNIFORMED SERVICES

SEC. 1204. (a) Except as provided in subsection (b) of this section, any individual who is serving in a position in the Commission and who is a member of a uniformed service shall continue to be paid basic pay by such uniformed service and shall not be paid by the Commission for the period of the service in the uniformed service involved.

(b) If the individual appointed as Administrator, Deputy Administrator, or Chief Engineer of the Commission is a member of a uniformed service, the amount of basic pay otherwise payable to the individual for service in that position shall be reduced, up to the amount of that basic pay, by the amount of the basic pay payable to the individual as a member of a uniformed service.

(c) The Commission shall annually pay to each uniformed service amounts sufficient to reimburse that uniformed service for any basic pay paid by that uniformed service to any member of that service during any period of service in the Commission by the member.

DEDUCTION FROM BASIC PAY OF AMOUNTS DUE FOR SUPPLIES OR SERVICES

SEC. 1205. The Commission may deduct from the basic pay otherwise payable by the Commission to any officer or employee of the Commission any amount due from the officer or employee to the Commission or to any contractor of the Commission for transportation, board, supplies, or any other service. Any amount so deducted may be paid by the Commission to any contractor to whom it is due or may be credited by the Commission to any appropriation from which the Commission has expended such amount.

COST OF LIVING ALLOWANCE

SEC. 1206. Effective beginning October 1, 1984, each officer and employee of the Commission who is a citizen of the United States and was employed by the Panama Canal Company or the Canal Zone Government on September 30, 1979, or who is an individual of any nationality recruited outside the Republic of Panama after September 30, 1979, may be paid an allowance to offset any increased cost of living which may result from the termination of the eligibility of the officer or employee and his dependents to use military postal services, sales stores, and exchanges. The amount of the allowance may be determined by the Commission.

EDUCATIONAL TRAVEL BENEFITS

SEC. 1207. (a) The Commission shall provide by regulation for round-trip transporta-

tion between the Republic of Panama and the United States or, in the case of an employee described in paragraph (2) of this subsection, between the Republic of Panama and the country in which such employee is recruited, for undergraduate college education for dependents of employees of the Commission who—

(1) are United States citizens who were employed by the Panama Canal Company or the Canal Zone Government on September 30, 1979, or

(2) are recruited outside the Republic of Panama after that date.

(b) The regulations prescribed by the Commission under this section shall—

(1) provide eligibility requirements which must be met by such dependents to qualify for transportation under this section, including a requirement that all eligible dependents must be under 23 years of age; and

(2) limit the transportation provided to one round trip during any one-year period.

PRIVILEGES AND IMMUNITIES OF CERTAIN EMPLOYEES

SEC. 1208. The Secretary of Defense shall designate those officers and employees of the Commission and other individuals entitled to the privileges and immunities accorded under paragraph 3 of Article VIII of the Panama Canal Treaty of 1977. The Department of State shall furnish to the Republic of Panama a list of the names of such officers, employees, and other individuals and shall notify the Republic of Panama of any subsequent additions to or deletions from the list.

INAPPLICABILITY OF CERTAIN BENEFITS TO CERTAIN NONCITIZENS

SEC. 1209. (a) Chapter 81 of title 5, United States Code, relating to compensation for work injuries, chapter 83 of such title 5, relating to civil service retirement, chapter 87 of such title 5, relating to life insurance, and chapter 89 of such title 5, relating to health insurance, are inapplicable to any individual—

(1) who is not a citizen of the United States;

(2) whose initial appointment by the Commission occurs after October 1, 1979; and

(3) who is covered by the Social Security System of the Republic of Panama pursuant to any provision of the Panama Canal Treaty of 1977 and related agreements.

(b) Subparagraph (B) of section 8701(a) of title 5, United States Code, defining the term employee for purposes of life insurance, is amended to read as follows:

"(B) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone; or".

(c) Clause (ii) of section 8901(1) of title 5, United States Code, defining the term employee for purposes of health insurance, is amended to read as follows:

"(ii) an individual who is not a citizen or national of the United States and whose permanent duty station is outside the United States, unless the individual was an employee for the purpose of this chapter on September 30, 1979, by reason of service in an Executive agency, the United States Postal Service, or the Smithsonian Institution in the area which was then known as the Canal Zone;".

Subchapter II—Wage and Employment Practices

DEFINITIONS

SEC. 1211. As used in this subchapter—

(1) "agency" means—

(A) the Commission, and

(B) an Executive agency or the Smithsonian Institution, to the extent of any election in effect under section 1212(b)(2) of this Act;

(2) "position" means a civilian position in the Commission, or in any other agency if a substantial portion of the duties and responsibilities are performed in the Republic of Panama; and

(3) "employee" means an individual serving in a position.

PANAMA CANAL EMPLOYMENT SYSTEM; MERIT AND OTHER EMPLOYMENT REQUIREMENTS

SEC. 1212. (a) After considering any recommendations of the Commission, the President shall establish a Panama Canal Employment System. The Panama Canal Employment System shall—

(1) be established in accordance with and be subject to the provisions of the Panama Canal Treaty of 1977 and related agreements, the provisions of this chapter, and any other applicable provision of law;

(2) be based on the consideration of the merit of each employee or candidate for employment and the qualifications and fitness of the employee to hold the position concerned;

(3) conforms, to the extent practicable and consistent with the provisions of this Act, to the policies, principles, and standards applicable to the competitive service; and

(4) in the case of employees who are citizens of the United States, provide for the appropriate interchange of those employees between positions under the Panama Canal Employment System and positions in the competitive service.

(b)(1) The Commission, and any Executive agency and the Smithsonian Institution to the extent of any election under paragraph (2) of this subsection, shall conduct their employment and pay practices relating to employees in accordance with the Panama Canal Employment System and regulations prescribed by, or under the authority of, the President in accordance with this subchapter.

(2) The head of any Executive agency and the Smithsonian Institution may elect to have the Panama Canal Employment System made applicable in whole or in part to personnel of that agency in the Republic of Panama.

(c) Subject to the provisions of this chapter, the President may, from time to time and after considering any recommendation of the Commission, amend or modify any provision of the Panama Canal Employment System, including any provision relating to selection for appointment, reappointment, reinstatement, reemployment, and retention, with respect to positions, employees, and candidates for employment.

(d) The President may, to the extent the President determines appropriate—

(1) exclude any employee or position from coverage under any provision of this subchapter; and

(2) notwithstanding section 1202 of this Act, extend to any employee, whether or not the employee is a citizen of the United States, the rights and privileges which are provided by applicable laws and regulations for citizens of the United States employed in the competitive service.

EMPLOYMENT STANDARDS

SEC. 1213. The head of each agency shall establish written standards for—

(1) determining the qualifications and fitness of employees and of candidates for employment in positions; and

(2) selecting individuals for appointment, promotion, or transfer to positions.

The standards shall conform to the provisions of this subchapter, any regulations prescribed thereunder, and the Panama Canal Employment System.

INTERIM APPLICATION OF CANAL ZONE MERIT SYSTEM

SEC. 1214. Notwithstanding any repeal made by this Act or any provision of this chapter, the provisions of subchapter III of chapter 7 of title 2 of the Canal Zone Code establishing the Canal Zone Merit System, together with the regulations prescribed thereunder, as in effect on September 30, 1979, shall continue in effect and shall apply with respect to employees until the Panama Canal Employment System is established and in effect pursuant to section 1212 of this Act.

BASIC ACT

SEC. 1215. (a) The head of each agency, in accordance with the provisions of this subchapter, shall establish, and from time to time may revise, the rates of basic pay for positions and employees in the agency.

(b) The rates of basic pay may be established and revised in relation to the rates of basic pay for the same or similar work performed in the United States or in such areas outside the United States as may be designated in the regulations prescribed under section 1223 of this Act.

(c) The head of each agency may make adjustments in rates of basic pay established under subsection (b) of this section in amounts not to exceed the amounts of the adjustments made from time to time by or under statute in the corresponding rates of basic pay for the same or similar work referred to in such subsection (b). The head of the agency may designate the effective date of any such adjustment, except that that date may not be earlier than the effective date of the adjustment in the corresponding rate of basic pay.

UNIFORM APPLICATION OF STANDARDS AND RATES

SEC. 1216. The standards established pursuant to section 1213 of this Act and the rates of basic pay established pursuant to section 1215 of this Act shall be applied without regard to whether the employee or individual concerned is a citizen of the United States or a citizen of the Republic of Panama.

RECRUITMENT AND RETENTION REMUNERATION

SEC. 1217. (a) In addittion to basic pay, additional compensation may be paid, in such amounts as the head of the agency concerned determines, as an overseas recruitment or retention differential to any individual who—

(1) before October 1, 1979, was employed by the Panama Canal Company, by the Canal Zone Government, or by any other agency in the area then known as the Canal Zone;

(2) is an employee who was recruited on or after October 1, 1979, outside of the Republic of Panama for placement in the Republic of Panama; or

(3) is a medical doctor employed by the Department of Defense in the Republic of Panama or by the Commission:

if, in the judgment of the head of the agency concerned, the recruitment or retention of the individual is essential.

(b) Any employee described in more than one paragraph of subsection (a) of this section may qualify for a recruitment or retention differential under only one of those paragraphs.

(c) Additional compensation provided under this section may not exceed 25 percent of the rate of basic pay for the same or similar work performed in the United States by individuals employed by the Government of the United States.

(d) Subchapter III of chapter 59 of title 5, United States Code, relating to overseas differentials and allowances, shall not apply with respect to any employee whose permanent duty station is in the Republic of Panama and who is employed by an agency.

BENEFITS BASED ON BASIC PAY

SEC. 1218. For the purpose of determining—

(1) amounts of compensation for disability or death under chapter 81 of title 5, United States Code, relating to compensation for work injuries;

(2) benefits under subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement;

(3) amounts of insurance under chapter 87 of title 5, United States Code, relating to life insurance;

(4) amounts of overtime pay or other premium pay;

(5) annual leave benefits; and

(6) any other benefits related to basic pay;

the basic pay of each employee shall include the rate of basic pay established for his position under section 1215 of this Act plus the amount of any additional compensation provided under section 1217 of this Act.

SALARY PROTECTION UPON CONVERSION OF PAY BASE

SEC. 1219. (a) In the case of any employee whose rate of basic pay is determined in relation to rates of basic pay for the same or similar work in the United States and which is converted to a rate of basic pay pursuant to section 1215(b) of this Act which is determined in relation to rates in areas other than the United States pursuant to such section 1215(b), the employee shall continue to receive a rate of basic pay not less than that to which the employee was entitled immediately before the conversion.

(b) This section shall cease to apply with respect to any employee if the employee is placed in a position—

(1) for which the rate of basic pay is determined in relation to rates of basic pay in the United States pursuant to section 1215(b) of this Act; or

(2) which is of a lower grade.

REVIEW AND ADJUSTMENT OF CLASSIFICATIONS, GRADES, AND PAY LEVEL

SEC. 1220. An employee may request at any time that the employee's agency—

(1) review the classification of the employee's position or the grade or pay level for the employee's position, or both; and

(2) revise or adjust that classification, grade or pay level, or both, as the case may be.

The request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedures of the agency.

PANAMA CANAL BOARD OF APPEALS; DUTIES

SEC. 1221. (a) Subject to the provisions of this chapter, the President shall prescribe regulations establishing a Panama Canal Board of Appeals. The regulations shall provide for the number of members of the Board and their appointment, compensation, and terms of office, the selection of a Chairman of the Board, the appointment and compensation of the Board's employees, and other appropriate matters relating to the Board.

(b) The Board shall review and determine the appeals of employees in accordance with section 1222 of this Act. The decisions of the Board shall conform to the provisions of this subchapter.

APPEALS TO BOARD; PROCEDURE; FINALITY OF DECISIONS

SEC. 1222. (a) An employee may appeal to the Panama Canal Board of Appeals from an adverse determination made by an agency under section 1220 of this Act. The appeal shall be made in writing within a reasonable time (as specified in regulations prescribed by, or under the authority of, the President) after the date of the transmittal by the agency to the employee of written notice of the adverse determination.

(b) The Board may authorize, in connection with an appeal pursuant to subsection (a) of this section, a personal appearance before the Board by the employee, or by a representative of the employee designated for that purpose.

(c) After investigation and consideration of the evidence submitted, the Board shall—

(1) prepare a written decision on the appeal;

(2) transmit its decision to the agency concerned; and

(3) transmit copies of the decision to the employee concerned or to the designated representative.

(d) The decision of the Board on any question or other matter relating to an appeal is final and conclusive. The agency concerned shall take action in accordance with the decision of the Board.

ADMINISTRATION BY THE PRESIDENT

SEC. 1223. (a) The President shall prescribe regulations necessary and appropriate to carry out the provisions of this subchapter and coordinate the policies and activities of agencies under this subchapter.

(b) The President may establish an office within the Commission as the successor to the Canal Zone Central Examining Office. The purpose of the office shall be to assist the President in—

(1) carrying out the President's coordination responsibility under subsection (a) of this section; and

(2) implementing the provisions of the Panama Canal Treaty of 1977 and related agreements with respect to recruitment, examination, determination of qualification standards, and similar matters.

(c) The President may delegate any authority vested in the President by this subchapter and may provide for the redelegation of that authority.

APPLICABILITY OF CERTAIN LAWS

SEC. 1224. This chapter does not affect the applicability of—

(1) the provisions of title 5, United States Code, which relate to preference eligibles;

(2) the provisions of title 5, United States Code, which relate to removal or suspension from the competitive service; and

(3) the provisions of section 5544(a) of title 5, United States Code, which relate to wage-board overtime and Sunday rates, with respect to classes of employees who were covered by those provisions on the date of the enactment of this Act.

MINIMUM LEVELS OF PAY; MINIMUM ANNUAL INCREASES

SEC. 1225. (a) Subsection (f) of section 13 of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(f)), relating to applicability to employees in foreign countries and certain United States possessions, is amended by striking out "Johnston Island; and the Canal Zone." and inserting in lieu thereof "and Johnston Island.".

(b)(1) Effective October 1, 1979, each individual employed by an Executive agency or the Smithsonian Institution, whose permanent duty station is located within an area or installation in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, shall be paid basic pay at a rate of not less than $2.90 an hour.

(2) Effective on October 1 of each succeeding calendar year, the rate of basic pay for each individual referred to in paragraph (1) of this subsection whose basic pay is not fixed in relation to rates of basic pay for the same or similar work performed in the United States shall be increased by an amount equal to not less than 2 percent of the rate of basic pay for that individual in effect immediately before that date.

Subchapter III—Conditions of Employment and Placement

TRANSFERRED OR REEMPLOYED EMPLOYEES

SEC. 1231. (a)(1) With respect to any individual employed in the Panama Canal Company or the Canal Zone Government—

(A) who is transferred—

(i) to a position in the Commission; or

(ii) to a position in an Executive agency or in the Smithsonian Institution the permanent duty station of which is in the Republic of Panama (including the area known before October 1, 1979, as the Canal Zone); or

(B) who is separated by reason of a reduction in force on September 30, 1979, and is appointed to a position in the Commission before April 1, 1980;

the terms and conditions of employment set forth in paragraph (2) of this subsection shall be generally no less favorable, on or after the date of the transfer referred to in subparagraph (A) of this paragraph or the date of the appointment referred to in subparagraph (B) of this paragraph, as the case may be, than the terms and conditions of employment with the Panama Canal Company and Canal Zone Government on September 30, 1979, or, in the case of a transfer described in subparagraph (A)(ii) of this paragraph which takes place before that date, on the date of the transfer.

(2) The terms and conditions of employment referred to in paragraph (1) of this subsection are the following:

(A) rates of basic pay;

(B) tropical differential;

(C) premium pay and night differential;

(D) reinstatement and restoration rights;

(E) injury and death compensation benefits;

(F) leave and travel;

(G) transportation and repatriation benefits;

(H) group health and life insurance;

(I) reduction-in-force rights;

(J) an employee grievance system, and the right to appeal adverse and disciplinary actions and position classification actions;

(K) veterans' preference eligibility;

(L) holidays;

(M) saved pay provisions; and

(N) severance pay benefits.

(3)(A) The provisions of this subsection shall take effect on the date of the enactment of this Act.

(B) No spending authority (as described in section 401(c)(2)(C) of the Congressional Budget Act of 1974) provided for under this subsection shall take effect before October 1, 1979.

(C) Effective October 1, 1979, any individual who, but for subparagraph (B) of this paragraph, would have been entitled to one or more payments pursuant to this subsection for periods before October 1, 1979, shall be entitled, to the extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such payments.

(b) Any individual described in subsection (a)(1)(B) of this section who would have met the service requirement for early retirement benefits under section 8336 (1) or 8339(d)(2) of title 5, United States Code (as amended by sections 1241(a) and 1242 of this Act, respectively), but for a break in service of more than 3 days immediately after September 30, 1979, shall be considered to meet that requirement. Any break in service by any such individual for purposes of sections 8232 of such title 5 during the period beginning September 30, 1979, and ending on the date of the appointment referred to in such subsection (a)(1)(B) shall be considered a period of creditable service under such section 8332 for such individual, except that such period shall not be taken into account for purposes of determining average pay (as defined in section 8331(4) of such title 5 and no deduction, contribution, or deposit shall be required for that period under section 8334 of such title 5.

(c)(1) Section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903 (c)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation estab-

lished under section 5(c) of such Act equal or exceed the rates of basic compensation then in effect for teachers who were so transferred.

(2) Section 6(a)(2) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S. 904(a)(2)) shall not apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama.

(3)(A) The head of a department or agency of the United States may grant a sabbatical to any teacher to whom paragraph (1) of this subsection applies for not to exceed 11 months in order to permit the teacher to engage in study or uncompensated work experience which is in the United States and which will contribute to the teacher's development and effectiveness. Basic compensation shall be paid to teachers on sabbatical under this section in the same manner and to the same extent as basic compensation would have been paid to teachers on sabbatical while employed in the Canal Zone Government school system on the day before the effective date of this Act. A sabbatical shall not result in a loss of, or reduction in, leave to which the teacher is otherwise entitled, credit for time or service, or performance or efficiency rating. The head of the department or agency may authorize in accordance with chapter 57 of title 5, United States Code, such travel expenses (including per diem allowance) as the head of the department or agency may determine to be essential for the study or experience.

(B) A sabbatical under this paragraph may not be granted to any teacher—

(i) more than once in any 10-year period;

(ii) unless the teacher has completed 7 years of service as a teacher; and

(iii) if the teacher is eligible for voluntary retirement with a right to an immediate annuity.

(C)(i) Any teacher in a department or agency of the United States may be granted a sabbatical under this paragraph only if the teacher agrees, as a condition of accepting the sabbatical, to serve in the civil service upon the completion of the sabbatical for a period of two consecutive years.

(ii) Each agreement required under clause (i) of this subparagraph shall provide that in the event the teacher fails to carry out the agreement (except for good and sufficient reason as determined by the head of the department or agency that granted the sabbatical) the teacher shall be liable to the United States for payment of all expenses (including salary) of the sabbatical. The amount shall be treated as a debt due the United States.

(d) Sections 5595(a)(2)(iii), 5724a(a)(3) and (4), and 8102(b) of title 5, United States Code, are each amended by striking out "Canal Zone" each place it appears and inserting in lieu thereof "areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)."

PLACEMENT

SEC. 1232. (a) Any citizen of the United States—

(1) who, on March 31, 1979, was an employee of the Panama Canal Company or the Canal Zone Government;

(2) who separates or is scheduled to separate on or after such date for any reason other than misconduct or delinquency; and

(3) who is not placed in another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(b) Any citizen of the United States—

(1) who, on March 31, 1979, was employed in the Canal Zone as an employee of an Executive agency (other than the Panama Canal Company or the Canal Zone Government) or the Smithsonian Institution;

(2) whose position is eliminated as the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(3) who is not appointed to another appropriate position in the Government of the United States in the Republic of Panama;

shall, upon the employee's request, be accorded appropriate assistance for placement in vacant positions in the Government of the United States in the United States.

(c) The Office of Personnel Management shall establish and administer a Government-wide placement program for all eligible employees who request appointment to positions under this section.

(d) The provisions of this section shall take effect on the date of the enactment of this Act.

Subchapter IV—Retirement

EARLY RETIREMENT ELIGIBILITY

SEC. 1241. (a) Section 8336 of title 5, United States Code, is amended—

(1) in subsection (c), by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2) An employee is entitled to an annuity if the employee—

"(A) was a law enforcement or firefighter employed by the Panama Canal Company or the Canal Zone Government at any time during the period beginning March 31, 1979, and ending September 30, 1979; and

"(B) is separated from the service before January 1, 2000, after becoming 48 years of age and completing 18 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 18 years."; and

(2) by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i)(1) An employee of the Panama Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama who is separated from the service before January 1, 2000, who was employed by the Canal Zone Government or the Panama Canal Company at any time during the period beginning March 31, 1979, and ending September 30, 1979, and who has had continuous Panama Canal service, without a break in service of more than 3 days, from that time until separation, is entitled to an annuity if the employee is separated—

"(A) involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service, if the separation is a result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; or

"(B) voluntarily, after completing 23 years of service or after becoming 48 years of age and completing 18 years of service.

"(2) An employee of the Panama Canal Commission or of an Executive agency conducting operations in the Canal Zone or Republic of Panama who is separated from the service before January 1, 2000, who was employed at a permanent duty station in the Canal Zone, by any Executive agency other than the Canal Zone Government or the Panama Canal Company at any time during the period beginning March 31, 1979, and ending September 30, 1979, and who has had continuous Panama Canal service, without a break in service of more than 3 days, from that time until separation, is entitled to an annuity if—

"(A) the employee is separated involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service; and

"(B) the separation is the result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements.

"(3) For the purpose of this subsection—

"(A) 'Panama Canal service' means—

"(i) service as an employee of the Canal Zone Government, the Panama Canal Company, or the Panama Canal Commission; or

"(ii) service at a permanent duty station in the Canal Zone or Republic of Panama as an employee of an Executive agency conducting operations in the Canal Zone or the Republic of Panama; and

"(B) 'Executive agency' includes the United States District Court for the District of the Canal Zone and the Smithsonian Institution.".

(b)(1) The amendments made by this section shall take effect on the date of the enactment of this Act, but no amount of annuity under chapter 83 of title 5, United States Code, accruing by reason of those amendments shall be payable for any period before October 1, 1979.

(2) Effective October 1, 1979, any individual who, but for paragraph (1) of this subsection, would have been entitled to one or more annnuity payments pursuant to the amendments made by this section for periods before October 1, 1979, shall be entitled, to such extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such annuity payments.

EARLY RETIREMENT COMPUTATION

SEC. 1242. Section 8339(d) of title 5, United States Code, is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraphs:

"(2) The annuity of an employee retiring under this subchapter who was employed by the Panama Canal Company or Canal Zone Government on September 30, 1979, is computed with respect to the period of continuous Panama Canal service from that date, disregarding any break in service of not more than 3 days, by adding—

"(A) 2½ percent of the employee's average pay multiplied by so much of that service as does not exceed 20 years; plus

"(B) 2 percent of the employee's average pay multiplied by so much of that service as exceeds 20 years.

"(3)(A) In the case of an employee who has service as a law enforcement officer or firefighter to which paragraph (2) of this subsection applies, the annuity of that employee is increased by $8 for each full month of that service which is performed in the Republic of Panama.

"(B) In the case of an employee retiring under this subchapter who—

"(1) was employed as a law enforcement officer or firefighter by the Panama Canal Company or Canal Zone Government at any time during the period beginning March 31, 1979, and ending September 30, 1979; and

"(ii) does not meet the age and service requirements of section 8336(c) of this title; the annuity of that employee is increased by $12 for each full month of that service which occurred before October 1, 1979.

"(C) An annuity increase under this paragraph does not apply with respect to service performed after completion of 20 years of service (or any combination of service) as a law enforcement officer or firefighter.

"(4) For the purpose of this subsection—

"(A) 'Panama Canal service' means—

"(i) service as an employee of the Panama Canal Commission; or

"(ii) service at a permanent duty station in the Canal Zone or Republic of Panama as an employee of an Executive agency conducting operations in the Canal Zone or Republic of Panama; and

"(B) 'Executive agency' includes the Smithsonian Institution.".

(b)(1) The amendments made by this section shall take effect on the date of the enactment of this Act, but no amount of annuity under chapter 83 of title 5, United States Code, accruing by reason of those amendments shall be payable for any period before October 1, 1979.

(2) Effective October 1, 1979, any individual who, but for paragraph (1) of this subsection, would have been entitled to one or more annuity payments pursuant to the amendments made by this section for periods before October 1, 1979, shall be entitled, to such extent or in such amounts as are provided in advance in appropriation Acts, to a lump sum payment equal to the total amount of all such annuity payments.

RETIRED UNDER SPECIAL TREATY PROVISIONS

SEC. 1243. (a)(1) Subject to subsection (b) of this section, and under such regulations as the President may prescribe, the Secretary of the Treasury shall pay to the Social Security System of the Republic of Panama, out of funds deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund under section 8334(a)(2) of title 5, United States Code, such sums of money as may be necessary to aid in the purchase of a retirement equity in such System for each individual who—

(A) meets the requirements of paragraph (2) of this subsection;

(B) is separated from employment in the Panama Canal Company, the Canal Zone Government, or the Commission by reason of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; and

(C) becomes employed in a position covered by the Social Security System of the Republic of Panama through the transfer of a function or activity to the Republic of Panama from the United States or through a job placement assistance program.

(2) This subsection applies with respect to any individual only if the individual—

(A) has been credited with at least 5 years of civilian service under section 8332 of title 5, United States Code, relating to creditable service for purposes of civil service retirement;

(B) is not eligible for an immediate retirement annuity under chapter 83 of title 5, United States Code, relating to civil service retirement, and elects not to receive a deferred annuity under that chapter based on any portion of that service; and

(C) elects to withdraw from the Civil Service Retirement and Disability Fund the individual's entire lump-sum credit (as defined in section 8331(8) of title 5, United States Code) and to transfer that amount to the Social Security System of the Republic of Panama pursuant to the special regime referred to in paragraph 3 of Article VIII of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

(b) The amount paid to the Social Security System of the Republic of Panama with respect to any individual under subsection (a) of this section shall not exceed the individual's entire lump-sum credit (as so defined).

(c)(1) Pursuant to paragraph 2(b) of Annex C to the Agreement in Implementation of Article IV of the Panama Canal Treaty of 1977, the President, or the President's designee, shall purchase from a source determined by the President to be appropriate, in accordance with such regulations as the President or the President's designee may prescribe, and to such extent or in such amounts as may be provided in advance in appropriations Acts, a nontransferable deferred annuity for the benefit of each employee of an agency or instrumentality of the Government of the United States in the Republic of Panama—

(A) who is not a citizen of the United States;

(B) who was employed on October 1, 1979, and during any period before that date by an agency or instrumentality of the Government of the United States at any permanent duty station in the Republic of Panama (including, with respect to employment before that date, the area then known as the Canal Zone);

(C) who, for any period of service with such agency or instrumentality before October 1, 1979, at any such permanent duty station was not covered, by reason of that service, by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama; and

(D) who, on October 1, 1979, is under a Federal retirement system and, on or before that date, has accrued in one or more agencies or instrumentalities of the United States a total of 5 years or more of service which—

(i) is creditable toward any Federal retirement system as in effect on October 1, 1979;

(ii) would have been creditable toward any such retirement system if the retirement system were in effect at the time of the service accrued by the employee; or

(iii) consists of any combination of service described in clauses (i) and (ii) of this subparagraph.

(2) The retirement annuity referred to in paragraph (1) of this subsection with respect to any employee will cover retroactively, from October 1, 1979, all periods of service, described in subparagraph (D) of that paragraph, by that employee at any permanent duty station in the Republic of Panama (including the area known before that date as the Canal Zone) in agencies and instrumentalities of the Government of the United States during which that employee was not covered by the United States Civil Service Retirement System or any other Federal retirement system providing benefits similar to those retirement benefits provided by the Social Security System of the Republic of Panama.

OBLIGATION OF COMMISSION FOR UNFUNDED LIABILITY

SEC. 1244. Section 8348 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(1)(1) Notwithstanding any other provision of law, the Panama Canal Commission shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to or on behalf of employees and their survivors to the extent attributable to the amendments made by sections 1241 and 1242, and the provisions of sections 1231(b) and 1243(a)(1), of the Panama Canal Act of 1979.

"(2) The estimated increase in the unfunded liability referred to in paragraph (1) of this subsection shall be determined by the Office of Personnel Management. The Secretary of the Treasury shall pay to the Fund from appropriations for that purpose the amount so determined in annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.".

CASH RELIEF TO CERTAIN FORMER EMPLOYEES

SEC. 1245 (a) The Commission, under the regulations prescribed by the President pursuant to the Act entitled "An Act authorizing cash relief for certain employees of the Panama Canal not coming within the provisions of the Canal Zone Retirement Act", approved July 8, 1937, as amended (50 Stat. 478; 68 Stat. 17), may continue the payments of cash relief to those individual former employees of the Canal Zone Government or Panama Canal Company or their predecessor agencies not coming within the scope of the former Canal Zone Retirement Act whose services were terminated prior to October 5, 1958, because of unfitness for further useful service by reason of mental or physical disability resulting from age or disease. Subject to subsection (b) of this section, that cash relief may not exceed $1.50 per month for each year of service of the employees so furnished relief, with a maximum of $45 per month, plus the amount of any cost-of-living increases in such cash relief granted before October 1, 1979, pursuant to section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), nor be paid to any employee who, at the time of termination for disability prior to October 5, 1958, had less than 10 years' service with the Canal Zone Government, the Panama Canal Company, or their predecessor agencies on the Isthmus of Panama.

(b) An additional amount of $20 per month shall be paid to each person who receives payment of cash relief under subsection (a) of this section and shall be allowed without regard to the limitations contained therein.

(c) Each cash relief payment made pursuant to this section shall be increased on the same effective date and by the same percent, adjusted to the nearest dollar, as civil service retirement annuities are increased under the cost-of-living adjustment provisions of section 8340(b) of title 5, United States Code. Such increase shall apply only to cash relief payments made after October 1, 1979, as increased by annuity increases made after that date under such section 8340(b).

(d) The Commission may pay cash relief to the widow of any former employee of the Canal Zone Government or the Panama Canal Company who, until the time of his death, receives or has received cash relief under subsection (a) of this section, under section 181 of title 2 of the Canal Zone Code (as in effect on September 30, 1979), or under the Act of July 8, 1937, referred to in such subsection (a). The term "widow" as used in this subsection includes only the following:

(1) a woman legally married to such employee at the time of his termination for disability and at his death;

(2) a woman who, although not legally married to such former employee at the time of his termination, had resided continuously with him for at least five years immediately preceding the employee's termination under such circumstances as would at common law make the relationship a valid marriage and who continued to reside with him until his death; and

(3) a woman who has not remarried or assumed a common-law relationship with any other person.

Cash relief granted to such a widow shall not at any time exceed 50 percent of the rate at which cash relief, inclusive of any additional payment under subsection (b) of this section, would be payable to the former employee were he then alive.

(e) Subchapter III of chapter 83 of title 5, United States Code, applies with respect to those individuals who were in the service of the Canal Zone Government or the Panama Canal Company on October 5, 1958, and who, except for the operation of section 13(a)(1) of the Act entitled "An Act to implement item 1 of a Memorandum of Understanding attached to the treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone", approved July 25, 1958 (72 Stat. 405), would have been within the classes of individuals subject to the Act of July 8, 1937, referred to in subsection (a) of this section.

APPLIANCES FOR EMPLOYEES INJURED BEFORE SEPTEMBER 7, 1916

SEC. 1246. Artificial limbs or other appliances may be purchased by the Commission, out of any funds appropriated to the Com-

mission, for persons who were injured in the service of the Isthmian Canal Commission or of the Panama Canal before September 7 1916.

Subchapter V—Leave

LEAVE FOR JURY OR WITNESS SERVICE

SEC. 1251. Section 6322(a) of title 5, United States Code, is amended—

(1) by striking out "the Canal Zone, or"; and

(2) by striking out "Islands." and inserting in lieu thereof "Islands, or the Republic of Panama.".

Subchapter VI—Application to Related Personnel

LAW ENFORCEMENT; CANAL ZONE CIVILIAN PERSONNEL POLICY COORDINATING BOARD; RELATED EMPLOYEES

SEC. 1261. (a) For the purposes of sections 1206, 1231, 1232, 1241, and 1242 of this Act, including any amendment made by those sections, the United States Attorney for the District of the Canal Zone and the Assistant United States Attorneys and their clerical assistants, and the United States Marshal for the District of the Canal Zone and his deputies and clerical assistants shall be considered employees of the Commission.

(b) For the purposes of this Act, including any amendment made by this Act, the Executive Director of the Canal Zone Civilian Personnel Policy Coordinating Board, the Manager, Central Examining Office, and their staffs shall be considered to have been employees of the Panama Canal Company with respect to service in those positions before October 1, 1979, and as employees of the Commission with respect to service in those positions on or after that date.

(c) The provisions of this section shall take effect on the date of the enactment of this Act.

Subchapter VII—Labor-Management Relations

LABOR-MANAGEMENT RELATIONS

SEC. 1271. (a) Nothing in this Act shall be construed to affect the applicability of chapter 71 of title 5, United States Code, relating to labor-management and employee relations, with respect to the Commission or the operations of any other Executive agency conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, except that in applying those provisions—

(1) the definition of "employee" shall be applied without regard to clause (i) of section 7103(a)(2) of such title 5 which relates to nationality and citizenship; and

(2) a unit shall be considered to be appropriate notwithstanding the fact that it includes any supervisor if that supervisor's position (or type of position) was, before October 1, 1979, represented before the Panama Canal Company by a labor organization that included employees who were not supervisors.

(b) Labor-management and employee relations of the Commission, other Executive agencies, and the Smithsonian Institution, their employees, and organizations of those employees, in connection with operations conducted in that area of the Republic of Panama which, on September 30, 1979, was the Canal Zone, shall be governed and regulated solely by the applicable laws, rules, and regulations of the United States.

CHAPTER 3—FUNDS AND ACCOUNTS

Subchapter I—Funds

CANAL ZONE GOVERNMENT FUNDS

SEC. 1301. On the effective date of this Act, any unexpended balances of the appropriation accounts appearing on the books of the United States Government as "Operating Expenses, Canal Zone Government (38-0116-0-1-806)" and "Capital Outlay, Canal Zone Government (38-0118-0-1-806)" shall be covered into the general fund of the Treasury, and any appropriations to which expenditures under such accounts have been chargeable before such effective date are repealed. The Commission may, to such extent or in such amounts as are provided in appropriation Acts to the Commission for such purpose, pay claims or make payments chargeable to such accounts, upon proper audit of such claims or payments. There are authorized to be appropriated to the Commission such funds as may be necessary to pay claims and make payments pursuant to this section.

PANAMA CANAL COMPANY FUNDS; COMMISSION FUNDS

SEC. 1302. (a) On the effective date of this Act, the account appearing on the books of the United States Government as the "Panama Canal Company Fund (38-4060-0-3-403)" shall be terminated, and any unexpended balances under such account as of that date shall be covered into the Treasury in an account to be known as the "Panama Canal Commission Fund".

(b) On or after the effective date of this Act, tolls for the use of the Panama Canal and all other receipts of the Commission that, before such effective date, would have been credited to the account appearing on the books of the Government as the "Panama Canal Company Fund (38-4060-0-3-403)" shall be deposited in the Treasury in the Panama Canal Commission Fund.

(c)(1) No funds may be appropriated to or for the use of the Commission, nor may any funds be obligated or expended by the Commission for any fiscal year, unless such appropriation, obligation, or expenditure has been specifically authorized by law.

(2) No funds may be appropriated to or for the use of the Commission for any fiscal year in excess of (A) the amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year, as such amount is estimated by the Secretary of Defense and certified by the Comptroller General of the United States at the time the budget request for the Commission for such fiscal year is submitted to the Congress, plus (B) the amount of revenues deposited in such Fund prior to such fiscal year and remaining unexpended at the beginning of such fiscal year. Not later than thirty days after the end of such fiscal year, the Secretary of the Treasury shall report to the Congress the actual amount of revenues deposited in the Panama Canal Commission Fund during such fiscal year.

(d) The Commission may, to such extent or in such amounts as are provided in advance in appropriation Acts, enter into contracts in order to carry out its functions.

(e)(1) It is the sense of the Congress that the additional costs resulting from implementation of the Panama Canal Treaty of 1977 and related agreements should be kept to the absolute minimum level. To this end, the Congress declares that the direct appropriated costs of implementation to be borne by the taxpayers over the life of such Treaty should be kept to a level no greater than the March 1979 estimate of those costs ($870,700,000) presented to the Congress by the executive branch during consideration of this Act by the Congress, less personnel retirement costs of $205,000,000, which were subtracted and charged to tolls, therefore resulting in the net taxpayer cost of approximately $665,700,000, plus appropriate adjustment for inflation.

(2) It is further the sense of the Congress that the actual costs of implementation be consistent with the obligations of the United States to operate the Panama Canal safely and efficiently and keep it secure.

EMERGENCY FUND

SEC. 1303. (a) On the effective date of this Act, the Secretary of the Treasury shall establish and thereafter shall maintain in the Treasury a fund to be known as the "Panama Canal Emergency Fund". There are authorized to be appropriated for deposit in such Fund (1) for the fiscal year beginning on October 1, 1979, $40,000,000, and (2) for any fiscal year beginning on or after October 1, 1980, such additional sums as may be specifically authorized by law for such fiscal year.

(b) The Commission may make withdrawals from the Panama Canal Emergency Fund by check in order to defray emergency expenses and to insure the continuous, efficient, and safe operation of the Panama Canal, if funds appropriated for the operation and maintenance of the Canal are insufficient for such purposes. Any withdrawal from such Fund to cover increased costs attributable to unprogrammed increases in traffic may not be made in amounts greater than the revenues from such increased traffic. Such Fund shall not be available for payments to Panama under Article XIII of the Panama Canal Treaty of 1977. Any withdrawal from such Fund or expenditure made under this subsection shall be reported forthwith by the Commission to the Congress and to the Office of Management and Budget.

Subchapter II—Accounting Policies and Audits

ACCOUNTING POLICIES

SEC. 1311. (a) The Commission shall establish and maintain its accounts pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.) and the provisions of this chapter. Such accounts shall specify all revenues received by the Commission, including tolls for the use of the Panama Canal, expenditures for capital replacement, expansion, and improvement, and all costs of maintenance and operation of the Panama Canal and of its complementary works, installations, and equipment, including depreciation, payments to the Republic of Panama under the Panama Canal Treaty of 1977, and interest on the investment of the United States calculated in accordance with section 1603 of this Act.

(b) The Commission may issue regulations establishing the basis of accounting for the assets which are made available for the use of the Commission. Such regulations may provide for depreciation of the net replacement value of the assets which will ultimately require replacement to maintain the service capacity of the Panama Canal. Such regulations may also provide that depreciation of such assets be recorded ratably over their service lives.

REPORTS

SEC. 1312. The Commission shall, not later than January 31 of each year, submit to the President and the Congress a financial statement and a complete report with respect to the maintenance and operation of the Panama Canal during the preceding fiscal year.

AUDIT BY THE COMPTROLLER GENERAL OF THE UNITED STATES

SEC. 1313. (a) Financial transactions of the Commission shall be audited by the Comptroller General of the United States (hereinafter in this Act referred to as the "Comptroller General") pursuant to the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.). In conducting any audit pursuant to such Act, the appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission and necessary to facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. An audit pursuant to such Act shall first be conducted with respect to the fiscal year in which this Act becomes effective.

(b) The Comptroller General shall, not later than six months after the end of each fiscal year, submit to the Congress a report of the audit conducted pursuant to subsec-

tion (a) of this section with respect to such fiscal year. Such report shall set forth the scope of the audit and shall include—

(1) a statement of assets and liabilities, capital, and surplus or deficit, based on the accounts of the Panama Canal Commission established pursuant to this chapter,

(2) a statement of income and expenses,

(3) a statement of sources and application of funds,

(4) a statement listing all direct and indirect costs incurred by the United States in implementing the Panama Canal Treaty of 1977, including the cost of property transferred to the Republic of Panama during each fiscal year, and

(5) such comments and information as the Comptroller General considers necessary to keep the Congress informed of the operations and financial transactions of the Commission, together with such recommendations with respect to such operations and transactions as the Comptroller General considers advisable.

The report shall identify specifically any program expenditure, or other financial transaction or undertaking observed in the course of the audit which, in the opinion of the Comptroller General, has been carried out or made and has not been authorized by law. The Comptroller General shall submit a copy of each such report to the President, the Secretary of the Treasury, and the Commission.

(c) In conducting the audits and preparing the reports provided for in this section and in carrying out his other responsibilities pursuant to law, the Comptroller General shall, with respect to fiscal year 1980, take into account the problems inherent in converting the existing accounting system of the Panama Canal Company to conform to the requirements established in section 1311 of this Act. Accordingly, the Comptroller General shall take no adverse action with respect to the Commission, nor shall any violation of section 3679 of the Revised Statutes (31 U.S.C. 665) be considered to have taken place, so long as the Commission is in substantial compliance with the requirements of this Act. The Comptroller General shall make such recommendations to the Commission and to the Congress as he may consider appropriate to insure that full compliance with the financial controls provided for in the Accounting and Auditing Act of 1950 (31 U.S.C. 65 et seq.) is achieved promptly.

Subchapter III—Interagency Accounts

INTERAGENCY SERVICES; REIMBURSEMENTS

SEC. 1321. (a) The Commission shall reimburse the Employees' Compensation Fund, Bureau of Employee's Compensation, Department of Labor, for the benefit payments to the Commission's employees, and shall also reimburse other Government departments and agencies for payments of a similar nature made on its behalf.

(b) The Department of Defense shall reimburse the Commission for amounts expended by the Commission in maintaining defense facilities in standby condition for the Department of Defense.

(c) Notwithstanding any other provision of law, funds appropriated (for any fiscal year beginning after September 30, 1979) to or for the use of the Department of Defense, or to any other department or agency of the United States as may be designated by the President to carry out the purposes of this subsection, shall be available for—

(1) conducting the educational and health care activities, including kindergartens and college, carried out by the Canal Zone Government and the Panama Canal Company before the effective date of this Act, and

(2) providing the services related thereto to the categories of persons to which such services were provided before such effective date.

Notwithstanding any other provision of law, the Department of Defense, or any department or agency designated by the President to provide health care services to those categories of persons referred to in this subsection, shall provide such services to such categories of person on a basis no less favorable than that applied to its own employees and their dependents.

(d) Amounts expended for furnishing services referred to in subsection (c) of this section to persons eligible to receive them, less amounts payable by such persons, shall be fully reimbursable to the department or agency furnishing the services, except to the extent that such expenditures are the responsibility of that department or agency. The appropriations or funds of the Commission shall be available for such reimbursements on behalf of—

(1) employees of the Commission, and

(2) other persons authorized to receive such services who are eligible to receive them pursuant to the Panama Canal Treaty of 1977 and related agreements.

The appropriations or funds of any other department or agency of the United States conducting operations in the Republic of Panama, including the Smithsonian Institution, shall be available for reimbursements on behalf of employees of such department or agency and their dependents.

(e) The appropriations or funds of the Commission, or of any other department or agency of the United States conducting operations in the Republic of Panama, shall be available, in accordance with subsection (d) of this section, to defray the cost of—

(1) health care services to elderly or disabled persons who were eligible to receive such services before the effective date of this Act, less amounts payable by such persons, and

(2) educational services provided by schools in the Republic of Panama, which are not operated by the United States, to persons who were receiving such services at the expense of the Canal Zone Government before the effective date of this Act.

(f) For purposes of the reimbursement of the United States by the Republic of Panama for the salaries and other employment costs of employees of the Commission who are assigned to assist the Republic of Panama in the operation of activities which are transferred to that Government as a result of any provision of the Panama Canal Treaty of 1977 and related agreements, which reimbursement is provided for in paragraph 8 of Article 10 of that Treaty, the Commission shall be deemed to be the United States of America.

(g) Notwithstanding any other provision of law, the President, through the appropriate department or agency of the United States, shall, until January 1, 2000, operate the educational institution known as the "Canal Zone College". Such institution shall continue to provide, insofar as practicable, the level of services which it offered immediately before the effective date of this Act.

Subchapter IV—Postal Matters

POSTAL SERVICE

SEC. 1331. (a) The postal service established and governed by chapter 73 of title 2 of the Canal Zone Code shall be discontinued on October 1, 1979.

(b) The provisions of chapter 73 of such title 2 relating to postal-savings deposits, postal-savings certificates, postal money orders, and the accounting for funds shall continue to apply for the purpose of meeting the obligations of the United States concerning outstanding postal savings and money orders and disposition of funds.

(c) The Commission shall take possession of and administer the funds of the postal service referred to in subsection (a) of this section and shall assume its obligations. The Commission and the United States Postal Service may enter into agreements for the transfer of funds or property and the assumption of administrative rights or responsibilities with respect to the outstanding obligations of the postal service referred to in subsection (a) of this section. Any transfer or assumption (including any agreement for such transfer or assumption) pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(d) Mail addressed to the Canal Zone from or through the continental United States may be routed by the United States Postal Service to the military post offices of the United States Forces in the Republic of Panama. Such military post offices shall provide the required directory services and shall accept such mail to the extent permitted under the Panama Canal Treaty of 1977 and related agreements. The Commission shall furnish personnel, records, and other services to such military post offices to assure wherever appropriate the distribution, rerouting, or return of such mail.

(e)(1) The second sentence of section 403(a) of title 39, United States Code, is amended by striking out "Except as provided in the Canal Zone Code, the" and inserting in lieu therefore "The".

(2) Section 3401(b) of such title is amended—

(A) by inserting "or" before "the Virgin Islands"; and

(B) by striking out "or the Canal Zone,".

(3)(A) Section 3402 of such title is repealed.

(B) The table of sections for chapter 34 of title 39, United States Code, is amended by repealing the item relating to section 3402.

(4) Section 3682(b)(5) of such title is amended by striking out "the Canal Zone and".

Subchapter V—Accounts With the Republic of Panama

PAYMENTS TO THE REPUBLIC OF PANAMA

SEC. 1341. (a) The Commission shall pay to the Republic of Panama those payments required under paragraph 5 of Article III and paragraph 4 of Article XIII of the Panama Canal Treaty of 1977. Payments made under paragraph 5 of Article III of such Treaty shall be audited annually by the Comptroller General and any overpayment, as determined in accordance with Understanding (1) incorporated in the Resolution of Ratification of the Panama Canal Treaty (adopted by the United States Senate on April 18, 1978), for the services described in that paragraph which are provided shall be refunded by the Republic of Panama or set off against amounts payable by the United States to the Republic of Panama under paragraph 5 of Article III of the Panama Canal Treaty of 1977.

(b) In determining whether operating revenues exceed expenditures for the purpose of payments to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977, such operating revenues in a fiscal period shall be reduced by (1) all costs of such period as shown by the accounts established pursuant to section 1311 of this Act, and (2) the cumulative sum from prior years (beginning with the year in which the Panama Canal Treaty of 1977 enters into force) of any excess of costs of the Panama Canal Commission over operating revenues.

(c) In accordance with paragraph 1 of Article IX of the Panama Canal Treaty of 1977, it is the sense of the Congress that organizations and businesses operating and individuals living in the Canal Zone before the effective date of this Act should not be taxed retroactively by the Government of the Republic of Panama.

(d) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 at the termination of such Treaty shall be payable only to the extent of any operating surplus in the last

year of the Treaty's duration, and nothing in such paragraph may be construed as obligating the United States to pay after the date of the termination of the Treaty any such unpaid balance which has accrued before such date.

(e) No payments may be made to the Republic of Panama under paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977 unless unexpended funds are used to pay all costs associated with the maintenance and operation of the Panama Canal, including, but not limited to, (1) operating expenses determined in accordance with generally accepted accounting principles, (2) payments to the Republic of Panama under paragraphs 4(a) and 4(b) of such Article XIII and under paragraph 5 of Article III of such Treaty, (3) amounts in excess of depreciation and amortization which are programed for plant replacement, expansion, and improvements, and (4) interest.

(f) The prohibitions contained in this section and in sections 1302(c) and 1503 of this Act shall apply notwithstanding any other provision of law authorizing transfers of funds between accounts, reprograming of funds, use of funds for contingency purposes, or waivers of prohibitions.

TRANSACTIONS WITH THE REPUBLIC OF PANAMA

SEC. 1342. The Commission may, on a reimbursable basis, provide to the Republic of Panama materials, supplies, equipment, work, or services, including water and electric power, requested by the Republic of Panama, at such rates as may be agreed upon by the Commission and the Republic of Panama. Payment for such materials, supplies, equipment, work, or services may be made by direct payment by the Republic of Panama to the Commission or by offset against amounts due the Republic of Panama by the United States.

DISASTER RELIEF

SEC. 1343. If an emergency arises because of disaster or calamity by flood, hurricane, earthquake, fire, pestilence, or like cause, not foreseen or otherwise provided for, and occurring in the Republic of Panama in such circumstances as to constitute an actual or potential hazard to health, safety, security, or property in the areas and installations made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, the Commission may expend available funds appropriated to the Commission for such purpose, and utilize or furnish materials, supplies, equipment, and services for relief, assistance, and protection.

CONGRESSIONAL RESTRAINTS ON PROPERTY TRANSFERS AND TAX EXPENDITURES

SEC. 1344. (a) The Congress enacts this section in the exercise of its authority under Article IV, section 3, clause 2 of the Constitution of the United States to dispose of and make necessary rules and regulations with respect to property of the United States.

(b) Prior to the transfer of property of the United States located in the Republic of Panama to the Republic of Panama pursuant to section 1504 of this Act the President shall formally advise the Government of Panama that—

(1) in fulfilling its obligations under the Panama Canal Treaty of 1977, the United States shall make no payments to the Republic of Panama derived from tax revenues of the United States;

(2) the United States retains full discretion and authority to determine whether and the extent to which tax revenues of the United States may be expended in exercising United States rights and carrying out United States responsibilities under the Panama Canal Treaty of 1977 and related agreements;

(3) no tax revenues of the United States shall be made available for obligations and expenditure after the effective date of this Act for purposes of implementing the Panama Canal Treaty of 1977 and related agreements, unless hereafter specifically approved by the Congress through the authorization and appropriation process;

(4) the total amount expended by the Commission from funds appropriated to or for the use of the Commission shall not exceed the total amount deposited in the Panama Canal Commission Fund; and

(5) the foregoing paragraphs of this subsection do not apply to expenditures made by the United States in fulfilling United States obligations to transfer the remains of our honored dead from Mount Hope Cemetery in the former Canal Zone to an appropriate and dignified resting place in accordance with Reservation 3 to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal.

CHAPTER 4—CLAIMS FOR INJURIES TO PERSONS OR PROPERTY

Subchapter I—General Provisions

SETTLEMENT OF CLAIMS GENERALLY

SEC. 1401. (a) Subject to the provisions of this chapter, the Commission may adjust and pay claims for injury to, or loss of, property or for personal injury or death, arising from the operation of the Panama Canal or related facilities and appurtenances.

(b) No claim for an amount exceeding $50,000 shall be adjusted and paid by the Commission under the provisions of this subchapter.

(c) An award made to a claimant under this section shall be payable out of any moneys appropriated for or made available to the Commission. The acceptance by the claimant f the award shall be final and conclusive on the claimant, and shall constitute a complete release by the claimant of his claim against the United States and against any employee of the United States acting in the course of his employment who is involved in the matter giving rise to the claim.

(d) Except as provided in section 1416 of this Act, no action for damages on claims cognizable under this chapter shall lie against the United States or the Commission, and no such action shall lie against any officer or employee of the United States. Neither this section nor section 1416 of this Act shall preclude actions against officers or employees of the United States for injuries resulting from their acts outside the scope of their employment or not in the line of their duties, or from their acts committed with the intent to injure the person or property of another.

(e) The provisions of section 1346(b) of title 28, United States Code, and the provisions of chapter 171 of such title shall not apply to claims cognizable under this chapter.

Subchapter II—Vessel Damage

INJURIES IN LOCKS OF CANAL

SEC. 1411. The Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels, which may arise by reason of their passage through the locks of the Panama Canal under the control of officers or employees of the United States. Damages may not be paid where the injury was proximately caused by the negligence or fault of the vessel, master, crew, or passengers. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. Damages may not be allowed and paid for injuries to any protrusion beyond any portion of the hull of a vessel whether it is permanent or temporary in character. A vessel is considered to be passing through the locks of the Canal, under the control of officers or employees of the United States, from the time the first towing line is made fast on board before entrance into the locks and until the towing lines are cast off upon, or immeditely prior to, departure from the lock chamber.

INJURIES OUTSIDE LOCKS

SEC. 1412. The Commission shall promptly adjust and pay damages for injuries to vessels, or to the cargo, crew, or passengers of vessels which may arise by reason of their presence in the Panama Canal, or waters adjacent thereto, other than the locks, when the injury was proximately caused by negligence or fault on the part of an officer or employee of the United States acting within the scope of his employment and in the line of his duties in connection with the operation of the Canal, and when the amount of the claim does not exceed $120,000. If the negligence or fault of the vessel, master, crew, or passengers proximately contributed to the injury, the award of damages shall be diminished in proportion to the negligence or fault attributable to the vessel, master, crew, or passengers. In the case of a vessel which is required by or pursuant to regulations prescribed pursuant to section 1801 of this Act to have a Panama Canal pilot on duty aboard, damages may not be adjusted and paid for injuries to the vessel, or its cargo, crew, or passengers, incurred while the vessel was underway and in motion, unless at the time the injuries were incurred the navigation or movement of the vessel was under the control of a Panama Canal pilot.

MEASURE OF DAMAGES GENERALLY

SEC. 1413. In determining the amount of the award of damages for injuries to a vessel for which the Commission is determined to be liable, there may be included—

(1) the actual or estimated cost of repairs;

(2) charter hire actually lost by the owners, or charter hire actually paid, depending upon the terms of the charter party, for the time the vessel is undergoing repairs;

(3) maintenance of the vessel and wages of the crew, if they are found to be actual additional expenses or losses incurred outside of the charter hire; and

(4) other expenses which are definitely and accurately shown to have been incurred necessarily and by reason of the accident or injuries.

Agent's fees, or commissions, or other incidental expenses of similar character, or any items which are indefinite, indeterminable, speculative, or conjectural may not be allowed. The Commission shall be furnished such vouchers, receipts, or other evidence as may be necessary in support of any item of a claim. If a vessel is not operated under charter but by the owner directly, evidence shall be secured if available as to the sum for which vessels of the same size and class can be chartered in the market. If the charter value cannot be determined, the value of the vessel to its owners in the business in which it was engaged at the time of the injuries shall be used as a basis for estimating the damages for the vessel's detention; and the books of the owners showing the vessel's earnings about the time of the accident or injuries shall be considered as evidence of probable earnings during the time of detention. If the books are unavailable, such other evidence shall be furnished as may be necessary.

DELAYS FOR WHICH NO RESPONSIBILITY IS ASSUMED

SEC. 1414. The Commission is not responsible, and may not consider any claim, for demurrage or delays caused by—

(1) landslides or other natural causes;

(2) necessary construction or maintenance work on Canal locks, terminals, or equipment;

(3) obstruction arising from accidents;

(4) time necessary for admeasurement;

(5) congestion of traffic;

(6) time necessary for investigation of marine accidents; or

(7) except as specially set forth in this subchapter, any other cause.

SETTLEMENT OF CLAIMS

SEC. 1415. (a) Subject to subsection (b) of this section, the Commission, by mutual agreement, compromise, or otherwise, may adjust and determine the amounts of the respective awards of damages pursuant to this subchapter. Such amounts shall be payable promptly out of any moneys appropriated or allotted for the maintenance and operation of the Panama Canal. Acceptance by a claimant of the amount awarded to him shall be deemed to be in full settlement of such claim against the Government of the United States.

(b) The Commission shall not adjust and pay any claim for damages for injuries arising by reason of the presence of the vessel in the Panama Canal or adjacent waters outside the locks where the amount of the claim exceeds $120,000 but shall submit the claim to the Congress in a special report containing the material facts and the recommendation of the Commission thereon.

ACTIONS ON CLAIMS

SEC. 1416. A claimant for damages pursuant to section 1411 of this Act who considers himself aggrieved by the findings, determination, or award of the Commission in reference to his claim may bring an action on the claim against the Commission in the United States District Court for the Eastern District of Louisiana. Subject to the provisions of this chapter and of applicable regulations issued pursuant to section 1801 of this Act relative to navigation of the Panama Canal and adjacent waters, such actions shall proceed and be heard by the court without a jury according to the principles of law and rules of practice obtaining generally in like cases between a private party and a department or agency of the United States. Any judgment obtained against the Commission in an action under this subchapter shall be paid out of any moneys appropriated or allotted for the maintenance and operation of the Panama Canal. An action for damages cognizable under this section shall not otherwise lie against the United States or the Commission, nor in any other court, than as provided in this section; nor may it lie against any officer or employee of the United States or of the Commission.

INVESTIGATION OF ACCIDENT OR INJURY GIVEN RISE TO CLAIM

SEC. 1417. Notwithstanding any other provision of law, a claim may not be considered under this subchapter, or an action for damages lie thereon, unless, prior to the departure from the Panama Canal of the vessel involved—

(1) an investigation by the competent authorities of the accident or injury giving rise to the claim has been completed; and

(2) the basis for the claim has been laid before the Commission.

BOARD OF LOCAL INSPECTORS

SEC. 1418. (a) The President shall provide for the establishment of a Board of Local Inspectors of the Panama Canal Commission which shall perform, in accordance with regulations prescribed by the President—

(1) the investigations required by section 1417 of this Act; and

(2) such other duties with respect to marine matters as may be assigned by the President.

(b) In conducting any investigation pursuant to subsection (a) of this section, the Board of Local Inspectors established pursuant to such subsection may summon witnesses, administer oaths, and require the production of books and papers necessary for such investigation.

CHAPTER 5—PUBLIC PROPERTY

ASSETS AND LIABILITIES OF PANAMA CANAL COMPANY

SEC. 1501. All property and other assets of the Panama Canal Company shall revert to the United States on the effective date of this Act, and, except as otherwise provided by law, the United States shall assume the liabilities, including contractual then outstanding of the Panama Canal Company then outstanding. The Commission may use such property, facilities, and records of the Panama Canal Company as are necessary to carry out its functions.

TRANSFERS AND CROSS-SERVICING BETWEEN AGENCIES

SEC. 1502. (a) In the interest of economy and maximum efficiency in the utilization of property and facilities of the United States, there are authorized to be transferred between departments and agencies of the United States, with or without reimbursement, such facilities, buildings, structures, improvements, stock, and equipment located in the Republic of Panama, and used for their activities therein, as may be mutually agreed upon by the departments and agencies involved and approved by the President of the United States or his designee.

(b) The Commission may enter into cross-servicing agreements with any other department or agency of the United States for the use of facilities, furnishing of services, or performance of functions.

(c) The Commission, any department or agency of the United States, or any United States court in the Republic of Panama is authorized to transfer to the Government of the Republic of Panama any record of such Commission, department, agency, or court, or copy thereof, including any record acquired from the Canal Zone Government or Panama Canal Company (including any vital statistics record) to any other department, agency, or court if such action is determined by the Commission, the head of the department or agency concerned, or the judge of the court concerned to be in the interest of the United States. Transfer of any record or copy thereof under this section to the Government of the Republic of Panama shall be made under the coordination of and with the approval of the United States Ambassador to the Republic of Panama.

(d) The provisions of this section shall apply to the Smithsonian Institution.

DISPOSITION OF PROPERTY OF THE UNITED STATES

SEC. 1503. No property of the United States located in the Republic of Panama may be disposed of except pursuant to law enacted by the Congress.

TRANSFER OF PROPERTY TO PANAMA

SEC. 1504. (a) (1) On the date on which the Panama Canal Treaty of 1977 enters into force, the Secretary of State may convey to the Republic of Panama the Panama Railroad and such property located in the area which, immediately before such date, comprised the Canal Zone and which is not within the land and water areas the use of which is made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(2) Property transferred pursuant to paragraph (1) of this subsection may not include buildings and other facilities, except housing, located outside such areas, the use of which is retained by the United States pursuant to the Panama Canal Treaty of 1977 and related agreements.

(b) With respect to the transfer of all other property (not described in subsection (a)(1) of this section) to be transferred in accordance with the terms of the Panama Canal Treaty of 1977 and related agreements, the Secretary of State may convey such property from time to time in accordance with the terms of such Treaty and related agreements. At least 180 days before the transfer of any such property, the President must submit a written report to the Congress—

(1) precisely identifying and describing the particular property to be transferred;

(2) certifying the state of compliance by the Republic of Panama with such Treaty and related agreements; and

(3) setting forth the reasons for the conveyance being made at the particular time.

CHAPTER 6—TOLLS FOR USE OF THE PANAMA CANAL

PRESCRIPTION OF MEASUREMENT RULES AND RATES OF TOLLS

SEC. 1601. (a) The President is authorized, subject to the provisions of this chapter, to prescribe and from time to time change—

(1) the rules for the measurement of vessels for the Panama Canal; and

(2) the tolls that shall be levied for the use of the Canal.

(b) Such rules of measurement and tolls prevailing on the effective date of this Act shall continue in effect until changed as provided in this chapter.

BASES OF TOLLS

SEC. 1602. (a) Tolls on merchant vessels, army and navy transports, colliers, tankers, hospital ships, supply ships, and yachts shall be based on net vessel tons of one hundred cubic feet each of actual earning capacity determined in accordance with the rules for the measurement of vessels for the Panama Canal, and tolls on other floating craft shall be based on displacement tonnage. The tolls on vessels in ballast without passengers or cargo may be less than the tolls for vessels with passengers or cargo.

(b) Tolls shall be prescribed at rates calculated to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal, together with the facilities and appurtenances related thereto, including unrecovered costs incurred on or after the effective date of this Act, interest, depreciation, payments to the Republic of Panama pursuant to paragraph 5 of Article III and paragraph 4 (a) and (b) of Article XIII of the Panama Canal Treaty of 1977, and capital for plant replacement, expansion, and improvements. Tolls shall not be prescribed at rates calculated to produce revenues sufficient to cover payments to the Republic of Panama pursuant to paragraph 4(c) of Article XIII of the Panama Canal Treaty of 1977.

(c) Vessels operated by the United States, including vessels of war and auxiliary vessels, and ocean-going training ships owned by the United States and operated by State nautical schools, shall pay tolls.

(d) The levy of tolls is subject to the provisions of section 1 of Article III of the treaty between the United States of America and Great Britain signed November 18, 1901, of Article I of the treaty between the United States of America and the Republic of Colombia signed April 6, 1914, and of Articles II, III, and VI of the Treaty Concerning Permanent Neutrality and Operation of the Panama Canal, between the United States of America and the Republic of Panama, signed September 7, 1977.

CALCULATION OF INTEREST

SEC. 1603. (a) For purposes of sections 1311 and 1602 of this Act, interest shall be computed, at a rate determined by the Secretary of the Treasury, on the investment of the United States in the Panama Canal as shown in the accounts of the Panama Canal Company at the close of business on the day preceding the effective date of this Act, and as adjusted in accordance with subsections (b) and (c) of this section. Capital investment for interest purposes shall not include any interest during construction.

(b) The investment of the United States described in subsection (a) of this section—

(1) shall be increased by—

(A) the amount of expenditures from appropriations to the Commission made on or after the effective date of this Act, and

(B) the value of property transferred to the Commission by any other department or agency of the United States, as determined in accordance with subsection (c) of this section; and

(2) shall be decreased by—

(A) the amount of the funds covered into the Treasury pursuant to section 1302 of this Act.

(B) the value of property transferred to the Republic of Panama pursuant to this or any other Act on or after the date on which the Panama Canal Treaty of 1977 enters into force, and

(C) the value of property transferred by the Commission to any other department or agency of the United States.

(c) The value of property transferred to the Commission by any other department or agency of the United States shall be determined by the Director of the Office of Management and Budget. In computing such value, such Director, shall give due consideration to the cost and probable earning power of the transferred property, or the usable value to the Commission if clearly less than cost, and shall make adequate provisions for depreciation, obsolescence, and other determinable decreases in value. Insofar as practicable, the value of such transferred property shall exclude any portion of such value properly allocable to national defense.

PROCEDURES

SEC. 1604. (a) The Commission shall publish in the Federal Register notice of any proposed change in the rules of measurement or rates of tolls referred to in section 1601 (a) of this Act. The Commission shall give interested parties an opportunity to participate in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the notice. The notice shall include the substance of the proposed change and a statement of the time, place, and nature of the proceedings. At the time of publication of such notice, the Commission shall make available to the public an analysis showing the basis and justification for the proposed change, which, in the case of a change in rates of tolls, shall indicate the conformity of the existing and proposed rates of tolls with the requirements of section 1602 of this Act, and the Commission's adherence to the requirement for full consideration of the following factors set forth in Understanding (1) incorporated in the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (adopted by the United States Senate on March 16, 1978):

(1) the costs of operating and maintaining the Panama Canal:

(2) the competitive position of the use of the Canal in relation to other means of transportation;

(3) the interests of the United States and the Republic of Panama in maintaining their domestic fleets;

(4) the impact of such a change in rates of tolls on the various geographical areas of each of the two countries; and

(5) the interests of both countries in maximizing their international commerce.

(b) After consideration of the relevant matter presented, the Commission may revise the proposed rules of measurement or rates of tolls, as the case may be, except that, in the case of rates of tolls, if such revision proposes rates greater than those originally proposed, a new analysis of the proposed rates shall be made available to the public, and a new notice of the revised proposal shall be published in the Federal Register apprising interested persons of the opportunity to participate further in the proceedings through submission of written data, views, or arguments, and participation in a public hearing to be held not less than 30 days after the date of publication of the new notice. The procedure set forth in this subsection shall be followed for any subsequent revision of the proposed rates of tolls by the Commission which proposes rates higher than those in the preceding proposal.

(c) After the proceedings have been conducted pursuant to subsections (a) and (b) of this section, the Commission shall publish in the Federal Register a notice of the changes in the rules of measurement or rates of tolls, as the case may be, to be recommended to the President.

(d) Upon publication of the notice pursuant to subsection (c) of this section, the Commission shall forward a complete record of the proceedings, with the recommendation of the Commission, to the President for his consideration. The President may approve, disapprove, or modify any or all of the changes in the rules of measurement or rates of tolls recommended by the Commission.

(e) Rules of measurement or rates of tolls prescribed by the President pursuant to this chapter shall take effect on a date prescribed by the President which is not less than 30 days after the President publishes such rules or rates in the Federal Register.

(f) Action to change the rules of measurement for the Panama Canal or the rates of tolls for the use of the Canal pursuant to this chapter shall be subject to judicial review in accordance with chapter 7 of ittle 5, United States Code.

INTERN TOLL ADJUSTMENT

SEC. 1605. (a) After the effective date of this section, the Panama Canal Company or the Commission may, without regard to the procedures set forth in section 1604 of this Act for making changes in tolls by the Commission and the President, change the rates of tolls calculated to cover the cost of maintaining and operating the Panama Canal during the fiscal year beginning on October 1, 1979. Such rates shall be calculated in accordance with the provisions of section 1602(b) of this Act. Any such change in rates of tolls shall be subject to the approval of the President whose action in the matter shall be final. Any change in rates of tolls approved by the President shall become effective on a date prescribed by the President.

(b) This section shall take effect on the date of the enactment of this Act.

CHAPTER 7—GENERAL REGULATIONS

AUTHORITY OF PRESIDENT

SEC. 1701. The President may prescribe, and from time to time amend, regulations applicable within the areas and installations made available to the United States for the operation and protection of the Panama Canal pursuant to the Panama Canal Treaty of 1977 and related agreements concerning—

(1) the use of aircraft;

(2) the possession and use of alcoholic beverages;

(3) exclusion and removal of persons; and

(4) health and sanitation.

AUTHORITY OF COMMISSION

SEC. 1702. The Commission may prescribe, and from time to time amend, regulations applicable within the areas and installations made available to the United States for the operation and protection of the Panama Canal pursuant to the Panama Canal Treaty of 1977 and related agreements concerning—

(1) the keeping and impounding of domestic animals;

(2) fire prevention;

(3) the sale or use of fireworks;

(4) the use of roads and highways;

(5) photographing of areas, objects, installations, or structures;

(6) swimming in the Panama Canal and adjacent waters; and

(7) the protection of wildlife, hunting, and fishing.

CHAPTER 8—SHIPPING AND NAVIGATION

Subchapter I—Operation of Canal

OPERATING REGULATIONS

SEC. 1801. The President may prescribe, and from time to time amend regulations governing—

(1) the operation of the Panama Canal;

(2) the navigation of the harbors and other waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal;

(3) the passage and control of vessels through the Panama Canal or any part thereof, including the locks and approaches thereto;

(4) pilotage in the Panama Canal or the approaches thereto through the adjacent waters; and

(5) the licensing of officers or other operators of vessels navigating the waters of the Panama Canal and areas adjacent thereto, including the ports of Balboa and Cristobal.

Subchapter II—Inspection of Vessels

VESSELS SUBJECT TO INSPECTION

SEC. 1811. With the exception of private vessels merely transiting the Panama Canal, and of public vessels of all nations, vessels navigating the waters of the Panama Canal shall be subject to an annual inspection of hulls, boilers, machinery, equipment, and passenger accommodations.

FOREIGN VESSELS

SEC. 1812. With respect to a foreign vessel of a country which has inspection laws approximating those of the United States, any such vessel having an unexpired certificate of inspection duly issued by the authorities of such country shall not be subject to an inspection other than that necessary to determine whether the vessel, its boilers, and its lifesaving equipment are as stated in the certificate of inspection. A certificate of inspection may not be accepted as evidence of lawful inspection under this section unless similar privileges are granted to vessels of the United States under the laws of the country to which the vessel belongs.

REGULATIONS GOVERNING INSPECTION

SEC. 1813. The Commission shall prescribe, and from time to time may amend, regulations concerning the inspection of vessels conforming as nearly as practicable to the laws and regulations governing marine inpection by the United States Coast Guard.

TITLE II—TREATY TRANSITION PERIOD

CHAPTER 1—LAWS CONTINUED IN FORCE

LAWS, REGULATIONS, AND ADMINISTRATIVE AUTHORITY

SEC. 2101. To the extent not inconsistent with the Panama Canal Treaty of 1977 and related agreements and the provisions of this Act, the Canal Zone Code and other laws, regulations, and administrative authority of the United States applicable in the Canal Zone immediately before the date on which the Panama Canal Treaty of 1977 enters into force shall continue in force for the purpose of the exercise by the United States of law enforcement and judicial jurisdiction during the transition period provided for in Article XI of the Panama Canal Treaty of 1977 (hereinafter in this Act referred to as the "transition period").

CHAPTER 2—COURTS

JURISDICTION

SEC. 2201. (a) During the transition period, the jurisdiction of the United States District Court for the District of the Canal Zone and the magistrates' courts under title 3 of the Canal Zone Code shall be continued, subject to the limitations set forth in Article XI of the Panama Canal Treaty of 1977.

(b) For purposes of the exercise of the jurisdiction provided in Article XI of the Panama Canal Treaty of 1977, the United States District Court and magistrates' courts referred to in subsection (a) of this section shall construe the terms "United States citizen employees", "members of the United States Forces", "civilian component", and "dependents" as such terms are defined in the Panama Canal Treaty of 1977 and related agreements, and shall construe the term "areas and installations made available for the use of the United States" to mean (1) the Panama Canal operating areas and housing areas described in Annex A to the Agreement in Implementation of Article III of the Panama Canal Treaty, (2) the Ports of Balboa and Cristobal described in Annex B to that Agreement, and (3) the defense sites and Military Areas of Coordination described in Annex A to the Agreements in Implementation of Article IV of the Panama Canal Treaty.

DIVISION AND TERMS OF DISTRICT COURT

SEC. 2202. The United States District Court for the District of the Canal Zone may conduct its affairs at such places within the areas made available for the use of the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, and at such times, as the district judge may designate by rule or order.

TERMS OF CERTAIN OFFICES

SEC. 2203. (a) Notwithstanding the provisions of sections 5, 41, 45, and 82 of title 3 of the Canal Zone Code, the term of office of a district judge, magistrate, United States attorney, or United States marshall shall extend for a period of 30 months beginning on the date on which the Panama Canal Treaty of 1977 enters into force, and any such term shall be subject to such extension of time as may be provided for the disposition of pending cases by agreement between the United States and the Republic of Panama, pursuant to the last sentence of paragraph 7 of Article XI of the Panama Canal Treaty of 1977.

(b) The provisions of this section shall take effect on the date of the enactment of this Act.

RESIDENCE REQUIREMENTS

SEC. 2204. Sections 5(d), 7(d), 41(d), and 45(d) of title 3 of the Canal Zone Code, the second sentence of section 42 of such title, and the second sentence of section 82(c) of such title, which provisions require that certain court officials reside in the Canal Zone, are repealed.

SPECIAL DISTRICT JUDGE

SEC. 2205. (a) Section 6 of title 2 of the Canal Zone Code is amended to read as follows:

§ 6. Special district judge

"The chief judge of the judicial circuit of the United States in which the district court lies may designate and assign a special district judge to act when necessary—

"(1) during the absence of the district judge:

"(2) during the disability or disqualification of the district judge because of sickness or otherwise to discharge his duties; or

"(3) when there is a vacancy in the office of district judge.".

(b) Each designation and assignment by the chief judge under section 6 of title 3 of the Canal Zone Code, as amended by subsection (a) of this section, shall be made in accordance with chapter 13 of title 28, United States Code, which shall be deemed to apply for such purposes.

MAGISTRATES' COURTS

SEC. 2206. (a) The two magistrates' courts established pursuant to section 81 of title 3 of the Canal Zone Code and existing immediately before the date on which the Panama Canal Treaty of 1977 enters into force shall continue in operation during the transition period unless terminated during such period under subsection (b) of this section.

(b) During the transition period, the President may terminate one magistrate's court, together with the positions of magistrate and constable corresponding thereto, if the President determines that the workload is insufficient to warrant continuance of that court. If one of the magistrates' courts is so terminated, the remaining magistrate's court shall exercise the jurisdiction that otherwise would have been exercised by the terminated court and shall take custody of and administer all records of the terminated court.

CHAPTER 3—ATTORNEYS

OATH OF ATTORNEYS

SEC. 2301. (a) Section 543 of title 3 of the Canal Zone Code is amended to read as follows:

"§ 543. Oath of attorneys admitted to bar

"Before receiving a certificate the applicant shall take and subscribe in court an appropriate oath prescribed by the district judge.".

(b) The table of sections for chapter 17 of title 3 of the Canal Zone Code is amended by amending the item relating to section 543 to read as follows:

"543. Oath of attorneys admitted to bar.".

CHAPTER 4—TRANSITION AUTHORITY

TRANSITION AUTHORITY OF PRESIDENT

SEC. 2401. Except as expressly provided to the contrary in this or any other Act, or in the Panama Canal Treaty of 1977 and related agreements, any authority necessary for the exercise during the transition period of the rights and responsibilities of the United States specified in Article XI of the Panama Canal Treaty of 1977 shall be vested in the President.

PRISONS; PAROLE; PARDONS

SEC. 2402. (a) Subsection (c) of section 6503 of title 6 of the Canal Zone Code is amended to read as follows:

"(c) Pursuant to the provisions of section 5003 of title 18, United States Code, the Governor may contract with the Attorney General of the United States for the transfer to the custody of the Attorney General of prisoners sentenced by the United States District Court for the District of the Canal Zone to terms of imprisonment in excess of one year.".

(b) After entry into force of the Panama Canal Treaty of 1977—

(1) all prisoners imprisoned in United States prisons pursuant to contracts entered into pursuant to subsection (c) of section 6503 of title 6 of the Canal Zone Code, as amended by subsection (a) of this section, shall be committed to the custody of the Attorney General as if committed in accordance with part III of title 18, United States Code;

(2) all persons convicted of offenses in the United States District Court for the District of the Canal Zone, and sentenced to terms of imprisonment of one year or less, shall be committed to the custody of the Commission; and

(3) the Panama Canal Commission shall prescribe, and from time to time may amend, regulations providing for the management of prisoners in the jails located in the areas and installations made available for the use of the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, including provisions for treatment, care, assignment for work, discipline, and welfare.

(c) After the entry into force of the Panama Canal Treaty of 1977, all persons convicted of offenses in the United States District Court for the District of the Canal Zone, and sentenced to terms of imprisonment in excess of one year, shall be committed to the custody of the Attorney General pursuant to parts III and IV of title 18, United States Code.

(d) (1) Sections 6501 through 6505 of title 6 of the Canal Zone Code are repealed.

(2) The table of sections for chapter 351 of title 6 of the Canal Zone Code is amended by repealing the items relating to sections 6501 through 6505.

(e) Subsections (c) and (d) of this section shall take effect 90 days after entry into force of the prisoner transfer agreement referred to in paragraph 11 of Article IX of the Panama Canal Treaty of 1977 but in no event later than 90 days prior to the end of the transition period.

(f) (1) Chapter 355 of title 6 of the Canal Zone Code is repealed.

(2) The table of chapters for part 3 of title 6 of the Canal Zone Code is amended by repealing the item to chapter 355.

TITLE III—GENERAL PROVISIONS

CHAPTER 1—CEMETERIES

DISINTERMENT, TRANSPORTATION, AND REINTERMENT OF REMAINS

SEC. 3101. (a) There are authorized to be appropriated for the fiscal year beginning October 1, 1979, and subsequent fiscal years, such sums as may be necessary to carry out the purposes and provisions of reservation (3) to the Resolution of Ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, adopted by the United States Senate on March 16, 1978, such sums to be made available to those agencies that are directed and empowered by the President to carry out such purposes and provisions.

(b) With regard to remains that are to be reinterred in the United States, the United States shall not bear the cost of funeral home services, vaults, plots, or crypts unless otherwise provided for by law.

CHAPTER 2—IMMIGRATION

SPECIAL IMMIGRANTS

SEC. 3201. (a) Section 101 (a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), relating to the definition of special immigrants, is amended—

(1) by striking out "or" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon; and

(3) by adding after subparagraph (D) the following new subparagraphs:

"(E) an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section 3(a)(1) of the Panama Canal Act of 1979) enters into force, who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty, and who has performed faithful service as such an employee for one year or more;

"(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force, has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or (ii) who, on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment; or

"(G) an immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone Government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977, who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty,

is reasonably placed in danger because of the special nature of any of that employment.".

(b) Section 212(d) of such Act (8 U.S.C. 1182(d)), relating to waivers of conditions of inadmissibility to the United States, is amended by adding after paragraph (S) the following new pargraphs;

"(9) The provisions of paragraph (7) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subpargraph (E), (F), or (G) of section 101(a)(27).

"(10) The provisions of paragraph (15) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a specil immigrant under subparagraph (E), (F), or (G) of section 101(a) (27) and who applies for admission as such a special immigrant not later than March 31, 1982.".

(c) Notwithstanding any other provision of law, not more than 15,000 individuals may be admitted to the United States as special immigrants under subparagraphs (E), (F), and (G) of section 101(a)(27) of the Immigration and Nationality Act, as added by subsection (a) of this section, of which not more than 5,000 may be admitted in any fiscal year.

(d)(1) The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Paragraph (9) of section 212(d) of the Immigration and Nationality Act, as added by subsection (b) of this section, shall cease to be effective at the end of the transition period.

CHAPTER 3—REPORTS; AMENDMENTS; REPEALS AND REDESIGNATION; EFFECTIVE DATE

REPORT

SEC. 3301. Until the termination of the Panama Canal Treaty of 1977, the President shall report annually on the status of the exercise of the rights and responsibilities of the United States under that Treaty. Such report shall include a discussion of the following:

(1) The actions taken by the Government of the Republic of Panama with respect to the living conditions of persons who resided in the Canal Zone before the effective date of this Act and who continue to reside in those areas made available to the United States under the Agreement in Implementation of Article III of the Panama Canal Treaty.

(2) The terms, conditions, and charges for land-use licenses within the canal operating areas specified in the Agreement in Impletation of Article III of the Panama Canal Treaty.

(3) The condition of former employees (and their dependents) of the Panama Canal Company and the Canal Zone Government who reside in the Republic of Panama on or after the effective date of this Act.

AMENDMENTS

SEC. 3302.

(a) Section 1 of title II of the Act of June 15, 1917 (50 U.S.C. 191), is amended—

(1) by striking out the second paragraph; and

(2) in subsection (b) of the last paragraph, by striking out ", the Canal Zone,".

(b) Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. 195), is amended by striking out "the Canal Zone and".

(c) The first section of the Act of August 9, 1954 (50 U.S.C. 196), is amended by striking out ", including the Canal Zone,".

(d) The Department of State Appropriation Act, 1974 (87 Stat. 636 et seq.) is amended by striking out the heading "PAYMENT TO THE REPUBLIC OF PANAMA" and all that follows that relates to the heading.

(e) Title 5, United States Code, is amended—

(1) in sections 305(a)(7), 5102(a)(1)(xii), 5342(a)(1)(G), 5348(b), and 5541(2)(xii), by striking out "Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission";

(2) in sections 5504(a)(A) and 6301(2)(iv), by striking out "Canal Zone Government or the Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission";

(3) in section 8335(c), by striking out "Panama Canal Company or the Canal Zone Government" and inserting in lieu thereof "Panama Canal Commission";

(4) in section 5373(1), by striking out "section 121 of title 2, Canal Zone Code (76A Stat. 15)" and inserting in lieu thereof "section 1202 of the Panama Canal Act of 1979";

(5) in section 6323(c)(2)(B), by striking out "the Canal Zone,";

(6) in section 5102(c), by amending paragraph (12) to read as follows:

"(12) any Executive agency to the extent of any election under section 1212(b)(2) (relating to the Panama Canal Employment System) of the Panama Canal Act of 1979;";

(7) in section 5583(b), by—

(A) adding "and" at the end of paragraph (1);

(B) striking out paragraph (2); and

(C) redesignating paragraph (3) as paragraph (2);

(8) in section 5533(d)(7), by—

(A) striking out the semicolon at the end of subparagraph (E) and inserting in lieu thereof ": or";

(B) striking out ": or" at the end of subparagraph (F) and inserting in lieu thereof a period; and

(C) striking out subparagraph (G);

(9) in section 8146—

(A) by striking out "Canal Zone" in the catchline and inserting in lieu thereof "Panama Canal Commission";

(B) in subsection (a)(1), by striking out "Canal Zone Government and of the Panama Canal Company are concerned to the Governor of the Canal Zone" and inserting in lieu thereof "Panama Canal Commission are concerned to the Commission";

(C) in the first sentence of subsection (b), by striking out "Canal Zone Government" and inserting "Panama Canal Commission" in lieu thereof;

(D) in the first sentence of subsection (b), by striking out "or from funds of the Panama Canal Company";

(E) in the second sentence of subsection (b), by striking out "Governor of the Canal Zone" and inserting "Panama Canal Commission" in lieu thereof and by striking out "Canal Zone Government" and inserting "Panama Canal Commission" in lieu thereof;

(F) by amending subsection (c) to read as follows:

"(c) The President may authorize the Panama Canal Commission to waive, at its discretion, the making of the claim required by section 8121 of this title in the case of compensation to an employee of the Panama Canal Commission for temporary disability, either total or partial."; and

(G) in subsection (e), by striking out "Canal Zone Government and of the Panama Canal Company" and inserting in lieu thereof "Panama Canal Commission";

(10) in section 5343(a)(5), by striking out "Canal Zone" and inserting in lieu thereof "areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979";

(11) in section 5316(87), by striking out "Governor of the Canal Zone" and inserting in lieu thereof "Administrator of the Panama Canal Commission"; and

(12) in the table of sections for chapter 81, by striking out "Canal Zone" in the item relating to section 8146 and inserting in lieu thereof "Panama Canal Commission".

REPEALS AND REDESIGNATION

SEC. 3303. (a) The following provisions of law are repealed:

(1) title 2 of the Canal Zone Code;

(2) sections 2 and 3 of title 3 of the Canal Zone Code, and the items relating to such sections in the table of sections for chapter 1 of title 3 of the Canal Zone Code;

(3) subchapter III of chapter 237 of title 6 of the Canal Zone Code and the items relating to such subchapter in the table of sections for chapter 237 of such title;

(4) subsection (d) of section 38 of the Arms Export Control Act (22 U.S.C. 2778 (d)); and

(5) section 4 of the Act of November 15, 1941 (50 U.S.C. 191b).

(b) Those provisions of the Canal Zone Code not repealed by this Act are redesignated as the "Panama Canal Code". Any reference to the Canal Zone Code in those laws and regulations referred to in section 3(b) of this Act shall, subject to the provisions of such section, be deemed to refer to the Panama Canal Code.

EFFECTIVE DATE

SEC. 3304. Except as provided in sections 1231, 1232, 1241, 1242, 1261, 1605, 2203, 2402, and 3201 of this Act, the preceding provisions of this Act shall take effect on the date on which the Panama Canal Treaty of 1977 enters into force.

And the Senate agree to the same.

That the House recede from its disagreement to the Senate amendment to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate to the title of the bill insert the following: "An Act to provide for the operation and maintenance of the Panama Canal under the Panama Canal Treaty of 1977, and for other purposes.".

And the Senate agree to the same.

JOHN M. MURPHY,
JOHN D. DINGELL,
DAVID R. BOWEN,
DAVID E. BONIOR,
CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
JIM HANLEY,
PAT SCHROEDER,
HERBERT E. HARRIS, II,
PAUL N. MCCLOSKEY, Jr.,
Managers on the Part of the House.

JOHN C. STENNIS,
J. J. EXON,
CARL LEVIN,
STROM THURMOND,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 111) to enable the United States to maintain American security and interests respecting the Panama Canal, for the duration of the Panama Canal Treaty of 1977, submit the following statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

OVERALL ORGANIZATION OF THE BILL

The major differences in structure and organization of the House bill and the Senate amendment were in the portions of the two bills dealing with the organization and financial operation of the Panama Canal Commission. The sections of the bills dealing with employment matters, courts, postal matters and related administrative provisions were similar and in some cases identical.

In light of the Senate's decision to recede from its amendments on the form of the Panama Canal Commission, the conferees agreed to adopt the basic organization structure of the House bill.

DISPOSITION OF CONFERENCE ISSUES

There follows a description of the action taken by the conferees on the principal differences between the House bill and the Senate amendment.

Form of the Panama Canal Commission—(Sec. 1101)

The House bill provided that the Panama Canal Commission would be operated as an appropriated funds agency, with all revenues deposited in the Treasury and all expenditures made pursuant to appropriation acts approved by Congress. The Senate amendment provided that the Commission would continue to operate as a government corporation.

The Senate reluctantly recedes.

Direction of the Secretary of Defense—(Sec. 1101 and 1102)

Sections 101 and 102 of the House bill provided that the Commission and its Board would act under the direction of the Secretary of Defense. The Senate amendment contained no comparable language.

The conferees adopted compromise language making it clear that the powers of the President would be exercised through the Secretary of Defense in order to clarify the administrative placement of the Panama Canal Commission as an agency within the executive branch. This language does not effect a delegation of the President's powers to the Secretary of Defense, nor does it preclude the President from exercising his powers directly.

Board membership—(Sec. 1102)

The House provision (Sec. 102) provided supervision of the Commission by a Board under the direction of the Secretary of Defense, appointed by the President and, in the case of the American members, subject to Senate confirmation. Five of the new members were to be nationals of the United States and four nationals of Panama. The House provision also required that of the five U.S. members one should be the Secretary of Defense, one should be experienced in operation of ships using the Canal, one should be experienced in U.S. port operations, and one should be experienced in U.S. labor matters. The Senate amendment (Sec. 205) eliminated the requirements in reference to the three members other than the Secretary of Defense, and the specific provision for direction by the Secretary of Defense.

The conferees adopted a compromise provision eliminating the requirement for selection of three U.S. members with specialized backgrounds in steamship and port operations and in labor matters, but inserting a provision in lieu thereof that three of the U.S. members be from the private sector. The reference to direction of the Board by the Secretary of Defense was omitted as unnecessary in view of the revised provision of Section 1101 for exercise of the President's authority in reference to the Commission as an Executive Branch agency. In adopting this provision the conferees recommend that in making appointments to the Board the President take into consideration the qualifications originally included in the House provision. The conferees further recommend that the President consider appointing two members of the Board from the Department of Defense.

Chief engineer—(Sec. 1104)

The House bill contained a provision for a Chief Engineer to be appointed by the President (Sec. 104). The Senate amendment did not provide for this position.

The Senate recedes.

Wartime control—(Sec. 1108)

The House bill contained a provision (Sec. 108) which allows the President, in time of war in which the United States or the Republic of Panama is engaged, to put the operation of the Panama Canal under the direct control of a military officer. The Senate amendment contained no comparable provision.

The conferees agreed to adopt compromise language similar to that recommended by the House Committee on Foreign Affairs in its report on H.R. 111. However, the description of conditions under which the President may order the Administrator of the Panama Canal Commission to comply with the orders of a military officer with regard to protection and defense of the Canal is adapted directly from Article IV of the Panama Canal Treaty, which defines U.S. defense rights. This section is intended to define for domestic legal purposes the manner through which the President will carry out the responsibilities of the United States in accordance with the Treaties.

Code of Conduct—(Sec. 1112)

The House bill required the Panama Canal Commission to adopt a Code of Conduct applicable to each member of the supervisory Board and all employees of the Commission (Sec. 110). The Senate amendment did not include this provision.

The Senate recedes.

Cost of living allowance—(Sec. 1206)

The House bill provided that effective October 1, 1984, each U.S.-citizen officer or employee of the Panama Canal Commission could be paid an allowance to offset any increased cost-of-living due to termination of his right to use military postal services, sales stores and exchanges (Sec. 125). The Senate amendment provided the allowance for U.S. citizens employed prior to the entry into force of the Panama Canal Treaty or persons recruited outside of Panama by the Commission.

The House recedes, with a technical amendment specifying that persons employed before the effective date of the Panama Canal Treaty must have been employed by the Panama Canal Company or Canal Zone Government on September 30, 1979.

Educational travel benefits—(Sec. 1207)

The House bill stated that the Panama Canal Commission shall provide educational travel benefits for dependents of individuals who are U.S.-citizen officers or employees of the Panama Canal Commission (Sec. 126). The Senate amendment stated that the Commission shall provide such educational benefits to dependents of U.S. citizens employed prior to the entry into force of the Panama Canal Treaty and also to dependents of individuals recruited outside of Panama for employment with the Panama Canal Commission (Sec. 307).

The House recedes, with a technical amendment indicating that in the case of U.S. citizens who must have been employed prior to the entry into force of the new treaty, such employment must have been by the Panama Canal Company or Canal Zone Government on September 30, 1979.

Privileges and immunities—(Sec. 1208)

The House bill provided that the Secretary of Defense shall designate those officers and employees of the Panama Canal Commission who are to receive privileges and immunities accorded under Article VIII of the Panama Canal Treaty, and that the Department of State shall furnish the list to Panama and notify that country of any changes in it (Sec. 127). The Senate amendment provided that the Secretary of State shall designate persons, from a list supplied by the Panama Canal Commission, who will receive privileges and immunities (Sec. 107).

The Senate recedes.

Minimum levels of pay—(Sec. 1225)

The House bill contained a provision (Sec. 154(b)) which applies certain provisions of the Fair Labor Standards Act to United States agencies operating in Panama. The Senate amendment contained no comparable provision.

As to the applicability of Fair Labor Standards Act, the House recedes. The conferees agreed to add language outlining the wage policy to be followed by U.S. agencies operating in Panama. This section provides for a $2.90 per hour minimum wage for employees of Federal government agencies operating in the areas made available to the United States pursuant to the Panama Canal Treaty and related agreements. It further provides that employees, other than employees whose pay is established in relation to rates of pay paid in the continental United States, will receive each year, at a minimum, a two percent pay adjustment in the form of a step increase. This provision would not preclude payment of a starting wage that is higher than $2.90 per hour, if required, to assure that wages paid by Federal agencies remain competitive.

The managers note that the Department of Defense has announced its intention to grandfather current employees of the Panama Canal Company, and current employees of the Department of Defense in Panama, at their current wage system, so that those employees who have been receiving U.S. Civil Service wage increases would continue to do so.

Terms and conditions of employment—(Sec. 1231)

The House bill and Senate amendment differed in three respects in their specification of those benefits which must remain generally no less favorable for employees who were employed by the Panama Canal Company and Canal Zone Government and who will continue to work for U.S. agencies in Panama.

The House bill (Sec. 201(a)(2)) provided that not only the rates of basic pay but also the bases for establishing such rates would remain generally no less favorable. The Senate amendment (Sec. 341(a)(2)) includes only rates of basic pay.

The House recedes.

The House bill (Sec. 201(a)(2)) included leave and travel benefits in the list of those terms of employment which would remain generally no less favorable, while the Senate amendment (Sec. 341(a)(2)) provided that leave and travel benefits could be modified to provide equity with other employees in the agency to which the employee is transferred.

The Senate recedes.

The House bill provided in Section 201(c)(3) for the continuation of the sabbatical leave program provided to teachers by the Canal Zone Government, but increasing the level of sabbatical pay from one-half to full pay. The Senate amendment contained no sabbatical program, in conformity with the Department of Defense worldwide educational system, which will operate the former Canal Zone schools.

The Senate recedes, with an amendment restricting sabbatical pay to one-half of basic pay.

Balance of revenues and appropriations—(Sec. 1302(c)(2))

The House bill contained a provision (Sec. 232(c)(2)) which mandated that no funds could be appropriated for the Panama Canal Commission in excess of estimated revenues for that fiscal year, and providing that

amounts appropriated in excess of actual revenues would be deducted from appropriations in the following year. The Senate amendment contained no comparable provision, though the corporate form on which the Senate bill is based contemplated the balancing of revenues and expenses.

The conferees agreed to a compromise provision which retained the substance of the House provision limiting appropriations to estimated revenues, while recognizing that there may be occasions when excess revenues deposited in the Panama Canal Commission Fund in a prior fiscal year justify appropriations greater than estimated revenues to the extent of such prior year excess revenues. Both Senate and House conferees reiterate their strong intention that the Panama Canal Commission be operated over the life of the Panama Canal Treaty of 1977 without the need for support by the American taxpayer.

Method of depreciation—(Sec. 1311(b))

The Senate amendment contained a provision in Section 211 which described the basis of accounting to be used by the Panama Canal Commission, based on the net replacement value of those transferred assets which will ultimately require replacement to maintain the service capacity of the canal. The House bill contained no similar provision.

The House recedes, with an amendment to make it clear that the method of depreciation described in the provision is recommended but not mandatory.

GAO audit—(Sec. 1313)

The House bill (Sec. 236) contains a provision for audit of the financial transactions of the Commission by the General Accounting Office pursuant to the Accounting and Auditing Act of 1950, with reports of the audits similar to those required by the Government Corporation Control Act for corporate agencies. The Senate amendment contained no comparable provision inasmuch as the Government Corporation Control Act would have been generally applicable to the agency.

The Senate recedes and concurs in the House provision as consistent with the agreement to establish the Commission as a Government agency in non-corporate form. The conferees added language in this section which recognizes the special problems inherent in revision of the Panama Canal Company's accounting systems created by enactment of H.R. 111 only a short time before the beginning of fiscal year 1980.

Interagency services and reimbursements—(Sec. 1321)

Sections 240 of the House bill and 213 of the Senate amendment contained similar provisions regarding reimbursements by agencies operating in Panama to the agency designated to furnish educational, health and other services, and related matters.

The conferees agreed on a compromise provision which contains the substance of the House and Senate versions. The new provision makes it clear that agencies operating in Panama may make available health care and educational services to the same categories of persons as had received such services prior to the effective date of this Act, and that services must be provided on an equitable basis.

The conferees intend that physicians transferred from the Canal Zone Government to the agency designated by the President to conduct health care activities shall, to the extent agreed upon between the U.S. and the Republic of Panama, continue to be eligible for health, educational, commissary, post exchange, and postal services for which they were eligible prior to entry into force of the Treaty.

Canal Zone College—(Sec. 1321(g))

Both bills contained provisions (Sec. 240 (d) of the House bill and 603 of the Senate amendment) mandating the continuation of the Canal Zone College at generally the same level of services provided on the effective date of the Act. The Senate provision specified that the requirement applied not just to the Department of Defense but to any executive agency which may be charged with operating the College.

The House recedes. Section 603 of the Senate amendment is section 1321(g) of the conference report.

The conferees intend that the requirement to continue the same level of services of the College includes a continuation of present tuition policies.

Transfer of leave funds

Section 308 of the Senate amendment required the Panama Canal Commission to reimburse the U.S. Treasury for the leave and repatriation liabilities of employees transferred from the Company and Government to the Department of Defense. The House bill contained no such provision, since all funds of the Panama Canal Commission would be covered into the Treasury in any event under the appropriated funds agency concept.

The Senate recedes.

Timing of payments

The House bill provided that all treaty payments to Panama, except the contingency payment described in Article XIII 4(c) of the treaty, would be made monthly from appropriations for that purpose. Any contingency payment to Panama was to be paid at the end of the second fiscal quarter following the end of the fiscal year for which payment would be due (Sec. 250(a)). The Senate amendment contained no camparable provision and left the timing of payments open.

The House recedes.

Payment to Panama—(Sec. 1341)

The House bill contained three sections (Secs. 250(c), (f) and (g)) which imposed conditions on the payments to Panama. The Senate amendment contained no comparable provisions.

As to Section 250(c), relating to the levying of retroactive taxes by Panama, the conferees agreed to delete the House language but to retain language from both the bill and the amendment expressing the sense of the Congress that retroactive taxes are prohibited by the Panama Canal Treaty of 1977.

As to Section 250(e), which conditioned Panama's receipt of the contingency payment under Article XIII(4)(c) of the Panama Canal Treaty of 1977 on prior payment of all U.S. costs of implementing the Treaty, the conferees agreed to compromise language which makes it clear that such payment may be made only after payment of all costs associated with the maintenance and operation of the Panama Canal.

As to section 250(g), conditioning the contingency payment to the Republic of Panama on the determination of that country's noninterference in the internal affairs of other nations, the House recedes.

Claims—(Sec. 1401–18)

Chapter 7 of Title 1 of the House bill withdrew consent to suit against the United States or the Commission on claims other than claims for damage to vessels in the locks and placed a limitation of $120,000 on the amount of each claim that could be administratively settled by the Commission. The Senate amendment deleted this chapter and continued in effect the present claims provisions applicable to the corporate agency with some specific amendments on measure of damages and procedural matters. (Sec. 231).

The Senate recedes, with an amendment to Section 271 of the House version (new Sec. 1401) reducing to $50,000 the amount of claims other than vessel accident claims within the authority of the Commission to effect administrative settlement.

Disposition of property—(Secs. 1341(f), 1503 and 1504)

The House bill contained provisions (Secs. 373 and 374) requiring that all transfers of property to Panama be authorized by the Congress and leaving certain of those transfers to be decided by subsequent legislation. The Senate amendment contained no provision on property transfers.

The conferees agreed on language which retains Section 373 of the House bill (new Sec. 1503) and amends Section 374 (new Sec. 1504) to authorize all transfers required by the Treaties, with provision for a report by the President on each transfer after those occurring on October 1, 1979. The agreed language is not intended to permit the President to accelerate the ultimate transfer of the Panama Canal in 1999, as provided by the Panama Canal Treaty of 1977.

It is the intention of the managers that the conference proposal relative to disposition of property not prejudice the positions that have been taken by the House and Senate with respect to the necessary procedure for the disposition of property of the United States. The managers on the part of the House believe that legislation is the exclusive vehicle for effecting the disposition of U.S. property, and hence that the authorizations in this bill are necessary to transfer property to Panama. The managers on the part of the Senate maintain that the treaty power is concurrent with the legislative power for the purpose of disposing of property, and thus believe that the authorizations for transferring property in this bill are redundant to and reaffirm the transfer provisions in the treaty.

The House bill contained a related provision, Section 250(f), which restricted the powers of the Commission to transfer property to Panama through reprogramming of funds or pursuant to other statutes. The Senate bill contained no comparable provision.

The conferees agreed to amended language which is intended to negate any inference that the Foreign Excess Property Act would be inapplicable to the Executive agencies operating in Panama.

The language of Section 1344 was changed to conform to the substantive agreement of the conferees on this issue.

Transfer of fire stations

The House bill provided that, except for the Balboa and Coco Solito fire stations in the Panama Canal operating area, other fire stations operated by the United States in such area would not be transferred to Panama until the Administrator determined that voluntary attrition of firefighting personnel had made it impossible to staff such station and also that the station was excess to needs of the United States (Sec. 374). The Senate amendment contained no comparable provision.

The House recedes. With no language in the conference report on transfer of fire stations, such stations would be transferred under the general provisions for property transfer in H.R. 111 and in connection with the provisions of paragraph 14 of the Agreed Minute to the Agreement in Implementation of Article III of the Panama Canal Treaty. Paragraph 14 states that the United States will periodically review fire protection resources and if appropriate will transfer fire stations to Panama that are excess to U.S. needs.

Toll surcharge

The House bill contained a provision (Sec. 412(c)) which permitted the Commission to impose a toll surcharge on traffic not originating from or destined for United States or Panamanian ports in order to fund future capital costs of the Panama Canal Commission. The Senate amendment contained no comparable provision.

The House recedes.

Interest rate—(Sec. 1603)

Section 202 of the Senate amendment provided that the rate of interest to be paid by the Panama Canal Commission to the Treasury on the net direct interest-bearing investment of the United States in the canal enterprise should be determined by the Secretary of the Treasury. Section 413(d) of the House bill repeated the requirement that interest be paid, but stipulated that it should be calculated at the "average market yield" rate.

The conferees adopted the House provision on interest but with the Senate language allowing the Secretary of the Treasury to determine the rate. It is the intention of the conferees that the Commission should continue to pay interest at the "coupon" rate, the rate paid by the Panama Canal Company before October 1, 1979.

The conferees also modified the language of this section (new Sec. 1603(b)(2) (B) and (C)) to make it clear that those subsections cover non-capital as well as capital assets.

Interim toll adjustment—(Sec. 1605)

Both sections 415 of the House bill and 222 of the Senate amendment provided expedited procedures for the initial toll increase under the Treaty.

The conferees agreed on a compromise provision, which provides the needed authority to raise tolls effective October 1, 1979, provided that such toll adjustment may cover only the first year of operation of the Panama Canal Commission.

Navigation regulation—(Sec. 1801)

The House bill provided that the President may prescribe and amend regulations on Panama Canal operation, navigation, control of vessels, pilotage, and licensing of vessels operations (Sec. 1331). Under the Senate amendment the Commission was vested with that authority (Sec. 212).

The Senate recedes.

Prisons and parole—(Sec. 2404)

Both the House bill (Sec. 1532) and the Senate amendment (Sec. 412) contained provisions for the transfer to the custody of the U.S. Attorney General of prisoners sentenced by the U.S. District Court for the Canal Zone, and for issuance of regulations by the Commission for management of prisoners in jails located in the areas made available for the use of the United States under the Panama Canal Treaty. Because paragraph 11 of Article IX of the Panama Canal Treaty contemplates a future prisoner transfer agreement between the United States and the Republic of Panama, which could obviate the need for transfer to the United States of prisoners who are Panamanian citizens, the Senate amendment included a provision making the transfer requirement effective no earlier than 90 days after the entry into force of any such prisoner transfer agreement, but in no case later than 90 days before the end of the transition period established by paragraph 1 of Article XI of the Treaty.

The House recedes.

Special immigrants—(Sec. 3201)

The House provision (Sec. 1611) conferred special immigrant status on three categories of persons who have resided in the Canal Zone or have been employed by the Canal Zone agencies for specified periods of time. This included a category of persons whose personal safety may be endangered as a result of changes brought about by the Panama Canal Treaty. A limit of 7,500 was placed on the total number of immigrants admitted under the provision. The Senate amendment (Sec. 501) eliminated the class of immigrants whose safety might be endangered and increased the total number of possible immigrants to 25,000, with a limit of no more than 7,500 in any one year.

The conferees adopted a compromise provision restoring the class of immigrants whose safety would be endangered, and with clarifying language, allowing up to 5,000 immigrants a year up to a total of 15,000.

The conferees agree that regulations issued for the administration of this section should establish appropriate priorities for allocation of the number of annual admissions to assure to the maximum possible extent that the immigrants selected are those whose need for resort to the benefits of the section are most pressing and meritorious.

Title of the bill

The conferees agreed on a compromise amendment to the title of the bill.

JOHN M. MURPHY,
JOHN D. DINGELL,
DAVID R. BOWEN,
DAVID E. BONIOR,
CLEMENT J. ZABLOCKI,
DANTE B. FASCELL,
JIM HANLEY,
PAT SCHROEDER,
HERBERT E. HARRIS II,
PAUL N. MCCLOSKEY, Jr.,
Managers on the Part of the House.
JOHN C. STENNIS,
J. J. EXON,
CARL LEVIN,
STROM THURMOND,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH of Iowa) to revise and extend their remarks and include extraneous material:)

Mr. TAUKE, for 5 minutes, today.
Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. WEAVER) to revise and extend their remarks and include extraneous material:)

Mr. NELSON, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. WEAVER, for 10 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Mr. KASTENMEIER, for 5 minutes, today.
Mr. OBEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEACH of Iowa) and to include extraneous matter:)

Mr. YOUNG of Alaska.
Mr. BEARD of Tennessee.
Mrs. HECKLER.
Mr. HINSON.
Mr. GILMAN in three instances.
Mr. ABDNOR.
Mrs. HOLT.
Mr. CONTE.
Mr. MICHEL.
Mr. MOORHEAD of California.
Mr. HYDE.

(The following Members (at the request of Mr. WEAVER) and to include extraneous matter:)

Mr. KASTENMEIER.
Mr. MURPHY of New York.
Mr. ANDERSON of California in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Ms. HOLTZMAN in 10 instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. GUDGER.
Mr. PICKLE in 10 instances.
Mr. WAXMAN.
Mr. SANTINI.
Mr. MCDONALD.
Mr. OBERSTAR.
Mr. OTTINGER in two instances.
Mr. ROE.
Mr. GUARINI.
Mr. PEPPER in two instances.
Mr. MARKEY.
Mr. ECKHARDT.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 97. Joint resolution designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. WEAVER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, September 18, 1979, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2463. A letter from the Administrator of General Services, transmitting the stockpile report for the first half of fiscal year 1979, pursuant to section 4 of the Strategic and Critical Materials Stock Piling Act; to the Committee on Armed Services.

2464. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize the funding of fuel economy technology assessment programs; to to Committee on Interstate and Foreign Commerce.

2465. A letter from the General Counsel of the Department of Energy, transmitting notice of meeting relating to the international energy program to be held September 19 and September 26 and 27, in Paris, France; to the Committee on Interstate and Foreign Commerce.

2466. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, withdrawing the previously reported case involving the suspension of deportation of Alexander Helizer Kent under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

2467. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, withdrawing the previously reported case involving the suspension of deportation of Ashton Alfred Richardson under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

2468. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Urban Mass Trans-

portation Act of 1964; and title 23, United States Code; to provide for authorizations, and for other purposes; to the Committee on Public Works and Transportation.

2469. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to establish a cooperative basic automotive research program within the executive branch; to provide for authorizations and for other purposes; to the Committee on Science and Technology.

2470. A letter from the Comptroller General of the United States, transmitting a report on U.S. participation in the programing and budgeting processes of the United Nations Educational, Scientific and Cultural Organization (ID-79-12, September 14, 1979); jointly, to the Committees on Government Operations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 399. Joint resolution making continuing appropriations for the fiscal year 1980, and for other purposes; with amendment (Rept. No. 96-436). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 402. Joint resolution making continuing appropriations for the Federal Trade Commission for the fiscal year 1980, and for other purposes (Rept. No. 96-437). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee of Conference. Conference report on H.R. 111 (Rept. No. 96-438). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR:

H.R. 5301. A bill to designate certain lands in the Black Hills National Forest, S. Dak., as the Harney Peak Wilderness; to the Committee on Interior and Insular Affairs.

By Mr. BEARD of Tennessee:

H.R. 5302. A bill to amend the Internal Revenue Code of 1954 to provide that interest on certain nonnegotiable time deposit certificates shall not be treated as received or accrued until the earlier of the maturity or redemption of the certificate; to the Committee on Ways and Means.

By Mr. CONABLE:

H.R. 5303. A bill to amend the Internal Revenue Code of 1954 to provide that employers may not be required to make deposits of certain employment taxes more rapidly than currently required; to the Committee on Ways and Means.

By Mr. ECKHARDT (for himself, Mr. REUSS, Mr. MARKEY, Mr. CONTE, Mr. FISH, and Mr. MCCLOSKEY):

H.R. 5304. A bill to provide incentives for industrial, commercial, and residential energy conservation; jointly, to the Committees on Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. OTTINGER:

H.R. 5305. A bill to promote the full use of human resources in science and technology through a comprehensive program to maximize the potential contribution and advancement of women in scientific, professional, and technical careers; jointly, to the Committees on Education and Labor, and Science and Technology.

By Mr. PRICE (for himself and Mr. BOB WILSON) (by request):

H.R. 5306. A bill to amend title 10, United States Code, to eliminate the requirement that an individual be a member of the National Rifle Association in order to be eligible to purchase arms, ammunition, targets, and other supplies and appliances necessary for target practice which are sold by the Department of the Army; to the Committee on Armed Services.

By Mr. PRICE (for himself and Mr. BOB WILSON):

H.R. 5307. A bill to modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes; jointly, to the Committees on Agriculture, Armed Services, and Interior and Insular Affairs.

By Mr. WHITTAKER:

H.R. 5308. A bill to amend the Internal Revenue Code of 1954 to provide for the tax treatment of interest on certain time deposit certificates having a maturity of 1 year or less; to the Committee on Ways and Means.

By Mr. WHITTEN:

H.J. Res. 402. Joint resolution making continuing appropriations for the Federal Trade Commission for the fiscal year 1980, and for other purposes; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally refered as follows:

Mr. SHARP presented a bill (H.R. 5309) for the relief of Maria Gloria (Joy) C. Villa, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2020: Mr. VANDER JAGT, Mr. BROWN of Ohio, and Mr. BOB WILSON.

H.R. 2589: Mr. SABO.

H.R. 3304: Mr. CAVANAUGH, Mr. STARK, Mr. OBERSTAR, Mr. STOKES, Mr. GILMAN, and Mr. FRENZEL.

H.R. 3697: Mr. BAILEY.

H.R. 3905: Mr. NELSON.

H.R. 4971: Mr. DICKS.

H.R. 5169: Mr. LAGOMARSINO, Mr. ROYER, Mr. LAFALCE, Ms. MIKULSKI, Mr. BONER of Tennessee, Mr. CARNEY, Mr. ROSE, Mr. VENTO, Mr. WIRTH, and Mr. BEDELL.

H.R. 5206: Mr. COLLINS of Texas, and Mrs. SMITH of Nebraska.

H.R. 5218: Mr. OBERSTAR, Mr. PEPPER, Mr. FAUNTROY, Mr. DODD, Mr. DIXON, Mr. BEILENSON, Mr. HUGHES, Mr. SEIBERLING, Mr. LAFALCE, Mr. LAGOMARSINO, Mrs. CHISHOLM, Mr. OTTINGER, Mr. DOWNEY, Mrs. FENWICK, Mr. BONIOR of Michigan, Mr. MCHUGH, and Mr. STARK.

H.J. Res. 393: Mr. MONTGOMERY, Mr. STOCKMAN, Mr. WINN, Mr. PEPPER, Mr. COLLINS of Texas, Mr. HUTTO, Mr. HALL of Texas, Mr. WHITTAKER, Mr. KEMP, Mr. LAGOMARSINO, Mrs. HOLT, Mr. KINDNESS, Mr. JONES of Tennessee, Mr. HANCE, Mr. GOLDWATER, Mr. PATTEN, Mr. BURGENER, Mr. GUARINI, Mr. SAWYER, Mrs. FENWICK, Mr. LIVINGSTON, Mr. MCDONALD, Mr. PASHAYAN, Mr. BROWN of Ohio, Mr. CHENEY, Mr. MARRIOTT, and Mr. HINSON.

H. Con. Res. 62: Mr. BEARD of Rhode Island.

H. Con. Res. 111: Mr. BEARD of Rhode Island.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4360: Mr. EVANS of the Virgin Islands, and Mr. FORSYTHE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2061

By Mr. CHENEY:

—At section 404 of the Committee print, add a new subsection (e) as follows:

"(e) The prohibitions on the expenditure of part D formula grant funds enumerated in paragraphs (1), (2), and (3) of subsection (c) shall not apply where, in the judgment of the council and the Administrator, such expenditures are necessary to develop criminal and juvenile justice programs in energy impact areas and such programs offer high probability of improving the functions of the criminal justice system."

At section 405(d) of the committee print, on page 172, line 16, delete the period and insert the following ": *Provided*, That all States shall be considered equally for reallocated funds.".

by Mr. EVANS of the Virgin Islands:

—Page 146, beginning in line 15, strike out, "the Virgin Islands," and in line 16, strike out, "Guam,".

Page 172, beginning in line 23, strike out, "$1,000,000." and insert in lieu thereof, "$300,000."

Page 172, beginning in line 23, strike out, "Guam, the".

Page 172, beginning in line 24, strike out, "Virgin Islands,".

By Mr. VOLKMER:

—Page 166, beginning in line 5, strike out "one of the following" and all that follows through the end of line 4 on page 168, and insert in lieu thereof the following: "to relative population.".

Page 168, line 5, strike out "(3)" and insert "(2)" in lieu thereof.

Page 168, line 6, strike out "and (2)".

Page 170, line 1, strike out "(4)" and insert "(3)" in lieu thereof.

Page 170, line 16, strike out "(5)" and insert "(4)" in lieu thereof.

Page 148, line 8, strike out "405(a)(5)" and insert "405(a)(4)" in lieu thereof.

H.R. 4034

By Mr. WEAVER:

—At page 28, line 15, insert a new subsection (c) as follows, redesignating succeeding subsections accordingly:

(c)(1) In order to carry out the policy set forth in paragraph 2(c) of this act, and paragraph 4 of section 3 of the Export Administration Act of 1969; and notwithstanding the provisions of section (f) of section 7 of said Act, as such section is redesignated by section 104(a) of this Act: For a period of one year after the enactment of this Act, the Secretary shall require a validated license for the export of wheat, corn, and soybeans. In considering any application for such validated export license issuing under the terms of this paragraph, the Secretary shall establish a minimum export price for the said commodities of 80 per centum of the parity price as established and periodicialy revised by the Secretary of Agriculture under provisions of 7 U.S.C. 1301. No export license shall issue for the commodities listed in this paragraph at a price for export which is less than 80 per centum of the established parity price for said commodity.

(2) The provisions of paragraph (c)(1) may be waived in the case of exports to developing countries.

(3) The provisions of paragraph (c)(1) shall not apply to applications for export to any country if and when the President demines that it is in the national interest to remove the requirement of a validated license for export of said commodities to said country.

EXTENSIONS OF REMARKS

THE WISDOM OF CAUTION ON SYNFUEL

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. OTTINGER. Mr. Speaker, I want to call to the attention of my colleagues the lead editorial from today's Washington Post.

The editorial, entitled "Oil From Coal, Cautiously" states: "Exploring the possibilities of synthetic fuels is worthwhile, but the costs and risks will be high. It is necessary not to get overcommitted." To this I say, "Amen."

I urge my colleagues to read this editorial which applauds the efforts underway in Congress to put the brakes on the administration's foolish proposal to establish an $88-billion corporation to strive after an unrealistic goal of 2.5 million barrels of synfuels per day by 1990.

I also urge my colleagues to note the editorial's sound advice that "In the very short time available, the only resource that offers any substantial hope is intelligent and persevering conservation."

I hope my colleagues will heed this important editorial, the text of which follows:

OIL FROM COAL, CAUTIOUSLY

Congress is reshaping President Carter's synthetic fuels plan wisely and well—which is to say cautiously. The president's July proposal would have started construction of dozens of plants simultaneously, at breakneck speed, to make oil and gas from coal and shale. The goal was the equivalent of 2.5 million barrels of oil a day by 1990, with a federal commitment of $88 billion in loan and price guarantees.

Hardly anyone considers that timetable to be realistic. It takes nearly a decade to build a synthetic fuels plant on the huge scale that the administration envisions, and that target would require over 50 of them. The feat shouldn't even be attempted. The sound course is to make haste slowly, putting up one plant in each of the processes to be used, and gaining experience with it before attempting to build them in multiples.

That is what Congress is now telling the president. For Mr. Carter, who wanted to see a great burst of activity in response to his speech, it is doubtless, very frustrating. The Carter proposal is now making its way through the various committees and, although he isn't likely to thank them for it, they are rescuing him from an unnecessarily risky venture.

The Senate Energy Committee immediately divided the president's plan in two. Phase One would include one test of each of the major technologies, at full industrial scale. Phase Two would be the replication of the successes. The committee intends to provide financial support—up to $20 billion, not $88 billion—only for the first phase. The Senate Budget Committee immediately agreed. It also set up a task force under Sen. Gary Hart (D-Colo.) to consider the environmental and economic implications of these huge plants, the task force is to report this week.

Meanwhile, the House Budget Committee has accepted the idea of a limited first phase, but has voted to lower the limit to a maximum of $12 billion in loan and price guarantees. Now the Senate Banking Committee has set a further restriction of no more than six coal plants and six shale plants. It's not hard to see where the consensus is going. Exploring the possibilities of synthetic fuels is worthwhile, but the costs and risks will be high. It's necessary not to get overcommitted.

The next big test of American energy policy will arrive in the early 1980s, as the recovery from the current recession gets fully under way. If that recovery once again lifts American oil imports to unprecedented levels, it will once again throw the world into an oil crisis and the United States into a recession—for the third time since 1973. Synthetics cannot possibly be developed fast enough to help the country avoid that trap. In the very short time available, the only resource that offers any substantial hope is intelligent and persevering conservation.●

HEAVEN ON EARTH ON EARTH

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. MOORHEAD of California. Mr. Speaker, for 36 years John Carpenter has devoted his time, his efforts, and his money to the handicapped youngsters of my district and all of Los Angeles.

A former movie cowboy and stuntman, John is solely responsible for Heaven on Earth Ranch—free for the handicapped forever. It was his vision that conceived a rustic western town as a unique therapy center for children.

It was his determination and tenacity that brought the ranch from dream to reality. It was John's muscle that built the town plank by plank, building by building, and it is John's commitment and labor that keeps Heaven on Earth on Earth.

And this one man's creation has been uncommonly successful in providing treatment and joy for thousands of disabled children. This is easily understood when one reads the many letters from grateful parents and teachers and therapists that John has received over the years.

There are many reasons for the success of the small western village. For one, the atmosphere of the ranch is authentic. It is full of the scents of horses and hay. It is an eyeful of cowboy trappings and western wagons. The textures are of oak and earth and sage.

Heaven and Earth Ranch is just the opposite of what one would normally envision as the typical center for handicapped children. It has no long corridors, no concrete, no polished railings. It is not plastic.

The ranch also has John Carpenter, who has been wearing cowboy gear so long and so comfortably that it is difficult to see where the man begins and the leather ends. He undoubtedly is the principal reason for the success of Heaven on Earth. He has and constantly displays a natural affection for handicapped youngsters that most of us could not begin to emulate. He can pick up a crippled, drooling child and hoist him into the saddle, filled only with affection and compassion, not repugnance.

John and his ranch are much alike. They are unique, rugged, effective, beneficial and not easily swayed. This is a short but sincere tribute to John Carpenter for 36 years of special service to those who need special care.●

SOROPTIMIST INTERNATIONAL OF FALLON, NEV., AND SENIOR CITIZENS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. SANTINI. Mr. Speaker, fellow colleagues. As a member of the House Select Committee on Aging, I am frequently reminded of the plight of our senior citizens and of our obligations as a nation to care for our elderly.

Not long ago, at an Aging Committee field hearing in Nevada, I received a copy of a letter from a constituent, Ethel L. Clayton, of Fallon, Nev., which related an encouraging story of how one organization, Soroptimist International of Fallon, is working to help needy senior citizens.

I want to share the letter with you today as it is a striking example of the importance of senior citizen programs and of what they can accomplish given proper funding and manpower.

The text of the letter follows:

FALLON, NEV., *August 15, 1979.*

U.S. HOUSE OF REPRESENTATIVES,
Select Committee on Aging, Subcommittee on Housing and Consumer Interest.

MR. CHAIRMAN AND HONORABLE MEMBERS: I am indeed honored to be here. I am Ethel L. Clayton from Fallon and am representing the Soroptimist International of Fallon, grantees of several senior citizen projects.

In early 1973, our Soroptimist Club voted to direct all of our Community Service efforts toward obtaining a building which would serve to house all Senior Citizens programs. On October 1973, the Churchill County Senior Center was formally opened. From then on progress has been made in all directions for seniors.

In April of 1977 the entire community was involved in a telethon to raise funds to purchase the property for the Senior Center projects. The telethon was the most successful fund raising event ever held in our area. The property was purchased with excess money left over to put into a building fund for future expansion. This expansion is now

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

becoming a reality, showing that the community as a whole is in full support of their seniors to the limit of their abilities.

Soroptimist strongly believe in the programs for the elderly and the nutrition program which feeds from 125 to 175 hot meals per day. Many of our elderly would not get a hot nutritious meal every day if it were not for this program. We believe this is one way our tax money is spent sensibly and locally.

The smaller communities of Nevada are rapidly becoming retirement centers. We see the needs for the nutrition program grow, see the need for larger centers and know the needs of our senior citizens over a period of time.

There is no way the many sorely needed senior programs can be totally funded with local tax monies. Our desire and need is for Federal funding to continue and not be cut back, if anything it should be increased to assure our elderly citizens a happy and wholesome life which they have earned and deserve.

Thank you.●

TRAGEDY REVISITED—NEED FOR STRENGTHENED NATIONAL DRIVER REGISTER UNDERSCORED BY SEQUEL TO NATHANSON CASE

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. OBERSTAR. Mr. Speaker, the tragic death of 14-year-old Kamy Nathanson in December 1975, riveted my attention to the need for legislation to streamline, modernize, and strengthen the National Driver Register. In 1977, following careful, thorough study of the issue, I introduced such legislation. Although the House included my bill as an amendment to the Surface Transportation Assistance Act of 1978, the House-Senate conference gutted the provision, reducing it to a study of the existing National Driver Register by the Department of Transportation. This study is due to be submitted to the President of the Senate and the Speaker of the House in November along with legislative recommendations by the Department.

An editorial from the Providence Journal Bulletin of August 11, 1979, reports on the reverberations of the Nathanson incident. It underscores the urgent need to reorganize the National Driver Register to make it more effective and efficient and thereby prevent deaths and maimings of other Kamy Nathansons across the country. I commend this article to the attention of my colleagues.

A HIGHWAY MENACE 14 MILLION TIMES OVER

Normally, one thinks of killers being removed from society, sentenced to long prison terms, and in some states even executed. But there is one kind of killer, of which there are many in this country, who virtually escapes penalty and continues to go about his business until he kills again.

Kamy Nathanson, 14, was one of the victims. She and her parents were traveling north on route 95 near West Greenwich the day after Christmas in 1975, when their car stalled. A 32,000-pound truck, driven by John H. Arnold whose New Jersey license to drive had been suspended three months earlier for a series of motor vehicle violations, smashed against the rear of the Nathansons' small car and Kamy was fatally injured.

Last week, the Rhode Island Supreme Court reversed Arnold's 1977 Superior Court conviction for driving to endanger, death resulting, nullified his three-year prison sentence, and set him free. Arnold may have been negligent, the court said, but he wasn't "heedless and indifferent" which constitute recklessness.

In eight years this man had a record of 25 violations. After the Nathanson accident he had several more, which any reasonable person could construe as adequate grounds for keeping him permanently off the road as an unacceptable risk.

Incredible as it seems, the system does not work that way. When Arnold lost his license in New Jersey, he simply went to Arizona, acquired another license and went on driving. And the U.S. Department of Transportation estimates there are some 14 million drivers on the road today who likewise have "beaten the rap" to imperil other motorists, like the Nathansons.

Surely some way could be found to remove this kind of menace from our highways. In this computer age when large amounts of data on just about every citizen are stored in government data banks, is it too much to expect some means of establishing an interstate cross-check on license applicants? A license suspension in one state ought to disqualify that individual from permission to drive in all states. Reciprocal arrangements are now in effect as a matter of convenience under which out-of-state licenses are recognized. Why not the other way around in the interest of highway safety?

At least if a state is to license drivers with records of serious or multiple violations, it ought to be in possession of the information, even if for some strange reason it may choose to ignore it.

"We've seen this happen in so many cases," said Kamy's mother, Frances Nathanson, in an interview with *Journal-Bulletin* columnist Mark Patinkin. "I can't tell you the frustration when people see nothing has been done to drivers that have killed their children. These guys just say, 'I have a right to drive,' and no one says, 'You don't have a right to kill.' So it happens again and again and again."

Obviously, the system is badly flawed. The criminal justice system would not shrug if an individual found guilty of homicide in one state were granted haven in another state. The means to cross check an individual's criminal record are available and the same ought to be true of the habitual highway offender. In both instances, lives are at stake, and one can argue that the 50,000 lost on the nation's highways every year are not enough to warrant taking some extraordinary measures to reduce the toll.

If Arizona had known about Arnold's record in New Jersey, Kamy Nathanson might be alive today and the man responsible for her death assuredly would not be behind the wheel of a truck.●

SHORT-TERM CERTIFICATES OF DEPOSIT

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. BEARD of Tennessee. Mr. Speaker, today I am introducing a bill designed to overrule a new proposed Internal Revenue Service regulation which is certain to have tremendous adverse effects on taxpayers holding short-term certificates of deposit.

This new regulation would require cash-basis taxpayers to include in their gross income the ratable portion of interest on CD's that mature in 1 year or less, and are issued after June 30, 1979. For instance, if a 6-month certificate of deposit with a term extending into 1980 was purchased after June 30, 1979, the ratable portion of original issue discount on the certificate for 1979 would have to be reported on the purchaser's 1979 income tax return. This is nothing more than an esoteric exercise in matching "income" with "expenses"—an exercise that imposes needless disruption and hardship on millions of taxpayers.

Not only will taxpayers be forced to come up with money to pay taxes on income before it is received, they will also receive a lower effective yield on their CD's. This will make other investments, such as Treasury notes more attractive to the wise investor, thereby drawing down an important source of lending capital for commercial banks.

Mr. Speaker, this proposed regulation is opposed not only by the complete range of financial institutions, but also by various associations of retired persons. The attractive rate of return on investments in CD's provides retirees with an important means for keeping pace with today's high rate of inflation. Unless this regulation is rescinded, many senior citizens will be financially disadvantaged for the sake of a misapplied intellectual exercise.●

THE HOME HEATING FUEL CRISIS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. GILMAN. Mr. Speaker, I rise to draw attention to an issue that will most certainly have an impact on virtually every citizen of our Nation in the near future, namely, the home heating fuel crisis.

Mr. Speaker, relative home heating oil price stability and supplies existed in the United States until the early 1970's. Historically, the cost of energy for Americans has been comparatively low by world standards, and supplies have heretofore been considered inexhaustible. However, the situation changed dramatically within this decade. Beginning in 1972, changes in our foreign and domestic policies caused energy prices to skyrocket, with crude oil prices more than quadrupling by 1978.

In the past 10 years our crude oil imports have increased from 1.4 million barrels a day to over 8 million barrels a day, with deliveries from the Middle East climbing from 170,000 barrels a day in 1969, to 3.2 million barrels a day. The cost of these imports climbed from $1.3 billion 10 years ago, to approximately $60 billion this year * * resulting in a transfer of susbtantial wealth among nations, affecting the entire world. A few nations became rich, and a multitude of others are suffering severe economic burdens.

In 1960, only 18 percent of our oil was imported from abroad. Today, we import more than 50 percent with spiralling in-

creases still in sight. With this rate of consumption expected to increase to the end of the century by at least 2 percent per year, world oil reserves, standing at the end of 1978 at 650 billion barrels, would be unable to meet world demand by the mid-1980's. The United States makes up 6 percent of the world's population, yet consumes 30 percent of the world's energy in all forms, and about 30 percent of the world's oil production. Despite the increasingly dangerous tensions developing between many of the 150 interdependent and oil hungry countries of the world, the United States has not been making progress toward energy self-sufficiency.

Domestic production of crude oil in the United States averaged 8.45 million barrels per day (bbl/d) during the first quarter of 1979, a decline of 0.8 percent compared with the same period in 1978. Production in the lower 48 States declined from 7.6 million bbl/d in 1979, while output from the Alaska North Slope increased some 40 percent in the 1978–79 first quarter comparison, from 0.9 million bbl/d in 1978, to 1.2 million bbl/d in 1979. Production of natural gas liquids fell 1 percent to 1.55 million bbl/d in the first quarter of 1979.

What do all these statistics mean for our Nation as well as for the average taxpaying American citizen? Quite simply this:

First. World supplies of crude oil are becoming more expensive and harder to obtain.

Second. Our own domestic supplies are not being used to our full advantage because of the lack of incentives to explore and refine them. Most of the oil produced in the North Alaska slope does not reach American homes on the eastern seaboard because of the lack of cheap, effective transportation.

The bottom line to all this is that we may not have enough oil for our citizens this winter, and the oil that we do have will be outrageously expensive. Since the energy situation in the United States has been variously depicted from adequate to grave to the point of catastrophe, let us take a closer look at the level of supplies and related prices.

The President, earlier this year at a town hall meeting in New England, assured the American public that there would be sufficient home heating oil for the winter and that he was directing the oil companies to produce 240 million barrels of home heating oil by October of this year.

However, what the President did not comment on was the impact of the escalating prices of unregulated home heating oil. Recent reports indicate that the cost of home heating oil has doubled over the last year and is averaging from 80 cents to 90 cents a gallon.

In a recent study done for the House Subcommittee on Energy and Power, the Library of Congress Research Service noted that the estimated wholesale and retail markups of heating oil—profits plus legitimate overhead increases—are between $400 million and $2 billion more as of August, compared to last September. The author of the study, Susan Bodilly, claimed:

It was found that between September 1978 and May 1979 the increase in margin at the refiner and wholesaler not accounted for by inflation or crude oil price increases amounted to 6.4 cents/gallon or $2.71/barrel. By August 1979, the margin increase was 5.6 cents/gallon or $2.36/barrel over September 1978. At the retail level, the margin increased by $0.23/barrel by May over September 1978 base. That is for every barrel of residential fuel oil sold in May 1979, there had been a markup of $0.23/barrel since September 1978 that could not be accounted for by inflation or the rise in crude oil prices. By August, this had increased to $3.96 per barrel.

In addition to price gouging that has been inexcusably harsh on the poor and fixed-income group, the American public is now faced with the possibility of not even being able to obtain enough of this expensive oil for the coming winter.

Having been concerned with our home heating oil problem throughout the past year and having met on numerous occasions with our New York State energy officials, with spokesmen for the U.S. Department of Energy, and, most recently with Vice President Mondale, I am not at all satisfied with the responses given to Congress by our energy officials and the administration. Among the bureaucratic administrations there is a difference of opinion as to whether or not we will be able to adequately heat our country's homes this winter.

In a meeting with several independent oil dealers in my district in New York State, I was informed that they (the oil dealers) still were not receiving any of the home heating oil supplies for their own storage tanks. They stated that unless the major oil companies started pumping the oil from the primary storage tanks into the distribution pipelines, the Northeast could face a serious emergency by November. Reports questioning the integrity of the oil companies, lend credence to the contention that the oil companies are trying to meet the October 240-million-barrel storage target date by keeping that supply in their own storage tanks (primary storage) and, by doing so, can manipulate the market prices of home heating fuel (which has already gone up 50 percent since January).

In response to my inquiries, David Bardin (Administrator of the Economic Regulatory Administration) at DOE claims that the target of stockpiling 240 million barrels of home heating fuel by the end of October can be achieved and will be sufficient to deal with a severe or even early winter. Stocks of heating fuel in primary storage are reported to have increased by 7.5 million barrels during the week of September 7, 1979, to 202.7 million barrels. At this rate, the 240-million-barrel target level could possibly be surpassed by the end of October. However, the stocks are now 2.07 percent lower than they were at a comparable point in 1978.

I have this week joined with some of my colleagues in the House in calling upon the Department of Energy to rectify the delayed delivery of home heating oil from the refinery to the distributor.

Given the present rate of rising prices, coupled with the instability of world market supplies and domestic production, I am not too optimistic about a happy ending to this oil crisis. Although we cannot directly control the world events that are contributing to the energy crisis, we can, and must, closely scrutinize those factors that are making the problem particularly frustrating in our country. We must see to it that the oil companies are playing fair and not placing self-interests above our economy's well-being and security.

Furthermore, the DOE has a poor track record, with one of its major claims to fame being the champion creator of the longest gas lines in the world. I am speaking of the malfunctioning gas allocation system which has been responsible for the past crisis and may soon be a contributing factor to the home heating fuel shortage. This system has not provided expeditious shipment of fuel to the hard-pressed areas of our country, nor has it provided any incentives for conservation. Rather, it rewards those areas that waste energy by increasing or maintaining their allotments, and cuts back allotments to those areas that conserve energy.

Energy is the most critical problem confronting our Nation. It has crippled parts of our economy; it has placed itself before all other political considerations, be it the Panama Canal, SALT II, or the Middle East; it has alienated the mainstream of the American public, who have started linking their distrust of the hedonistic oil companies to the inaction of Congress; and finally, it has altered our way of living.

The challenge confronting America is a major one. We must reverse the deteriorating energy situation if we are to survive. There are some short-term and long-term actions that can and should be taken which will add immensely to the restoring of our energy security and cost effectiveness:

First. Expanding our refining capacity to the point where it will not be overburdened by the mid-season switch from gas to home heating fuel production.

Second. Insuring that the surplus of crude located in Alaska and the west coast is, in part, transferred to those parts of the country that are experiencing a higher need.

Third. Assuming that this coming winter will be the first hurdle to leap, Government efforts should be directed toward providing emergency grants or low-interest loans to those in need to purchase home heating fuel.

Fourth. Providing tax credits as incentives for further conservation measures such as home insulation and wood burning stoves.

Fifth. Congress must acknowledge the fact that State and local government can and must play an expanding role in alleviating the energy problem. Congress should support a variety of incentives that will assist State and local governments in their efforts to conserve energy and to promote the utilization of alternative energy sources.

Sixth. In a broader sense, we should seek to develop a long-term hemispheric energy policy through improved relations with Canada, Mexico, and Latin America.

Seventh. We should use our membership in international lending institutions such as the World Bank and the Inter-

national Development Association to actively pursue the development of energy supplies in non-OPEC countries, thereby diversifying world oil monopolies and leaving our potential allies less dependent on our own resources in a time of military crisis.

The critical consideration behind all these proposals is that we seek solutions that are politically acceptable, while at the same time making expeditious and fundamental contributions to resolving the energy crisis.

At this point in the RECORD I would like to share with my colleagues, two articles; one from the Journal of Commerce (September 4, 1979) and from the Washington Post (August 30, 1979). Both touch on the two most immediate problems facing our citizens; the availability of home heating fuel, and the cost.

[From the Journal of Commerce, Sept. 4, 1979]

HEATING OIL CRISIS AHEAD?

We should be assured, we suppose, by the promise of the new secretary of energy, Charles W. Duncan, to make certain that the Northeast gets an adequate supply of home heating oil next winter. His pledge to set up a special reserve of 10 million barrels in the region is the kind of thing that creates favorable headlines. And the Carter Administration is well aware that it needs not only headlines but solid performance on the energy front if it is not to be shot down in those crucial New England primaries early next year.

But, with the governors of the nine states in the region, we have to wonder if we are not already seeing the beginning of a home heating oil crisis not unlike the gasoline crisis which led to those long lines at the pumps only a month or two ago. The gasoline crisis was caused, the department finally was forced to admit, by mistakes in the way it applied its rules for the allocation of scarce product supplies.

Under the same rules, the oil companies have been ordered to amass, by Oct. 31, 240 million barrels of home heating oil in their refinery and storage tanks. And, dutiful citizens that they are, the companies are obeying orders. But what no one in Washington apparently realized until now is that there are two ways to build up inventories, by adding to production of home heating oil and by withholding oil from delivery. The companies apparently are doing a bit of both. What worries the governors is that next January and February, when snow and ice can be expected to make deliveries difficult, the oil will still be in company tanks and not in homes.

To be fair, Mr. Duncan has just taken over. His meeting with the northeast governors in Boston was held on only his second day on the job. Already, however, his performance—resembling that of the president—seems more designed to produce votes than additional supplies of gasoline and home heating oil. His visit crammed in, in addition to the meeting with the governors, a tour of energy conservation and solar energy projects in low-income areas of Boston, an afternoon session with black community leaders, and a surprise sidewalk meeting with demonstrators who had picketed his meeting with the governors. They wanted him to restore price controls on home heating oil, removed in 1976.

Reporters covering the meeting said that not once in his two years in office had Mr. Duncan's predecessor, James Schlesinger, made any similar political effort.

The new secretary did promise over the next few weeks to study the heating oil stockpile goal to see whether it possibly should be dropped to encourage the movement of oil from the companies to dealers and customers. He also told the governors that President Carter intended to ask Congress to increase to $400 million federal aid to families with incomes below the poverty level to help them pay fuel bills. Congress is considering a $250 million aid package for that purpose.

The northeast governors also elicited from Mr. Duncan an endorsement of a plan, proposed by Gov. Hugh Carey of New York, for a government-backed corporation to finance energy conservation and development in the region and to provide credit for middle-income families to pay fuel oil bills over a period of months. Many oil companies already provide such credit, but presumably the corporation would provide it to fuel buyers whose circumstances make them unacceptable risks.

Two bills to create such a corporation have been introduced in Congress. If established, the corporation would issue bonds guaranteed by the federal government, lending the proceeds for "winterizing" homes and developing new energy sources, as well as for installment loans to fuel buyers.

Gov. Carey estimated that in his state alone 450,000 homes needed additional insulation, storm windows and doors, and other forms of winterizing which could cost as much as $3 billion. In addition to conserving energy, he said, making such improvements could provide thousands of jobs.

A study just published by Resources for the Future supports the view of a big payoff in the area of home heating. By the year 2000, it says, such use could be trimmed 10 percent, from 8.8 quads (quadrillion British thermal units) to 8 quads, despite an increase from 70 million to 115 million in the number of homes in the nation and an increase in average home size. This would reduce its share of overall U.S. energy consumption from 12 percent to 7 percent.

The research organization warns, however, that major improvement isn't likely if barriers standing in the way of improving the heating efficiency of both new and old homes aren't removed, such things as building costs, low capitalization, a craft-based work force and other impediments which make innovation difficult in the building industry. Such things also as the problem homeowners and renters encounter trying to relate the costs of heating improvements to fuel savings because of the way meters are read and bills presented.

Money alone won't solve these problems. Nor will talk—with the poor, with blacks, with protest groups. In the months ahead, Mr. Duncan may demonstrate that he realizes this too, that on the home heating front as in every other area of his responsibility there is no substitute for performance and that tampering with market forces is the surest guarantee of failure.

[From the Washington Post, Aug. 30, 1979]

WHERE THE HEATING BILL GOES

Home heating oil cost, a year ago about 49 cents a gallon in the Washington area. Today the average price is up to 83 cents.

Who got the 34-cent increase?

OPEC comes first to mind. But the figures suggest that the foreign producers got only about 10 cents of it. The domestic producers, still under price controls, got less than 2 cents. The remaining 22 cents went to the companies that transport, refine, store and distribute the oil. There has been a gigantic widening of operating margins all along the complex system that gets oil to your furnace.

The figures come from our own rough and preliminary survey. They are averages, and do not fairly represent the widely varying circumstances of individual companies. But to return to the missing 22 cents per gallon, it seems that about 12 cents of it goes to that part of the system that refines the oil and sells it, at wholesale prices, from terminals in the Washington-Baltimore area. The gross margin on this operation, a year ago, averaged less than 10 cents. At present it is over 20 cents.

The remaining 10 cents a gallon of the total increase has gone to the smaller local companies that pick up the refined heating oil at the terminals and deliver it to the tanks in peoples' basements. Their gross margins, about 10 cents a gallon a year ago, now seem to be running about twice that much.

You will note that these figures are not net profits.

A company has to pay all its own operating costs out of the gross margin, and oil companies like everyone else are struggling with inflation. Local distributors point out that some of the refiners have also imposed a further increase on them by tightening the terms of credit. A few of these companies, caught in unusual situations, may well be suffering reduced net profits. But it is hard to believe that, for the industry as a whole, a 13-percent inflation rate justifies doubling the gross operating margins.

While inflation is part of the explanation of this drastic price rise, the other part is diminished competition. Everybody who uses fuel oil remembers the gasoline lines last spring. Nobody wants to shop around and risk losing his place on his supplier's list of regular customers. The Carter administration keeps saying that there will be plenty of oil for the winter. But most other people suspect that more depends on the Iranian revolution and the weather than on the White House.

Even at 83 cents a gallon, heating oil prices are still rising. Margins are still spreading. The oil industry is inviting precisely the public response it most fears and detests. It is inviting the reimposition of controls on heating oil, and the regulation of refineries as public utilities. That would probably work very badly, but merely to say as much doesn't mean it won't happen. While the weather is still warm, the oil companies, large and small, might want to reflect briefly on the fate of other industries, like the railroads, that tried to push their customers too hard.

Mr. Speaker, we must be concerned with our Nation's need for home heating oil that have to be met this winter as well as next winter, and the winters thereafter. In that regard, we should start paying closer attention to our refinery capacities, and to improving our allocation system so that the fuel gets to those areas that need it by the fall. We must also look toward the reasonable regulation of prices on a market that is gutting the American consumer of his hard earned money.

We must make the energy issue a top priority and take to heart the pulsations of our country which is suffering from this malady.●

MILITARY RECRUITMENT AND MORALE

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mrs. HOLT. Mr. Speaker, as ranking minority member of the Personnel Subcommittee of the House Armed Services Committee, I am vitally interested in manpower recruitment and retention levels in the Armed Forces. These levels

are highly dependent on the morale of enlistees and their families.

Military life has always been difficult and has always imposed hardships not borne by the civilian sector. Unfortunately, there is a widespread perception today that military life is a soft, benefit-laden existence.

Recently, I received a letter which poignantly recounts the problems faced by an enlisted man and his family. I would like to share this letter with my colleagues:

DEAR CONGRESSWOMAN HOLT: This letter is sent to request that Congress take a better look at the way the United States military and their families are "taken care of". My husband is currently serving his soon to be 12th year in the U.S. Coast Guard. His present rate is an E-6 or 1st Class Boatswains Mate. He is presently stationed aboard the U.S. Coast Guard Cutter Capstan in Alexandria, Virginia. The purpose of this vessel, from what I understand, is to break ice in the winter months, search and rescue in the summer and winter, take care of the aids to navigation in the area and when needed, to escort dignitaries in the Washington area. Since the Capstan is the only Coast Guard vessel in the Washington metropolitan area they are relied upon to do a variety of jobs.

I understand the duty that goes along with the job, but what I do not understand is the lack of compensation for the inconveniences when they are forced to leave home port and go into the "yards" for repair work, or to break ice in the winter.

At present, the Capstan is in Baltimore in the "yards" for repairs. The crew on the Capstan has been given a motel room in the Suburbs of Baltimore for sleeping quarters but they are really having a hard time trying to eat a "decent meal". As a 1st Class my husband receives approximately $113.00 per month to compensate for the lack of a proper galley on board the ship. But, if you figure a minimum of $5.00 a day for one decent meal that comes to $150.00 per month, leaving him short $37.00. That does not even take into consideration that he may not eat anything for breakfast or lunch, just one evening meal. Think about it for a moment and I think you must consider this an outrage. Being in the military shouldn't make you rich but it certainly should not put people in the "poor house".

Being stationed in the Washington area itself is a hardship for any enlisted personnel. Even though government leased housing is available, it is usually an apartment complex that cares absolutely nothing about the way the complexes are taken care of and has no respect for the military families living in the apartments. As I am quite sure you are well aware of, the D.C. area is one of the highest cost of living areas in the country. If you are serving in the military and are transferred to Hawaii or Alaska or some other place overseas you are compensated for the cost of living, monetarily, that is. Not so in the D.C. area.

In the complex that my family and I live there are, on the average, about 60 percent military families living there. After being here for almost three years, I have come to know quite a few of them and the thing that is talked about the most is the fact that everyone is having such a hard time "making ends meet" or "living from payday to payday". Why is it so hard for the Congress and everyone else in this country to understand that in order to have a competent and trustworthy military there must be some kind of proper enducement to get and keep them in as active members of the armed forces. I hear so many times from civilians "well doesn't your husband get overtime pay for all those odd and long hours?" There are a lot of people that think if you're in the military you have it made.

There are really so many things that I would like to say in this letter but I realize that you are a very busy person. I have heard so many good things about you and the help you have given many people in Prince George's County.

We are being transferred in the next few months but I still would like it to be known how unfair it is for so many people to assume that the military is in such fine shape. Perhaps you saw the show on television several months ago about the Army personnel in Germany. Doesn't anyone ever wonder why the situation is so bad. Try and picture you or your family trying to scrape together enough money to live together as a family or trying to save enough money to be able to go out to the movies or take your children to an amusement park once or twice a year.

I realize that there are many, many people in the United States that have problems similar to these but not because the United States government has made it so.

If you would be so kind as to address you fellow congress members on this subject, perhaps even give them an opportunity to read this letter, something could be done to ease the burden of being a military family. It's the same thing for military personnel and their families as it is for civilians—we would like to feel like we can live a little.

I have never been so disappointed with the U.S. government as I have since coming to the Washington area. It's really a shame to live right in the center of the U.S. Federal Government political community and to be treated as though we have no needs and/or that we are privileged and have so many benefits that you have nothing to complain about.

Try getting an appointment in a military clinic or hospital. Most likely, unless you are on your death bed or have some connection, you will be told "we are booked up until the end of next month, you'll have to call again" and then when you do call again it's the same answer as before.

If Congress keeps trying to take away the "benefits" we have now you will most definitely have to go back to the draft. No one with the least amount of intelligence would want a job or career that offers so little.

Civilian federal government employees and big business workers all receive some kind of compensation when forced to travel or leave their normal place of business and/or residence and go elsewhere in business related ventures. Why not so for the military?

If you are sent to sea, instead of compensating for that fact, your subsistence pay is taken away, because you are now eating on board and as I see it the thoughts there are that, well now that we've taken care of feeding the active member, we don't need to worry about the dependents eating.

The average income in the Washington area for a family of four (4) is $20,000.00 a year. An E-6 only makes $11,000.00 along with $113.00 per month for subsistence and approximately $338.00 per month for government leased housing giving a total of $1,356.00 per year for food, and $4,056.00 per year for housing, for a grand total of $16,412.00. That is $3,588.00 below the standard for a family of four (4) to live.

I think it only fair for the people of America to know just what is happening to the military that protects them in war and peace and helps them in times of need. Don't you and the other members of Congress think it's about time for a change?

Please we need your help!!!

Awaiting a speedy reply and, hoping for a better military and a better future.●

COAST TO COAST SUPPORT FOR HECKLER HEALTH BILL

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mrs. HECKLER. Mr. Speaker, today I continue the occasional publication of correspondence I have received from around the country in support of enactment and funding of H.R. 4015, the Veteran Senior Citizen Health Care Act of 1979.

This major legislative initiative which I have introduced won House passage last June by the unanimous vote of 406 to none. The letters I have received are most laudatory of this distinguished body for its action.

The distinguished senior Senator from California, the Honorable ALAN CRANSTON, chairman of the Veterans' Committee in that body, is in the process of rescheduling a hearing on this bill which originally had been set for September 19.

Today's sampling includes supporting correspondence from the manager of the Division of Veterans' Services for the State of California; the associate dean for medical services at the Harvard Medical School, who also has been senior health consultant to the Disabled American Veterans who enthusiastically support H.R. 4015; the national president of the American Medical Student Association, where there is great interest in the development of the long-neglected field of geriatric medicine; the director of the Center for the Study of Aging at the Duke University Medical Center; and the administrator of the Division of Veterans' Affairs for the State of Idaho.

Mr. Speaker, today's letters are as follows:

AUGUST 16, 1979.

Congresswoman MARGARET M. HECKLER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSWOMAN HECKLER: Thank you for your letter of July 30 with a summary of HR 4015.

I am vitally interested in the objective of your legislation and will certainly do everything within the jurisdiction of my office to generate support for this bill.

Sincerely,

MANUAL VAL,
Manager.

JULY 27, 1979.

Hon. MARGARET M. HECKLER,
U.S. Representative,
Wellesley, Mass.

DEAR MARGARET: Thank you for the copies of H.R. 4015 and report No. 96-148, concerning your bill entitled the Veteran Senior Citizen Health Care Act of 1979. I hope to testify on behalf of this bill before Senator Cranston's Committee.

For the past year I have served as the Senior Health Consultant to the Disabled American Veterans and have assisted them by forming a national research advisory committee comprised of internationally renowned leaders in health policy, health economics and veterans health care. We are defining strategies for veteran consumers in confronting the complex issues of veterans health care.

I am currently studying the resources

available to the V.A. in providing care for the aging veteran and feel that your bill will do much to meet their needs. The attached table was generated by me and depicts the nursing home care beds needed by veterans aged 65 and over to the year 2000. The V.A. intends to meet no more than 20 percent of this need leaving the remainder to the private sector. I need not tell you how deplorable the private sector's performance has been in nursing home care. Should the V.A. decide it will meet only 20 percent of the demand?

The existing GRECC's in the V.A. have not had strong clinical bases. This is due in part to the absence of gerontologists and high quality clinical/academic personnel. Harvard Medical School has assisted Dr. Jerry Silbert of the Boston V.A. Outpatient Clinic in applying for a V.A. gerontology training program. We have also established a University-wide Committee on Gerontology and Geriatrics to define research and training programs in this important area. Needless to say, your bill is of great interest to us.

If we examine the total number of V.A. nursing home care beds, extended hospital care beds, domiciliary beds and the support services, e.g., V.A. hospital based health care, centers for the aged, meals on wheels, etc., the resources to care for the aged veteran are negligible. What does the V.A. intend to do about this?

The October 1977 Report on the Aging Veteran, Present and Future Medical Needs, a response to P.L. 94-581, *does not contain an explicit strategy for resolving the problems confronting the geriatric veteran.* I am hopeful that the task force your bill requires will demand that such a strategy be defined by the V.A. itself. If the V.A. will not meet the needs of the aging veteran for care, the veteran would be better served to negotiate for that care outside the V.A.

The disabled veteran who is aged has very special needs. Oftentimes, his/her spouse is also infirm and having cared for the veteran over many years is excluded from the same quality of care his/her spouse is entitled to. This is a serious and tragic condition. The aged, married, disabled veteran is separated from his/her spouse and placed apart in a nursing home. No accommodation exists for veterans and spouses who are aged and infirm. I would hope that we might begin to address such needs. Is the V.A. only to provide care for the single, isolate, aged veteran? What are the needs of all aged disabled and infirm veterans?

Margaret, your bill does specify that S.M.A.G. members will comprise the task force. I feel very strongly that many prominent veterans are eminent citizen leaders capable of performing such a task quite well. I would encourage the formation of a National Veterans Task Force on Present and Future Needs of the Aging Veteran, similar to the Hoover Commission. These needs are psycho-social, political, economic and only partially medical. They are part of the fabric of our society's incapacity to meet the needs of all aged.

In old age it is difficult and hazardous to isolate the needs or the care of the veteran from his/her spouse. To do so is to destroy all that the veteran fought for. Let's define what needs to be done. Let's enlist people who can help do that.

I hope that we can discuss these matters further. The DAV will be meeting with the V.A. and others to discuss these matters in the coming months. I hope that we too will have a chance to discuss the GRECC's and their *special needs for imaginative management, something they have not had to date. I, like you, have the greatest hopes and expectations for the GRECC's but to date they have been pitifully inadequate.* They must relate to patient care programs.

Sincerely yours,

RICHARD M. RYAN, Jr., D.S.c.,
Associate Dean for Medical Services.

AUGUST 13, 1979.

Hon. MARGARET M. HECKLER,
U.S. House of Representatives,
Washington, D.C.

DEAR MRS. HECKLER: Thank you for your letter about legislative initiative H.R. 4015, the Veteran Senior Citizen Health Care Act of 1979. I was pleased to get your correspondence because geriatric health care remains a major concern of this organization. I have forwarded your letter to the chairpersons of the Task Force on Aging. If you can let us know who are some of the key Senate leaders who may have less than an enthusiastic response to this initiative, then we can have some medical students speak with them as well as have a member from the task force write to them from their home states. We thank you for your interest and support in this valuable legislation and we will make known your support to our members from the State of Massachusetts.

Sincerely,

CHARLIE CLEMENTS,
National President.

NOVEMBER 8, 1978.

MARGARET M. HECKLER,
Member of Congress,
House of Representatives,
Washington, D.C.

DEAR MRS. HECKLER: The issue which your legislation addresses is profoundly important. The demographics which you cite are impressive, now widely known. But the fact is that the VA initiatives can only be described as modest. The existing GRECC program has moved slowly and the VA has moved even more slowly in evaluating what appears to be a very modest performance of these centers to date. The VA initiatives to increase geriatric training are just under way and their impact remains to be seen. However, both these initiatives are in the right direction, should be encouraged, and must be evaluated at the earliest appropriate moment. If the VA is to be a leader in geriatrics, it must substantiate the effectiveness of its initiatives. Consequently, I would prefer to see an evaluation component up front in any supportive legislation.

With regard to VA initiatives regarding demonstrations in care, I have argued as forcefully as possible that the VA is in an unparalleled position to demonstrate innovations in the coordination of a comprehensive geriatric care system. My impression is that the VA tends to be a very conservative system in such matters as indicated by the very defensive response to the NAS review of VA performance and to the recommendations of just the kinds of innovative demonstrations your legislation would encourage. More than enabling, encouraging legislation would be required to move the VA into consequential demonstrations. Therefore, hearings with regard to your legislation, which focus on the real, practical and political impediments in moving the VA system into innovative geriatric care, are particularly important.

With best wishes, I am,

Sincerely yours,

GEORGE L. MADDOX, Ph.D.,
Director.

AUGUST 30, 1979.

Hon. MARGARET M. HECKLER,
U.S. Representative.
House of Representatives,
Washington, D.C.

DEAR CONGRESSWOMAN HECKLER: Please accept my delayed compliments on your dedicated work on H.R. 4015, the Veteran Senior Citizen Health Care Act of 1979, and an unusual recorded vote of 406 to none in favor.

Certainly many aged Veterans will be grateful to farsighted members of Congress in leading the fight for their benefits. I am writing to our two Senators, asking for their support.

We are indeed grateful to you and wish you the greatest success in your endeavors.

Sincerely,

LARRY LAUGHRIDGE,
Administrator.●

PROPOSED HARNEY PEAK WILDERNESS AREA

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. ABDNOR. Mr. Speaker, legislation I am introducing today proposes the Harney Peak Wilderness be designated on 10,700 acres of beautiful Black Hills National Forest land in the Second Congressional District of South Dakota.

The Beaver Creek unit south of Sturgis, S. Dak., was the Forest Service's original recommendation as a representation of the Black Hills ponderosa pine in the wilderness system. Due to the degree of local opposition expressed, however, I suggested and the President agreed in his recommendations to Congress to substitute the Harney Peak Area for Beaver Park.

There are a number of unique features within this unit that justify its inclusion in the roadless area review and evaluation (RARE II) program, which proposes to add 15.4 million acres of National Forest land to the National Wilderness Preserve System:

Harney Peak includes some of the highest elevations east of the Rocky Mountains, ranging from 4,050 to 7,242 feet above sea level.

The unit includes rolling hills, two beautiful mountain lakes, granite walls, and stands of ponderosa pine.

Primary habitat for Rocky Mountain goats and secondary range for elk are included in the proposed area, as well as deer, grouse, turkey, and nongame birds and mammals.

Although the original "Norbeck core" area considered for inclusion in the wilderness system comprised 9,400 acres, the 10,700-acre area authorized in my bill reflects the logical, natural boundaries, and includes no major additions.

The name, "Harney Peak Wilderness," has been suggested by the Department of Agriculture and describes the area geographically, since its most distinctive feature is Harney Peak. Senator MCGOVERN is introducing legislation today to designate the area the "Black Elk Wilderness," however, and I shall look to my constituents for further guidance on this issue.

The Harney Peak Wilderness would be established on one-third of the present Norbeck Wildlife Preserve land, which was created by the Congress in 1920. As such, the legislation I am introducing recognizes the intent of the Congress' original designation of the Norbeck Area as a geographically complete unit of nature. The subdivision of Norbeck by the creation of the Harney Peak Wilderness Area will not conflict with those management policies necessary for the unit as a whole.

I urge my colleagues to join me in sup-

porting this proposal to preserve a portion of America's natural wilderness for future generations.●

NEVER TOO OLD

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. GUDGER. Mr. Speaker, I would like to take this opportunity to commend to you and to our colleagues of both Houses of Congress a superlative column written by Bob Terrell of the Asheville Citizens during the August district work period.

Mr. Terrell's article concerns the success of the Elderhostel program, a unique opportunity for our senior citizens to learn and travel at a cost within reason in these inflationary times. Colleges and universities which participated in the program operated Elderhostels on a nonprofit basis, and the program carried its own weight. No grant or subsidies were received; Elderhostel registration fees sustained the program totally.

For a nominal fee, senior citizens gained the opportunity to learn in college-level course, and to explore new environments and experiences. I think you and our colleagues will find this column to be interesting.

The column follows:

NEVER TOO OLD

We never get too old to learn. Nor does advancing age rob us of a desire to learn.

In that vein, this was the summer of Elderhostel at colleges and universities around the U.S.A. and judging from the response, the program was a whopping success.

At least, it was successful if the Elderhostel program at the University of North Carolina at Asheville can be used as a yardstick.

Elderhostel is a program for persons over 60, combining the traditions of education and hosteling. It ran for only two weeks at UNC–A, the shortest time of any of the nine participating colleges and universities in North Carolina, but those who attended the UNC–A classes came away wanting more.

They may get more next year. The state organization which sponsors Elderhostel has asked for two additional weeks at UNC–A next summer.

The program began four years ago on five campuses in New Hampshire, and it expanded to the point that more than 250 institutions in 38 states were involved this summer. The nine North Carolina schools included the University of North Carolina campuses in Asheville, Greensboro, Chapel Hill, Charlotte, and Wilmington, plus Mars Hill, Winston-Salem State, Western Carolina, and Appalachian State.

ECONOMICAL VACATION

Its great attraction is that it gives persons over 60 an opportunity to take a couple of courses of interest and at the same time spend an economical vacation in an area they like.

Dorothy Ormsby, secretary of the Elderhostel staff at UNC-A, said 80 persons participated in the UNC-A Elderhostel program, 40 each week.

They had a choice of taking two of three courses offered: "The Life and Literature of Thomas Wolfe" (what better place to study that?), "Western Religions," and "Energy—Solar, Oil, Gas, Etc."

The courses ran an hour and a half each day, beginning at 8:30 a.m. and ending at 2:30 p.m., and the students had the remainder of the day free to see the sights and visit places that interested them.

"We had people here from Ohio, New Jersey, New York, Florida, Massachusetts, Texas, Connecticut, Georgia, and both Carolinas," Dorothy said. "They included cost analysts, doctors, lawyers, insurance executives, retailers, and persons from many other trades and professions."

IMPRESSED

The same was true on the other participating campuses.

About two-thirds of those attending the UNC-A courses were couples.

"Those who came here from the northern states," Dorothy Ormsby said, "seemed to be very impressed with Asheville. Some were in the South for the first time. They had no idea Asheville had a mineral museum, a new library, and some didn't know the Wolfe Memorial was here. They really enjoyed themselves."

Sixty-two local merchants contributed to the program, helping it succeed.

The participating people stayed in the UNC-A dorms and paid $115 a person for room, board, and the classes.

Alice Wutschel, associate director of continuing education at UNC-A, coordinated the program and did an excellent job.

MUCH TO DO

The students took advantage of the scheduled extra-curricular activities, visiting Biltmore Homespun Shops and Grove Park Inn, St. Lawrence Catholic Church, the Asheville Art Museum, Pack Memorial Library, a solar home, the Thomas Wolfe Home, and Riverside Cemetery. They swam in Justice Center on campus, attended local movies at a discount, strolled in the botanical gardens, and got a taste of square dancing.

The UNS-A Elderhostel program is bound to grow in future years. With so many local attractions that appeal to folks all over the country, it's possible that the UNC-A part of Elderhostel will become one of the most desired in the nation.

Local people have taken part in Elderhostel in other parts of the country. Mr. and Mrs. Arnold Hyde spent a week in the Amish country of Pennsylvania in an Elderhostel program. Others from here went to various parts of the country, studying and enjoying themselves. All with whom I talked were pleased with the program.

The national Elderhostel office, from which information can be obtained, is at 55 Chapel Street in Newton, Mass. 02160. Fast action is suggested. The program is already filling up for next year.●

ROGER WILLIAMS MEMORIALIZED BY ZETA BETA TAU IN RELIGIOUS FREEDOM CEREMONY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. GILMAN. Mr. Speaker, it was an honor yesterday, September 12, to participate in a wreathlaying ceremony at the foot of the statue of Roger Williams in the Hall of Columns here in the Capitol.

The ceremony, organized by Congressman WILLIAM LEHMAN (Florida) on behalf of the Zeta Beta Tau Fraternity to which I belonged at the University of Pennsylvania, was the first commemoration at the statue of Roger Williams since World War II. It is hoped that this tradition of honoring one of our Nation's earliest and most devout champions of religious freedom will continue annually.

Congressman LEHMAN, who was President of his Zeta Beta Tau Chapter at the University of Alabama, notes that this tradition was established by ZBT in 1920, to pay tribute to the first American to preach the doctrine of absolute freedom of religious worship.

I can think of no better way to remember those who sought and helped to give America freedom to worship, than to continue this admirable practice annually of remembering the good works of Roger Williams, who over 300 years ago helped to found Rhode Island.

The Congress currently includes six ZBT members (besides Congressman LEHMAN and myself): Senator RUDY BOSCHWITZ of Minnesota, (Johns Hopkins University); Senator ABRAHAM RIBICOFF of Connecticut (an honorary member); Representative MARC MARKS (University of Pennsylvania); RICHARD OTTINGER of New York (Cornell University); ABNER MIKVA of Illinois, (University of Wisconsin-Madison), and MARTIN FROST of Texas, (University of Missouri).

Mr. Speaker, in order to share his views with my colleagues, I would like at the time, to insert Congressman LEHMAN's remarks in full into the RECORD:

REMARKS BY CONGRESSMAN WILLIAM LEHMAN

In the light of the tensions and oppression that exist throughout the world, it is fitting this day to begin anew the tradition of commemorating the life of an early champion of religious and political freedom in this nation—Roger Williams. Arriving on the American continent from England when he was 27, this vocal and active clergyman was the first to preach absolute freedom of religion. He advocated separation of church and state, and respect for the rights of others—including the American Indians.

On these basic concepts he and his followers founded the State of Rhode Island, which because an important influence in the democratic tradition as expressed in the U.S. Constitution.

Roger Williams knew what it meant to be persecuted for his beliefs. Known as being troublesome because of his views, he was refused employment as a teacher in 1631, and later in 1635 was tried in Massachusetts Bay Colony on charges of spreading "dangerous opinions". Judged guilty, he was banished from the area. When forced to flee from Massachusetts, he and his followers founded a settlement in Providence. The area, which became Rhode Island, became known for its democratic institutions, including separation of church and state, town government and religious toleration. Williams is an example for us today in the tenaciousness and courage with which he held his often unpopular views; his life in action is an expression of the best in free thinking, which insists on the rights of others while upholding its own strong opinions.

Upholding these views of absolute religious and political freedom was not easy for him, even in this country where many of those who came were here because of religious persecution which they had met in Europe. Thus, we are reminded that today—as then—all who value religious and political freedom, even in a democratic nation, must watchfully strive to insure that these values are upheld, for they are precious and all too easily lost: tyranny and injustice await around the corner if those in a free country do not fully exercise and protect their freedom to speak in integrity and

truth—and allow others to do the same. Many of us here have learned this lesson all too well.

Religious and political freedom are ideals which must be lived if they are to be preserved, as Williams well knew and exemplified by his own life. Today we are grateful for Roger Williams' courageous example which influenced our nation so strongly and inspires us yet in our own goals of interfaith brotherhood and individual freedom.●

EXTEND THE FUR SEAL CONVENTION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. YOUNG of Alaska. Mr. Speaker, very shortly, the administration must make a decision that will be of great importance to wildlife management, commercial fishing, and the welfare of the residents of the Pribilof Islands in Alaska. The North Pacific Fur Seal Convention, to which the United States is a party, must either be modified, terminated, or extended by October 1980.

For those Members unfamiliar with the convention, let me point out that this is the latest in a series of international environmental agreements that have successfully prevented the destruction of the North Pacific fur seal, which inhabits the waters of the North Pacific Ocean and the Bering Sea. The convention and its predecessors have been responsible for increasing the fur seal population from 300,000, when the first agreement was signed in 1912, to the current level of nearly 2 million seals. The convention prevents pelagic sealing, or the taking of seals on the high seas, which is a cruel and wasteful practice. The convention allows scientific management of the seal populations and is a model for other international agreements.

Through an annual harvest, conducted under strict regulation and with humane methods, the convention provides the sole livelihood for most residents of the Pribilof Islands. Organizations such as the National Wildlife Federation, the Wildlife Society, and the North Pacific Fishery Management Council have all recommended that the convention be extended.

In spite of all the testimony and support for an extension of the convention, one group, the Friends for Animals, has urged that legislation be passed terminating the convention. One bill, H.R. 5033, has been introduced to accomplish this objective. I think it unfortunate that this legislation has even been introduced when the overwhelming testimony against its concepts have been presented.

On August 29, 1979, the Tundra Times, Alaska's oldest statewide newspaper, published an editorial discussing the convention. I would like to share that editorial with you, as I think it will convince you that the convention should be extended:

EXTEND FUR SEAL CONVENTION

Public hearings on international treaties must be different than other public hearings. Or at least the public hearing on the International Fur Seal Convention held here Monday was.

Most public hearings are somewhat balanced, with about as many persons for whatever is at issue as against it. And, usually, each side comes up with points or questions that have merit, things that should be considered before any final decision is made.

That's what public hearings are all about, and they are an essential part of the democratic process. Sometimes, even, the people holding the hearings, usually a government, pay attention to what is said and take the good points made by each side into consideration before making a decision.

At issue in Monday's hearing was whether the International Fur Seal Convention, under which the annual Pribilof Island seal harvest is permitted, should be terminated, renegotiated, or extended. The treaty expires next year, but any action to do anything other than allowing it to lapse must be initiated this year.

Monday's hearing was not a balanced one. The overwhelming point of almost all of the numerous persons who testified was that the treaty should be extended without modification at this time. To do otherwise, the panel was told, would result in economic devastation for the Pribilof Islanders, forcing all of them onto welfare, and probably, biological devastation for the seal herds that also make their home on the islands, herds that under the coverage of the treaty and others like it have rebuilt themselves from a paltry hundred thousand or so animals in 1911 to nearly a million and a half now.

All of those making these arguments had facts, figures, reason, and real human concern backing them up. The other side, unfortunately, did not. There seemed to be no merit to their arguments at all; they were crafted of pie-in-the-sky thinking, if it can be called that, and of a strange combination of misplaced emotion for the fur seal and heartless disregard of people. Vague mumblings, unsubstantiated by fact or any empirical data, and all of it made worse because it was all well meaning and sincere.

It was characterized by the suggestion that the Pribilof Aleuts, whose only economic base of any substance at all is the fur seal harvest, would not really suffer all that much should the harvest be stopped. Instead, they could build green houses and raise their own produce, or build a museum so they would not lose touch with and could show tourists what their once proud heritage was, or develop wind powered generator plants, and so on. These suggestions have no merit to them at all, and are in fact nonsensical.

Decisions made in the public interest should not merely be made on some sort of score-card basis, merely by adding up all the pro's and con's and then deciding accordingly. Decisions of that sort should be made on the basis of the merit of each side's argument.

But, in this case both the numbers and the merit of the arguments are overwhelmingly that the convention should be extended, both for the benefit of the fur seal and for the benefit of human beings. To do otherwise at this time would be to make less sense than those arguing against the treaty.●

DAVE "BUTCH" GOLDSTEIN

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. SANTINI. Mr. Speaker, it gives me a great pleasure to congratulate another of my constituents who has been recognized by the community. The Westwood Shrine Club unanimously voted Dave "Butch" Goldstein, an active member of the club, to receive the "Noble of the Year" award for 1979. I wish to share with my colleagues a few words about the achievements of Mr. Goldstein.

Dave was born in Louisville and was raised in Indiana where he attended the University of Indiana. He became interested in the world of entertainment and managed some of the finer night clubs in Indianapolis. As a resident of Las Vegas since 1957, he is now the executive vice president of the Dunes Hotel and Country Club.

Dave is highly recognized as a man of great leadership and a man of deep concern for others. He has given support to such organizations as the Shriner's Hospital for Crippled Children. Among his other achievements he has served as co-chairman of the Dawn Hancock Animal Farm for Handicapped Children Fund, a board member of Temple Beth Shalom, a founder of the Boys Club of Clark County and a member of the Nevada Resort Association. He has also been dedicated to the United Combined Jewish Appeal, Red Cross, the Variety Clubs International, and the Zelzah Temple.

Dave's achievements have also been recognized in southern California. He was named "Man of the Year" in 1976 by the City of Hope, served as former Mayor Sam Yorty's goodwill ambassador, and an honorary chairman of the Retarded Children's Association.

He has been married to his wife Celia for 41 years. He has three married daughters and six grandchildren.

He will be honored on Wednesday, October 10, by more than 1,000 friends and associates from the Middle West, Las Vegas and west coast areas. Again, I wish to congratulate this dedicated man. During these days it is good to know that there are still those who concern themselves with others and not just their own personal gains.●

CONSERVATION OF HELIUM

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. SWIFT. Mr. Speaker, during the past several months the Subcommittee on Energy and Power of the Committee on Interstate and Foreign Commerce has held three hearings on the question of conservation of the Nation's supply of helium. I urge my colleagues to examine the hearing record and the report of the subcommittee staff, which will soon be available as a committee print. In the meantime, I recommend to my colleagues two recent articles, one of which appeared in the Christian Science Monitor and the other which appeared in the recent special energy issue of Science News. Both articles clearly explain the importance of preserving this often

neglected element if we are to insure a stable energy future for our children and grandchildren, and I ask that they be inserted in the RECORD.

[From the Christian Science Monitor, Apr. 23, 1979]

WORLD WASTING LIMITED HELIUM

(By Paul Van Slambrouck)

HOUSTON.—There is plenty of helium in the United States to keep blimps aloft. But will there be enough of the light gas several decades hence when more "down to earth" energy-related technologies, like "fusion" nuclear power and more efficient electricity transmission, might need it most?

Two recent federal government reports are skeptical:

"Valuable future energy technologies are . . . likely to become available at a time when the US can no longer produce the helium the technologies require," concluded a study by the House subcommittee on energy and power last month.

"Neither the government nor private industry has assumed the responsibility for meeting the long-range private-sector helium demand," agreed the US General Accounting Office (GAO) in another appraisal.

Experts say helium, which is contained in natural gas, is being squandered at an alarming rate—even as researchers chart a growing need for the gas. The GAO says 13 billion cubic feet of the inert gas escapes into the atmosphere each year, most of it routinely vented in the production of natural gas.

Yet helium applications in the energy field are promising. Because it can tolerate very low temperatures without freezing, helium can be liquefied and used to cool other materials, helping them become "superconductors" of electricity.

Helium also is seen as becoming more important in nuclear power generation—particularly fusion plants not yet in commercial use—because of its exceptional ability to transfer heat. (Fusion generates power by joining molecules, as opposed to fission plants which split atoms.)

Helium is now used in welding, leak detection, lighter-than-air vehicles (like the Goodyear blimps), and as a pressurizing agent in rocket fuel tanks.

Research into future applications is brisk. The Department of Energy will spend $300 million to $400 million on helium research in fiscal year 1979. "The money being spent shows that there is nothing esoteric about helium. It will give us great efficiency in conserving energy and transmitting energy," says Michael Barrett, counsel to the House subcommittee on energy and power.

The bulk of the nation's helium reserves are found in Texas, Oklahoma, Kansas, and Wyoming. Domestic consumption of the gas was just under 900 million cubic feet in 1978, but most experts see demand almost doubling by the year 2000 and then rising even more dramatically.

While six helium extracting plants now are in operation, the natural gas fields that feed them are expected to be depleted by the year 2000. Should the demand for helium accelerate as expected, there could be a serious shortage of the gas at a reasonable cost, warn the GAO and House subcommittee reports.

The subcommittee urges Congress to adopt legislation that would grant private industry cheap government financing for helium extraction and permit inexpensive storage of helium at federal facilities.

The government started a program of buying and storing helium from private contractors in 1960, but the effort was terminated in 1971. Both the GAO and House subcommittee recommended reappraisal of Federal policy toward buying and conserving helium.

The Bureau of Mines offers inexpensive storage of helium for private purchasers at a federal facility in Cliffside, Texas. But most firms have not been willing to invest in their own extraction facilities. Phillips Petroleum Company is an exception. The company produces about 1 million cubic feet a day of helium from a plant in the Texas Panhandle. It also stores some of its helium with the government, convinced that the market "will steadily increase in the future," according to project development director C. C. Chapman.

The only alternative to producing helium from natural gas is to extract it from the atmosphere. But Dr. Milton C. Krupka, helium specialist at the Los Alamos Scientific Laboratory in New Mexico, calls the cost of such extraction "exorbitant." He says it would be cheaper to store the helium produced from natural gas today for later use. "We have the facilities to produce and store helium. In the long haul, it will be well worth the investment," he says.

[From Science News, July 21, 1979]

HELIUM: UP, UP & AWAY

(By Robert Ebisch)

"Who is buying helium and for what purpose, and why do we have long-term contracts on helium when there has not been extensive use of it for many, many years? We used to use it in the old dirigibles, but as I understand it, it is not used very much now . . ."—Congressman Chet Holifield (D-Cal.) in House floor discussions leading up to the 1973 cancellation of the U.S. helium conservation program.

"Helium," former astronaut Scott Carpenter once commented, "is an invisible passkey to the future." Unfortunately, the passkey is dissolving into thin air.

Just as the world begins moving into a new age of helium-based supertechnologies, the helium reserves of the United States—an estimated 718 billion cubic feet (Bcf) contained in natural gas deposits—are being rapidly lost to the atmosphere as the gas is pumped from the ground and used to heat homes and generate power for industry.

Fields now being exploited for natural gas, representing almost 85 percent of the U.S. helium reserve, as measured at the beginning of 1977, could be essentially exhausted within 20 to 30 years, according to the National Research Council.

The waste would excite little protest if World War I observation dirigibles had been the zenith of helium's utility, but the federal government has spent and will continue to spend billions on the development of fusion reactors, breeder and high-temperature gas reactors, high-temperature gas turbines, high-powered lasers, magnetically levitated transport systems, advanced energy conversion cycles and superconducting devices for energy generation, transmission and storage—all of them dependent on helium.

"DOE is currently investing $300 million a year in research and development of technologies that will be useless in less than 40 years if we fail to conserve helium today," warns Congressman John Dingell (D-Mich.). "As things stand now, by the year 1985, the U.S. will not be able to meet its demand from current production, and by the year 2017 we will have exhausted our reserves as well."

A national reserve of 718 Bcf—as estimated by the Potential Gas Committee of the Colorado School of Mines—appears sizable in comparison with the present consumption of about one Bcf per year. But only 198 Bcf are actually proven resources. Another 153 Bcf are "probable," expected to appear in extensions of existing gas fields. The remaining 367 Bcf fall in the categories of "hypothetical" and "speculative," which means they may be contained in natural gas deposits that have not yet been discovered.

Further, so extensive are the technologies that helium may make possible that even if all 718 Bcf were "proven resources," it would serve only as the basis of a 60- to 90-year interim during which substitutes, or cheaper ways of extracting helium from the atmosphere (about 1,000 times the cost of extraction from natural gas), might be identified. "There are so many developments that one needs to look at," says Bascom Birmingham, director of the National Bureau of Standards, Boulder, Colo., laboratories. "If even two or three of them go forward, all the helium we have in reserve may be needed."

Three technologies alone—fusion, superconducting transmission and storage of electricity—could require more than 600 Bcf of helium between now and the year 2050, according to an Argonne-NSF Advisory Committee study (ANL/EE-75-2).

The cause of this helium gluttony is superconductivity, the phenomenon in which the free electrons of metals at a sufficiently low temperature (about −255° C and −267° C respectively for the preferred superconducting alloys niobium-tin and niobium-titanium) form what are called "Cooper pairs" and cease to be scattered by the metal atoms. In macroscopic terms this means that the metal becomes superconducting, losing all resistance to the flow of electrical current. In technological and economic terms it means a bonanza, because tremendous currents can be put through superconducting wires with no energy loss to resistance and no need for energy expenditures in cooling.

Helium, with a melting point of −272° C, is the only element that remains fluid at superconducting temperatures and thus the only means of cooling conductors (hydrogen might be used were it not dangerously explosive).

Helium is, in other words, an absolute necessity for cooling the superconducting magnets that must be used for power-generating tokamak fusion reactors (SN:8/19/78, p. 116), for superconducting energy transmission and for storage.

About 13 percent of electrical energy currently produced is lost in transmission and distribution. Such loss can be significantly reduced by superconducting transmission lines such as the 100-meter experimental line at Brookhaven National Laboratory. Currently the focus of U.S. research, the line consists of three flexible niobium-tin cables capable of carrying 1,400 megawatts, the output of a good-sized nuclear power plant, through a pipe scarcely more than a foot in diameter.

A research group headed by engineering professor Roger Boom at the University of Wisconsin has developed a scheme to store excess power in a ring of superconducting metal the size of a football stadium, buried several hundred feet underground to reinforce it against internal magnetic stresses. Electrical consumption switched into the ring during hours of low consumption—at night, for example—would travel in a circle until the hours of high demand, when it could be drained off as needed.

"There might be about 50 of them located around the country," according to Boom. "They would store between 10,000 and 50,000 megawatt-hours of electricity from a statewide area (for comparison, the peak demand of Chicago is about 1,400 megawatts) and each would require as much as 3.85 Bcf of helium."

Not all superconducting technologies will consume helium on such a grand scale. A 1,000-megawatt magnetohydrodynamics (MHD) unit might require no more than

about 50 thousand cubic feet (Mcf) of helium. MHD is a process in which white-hot and electrically conducting gases—exhaust from a coal furnace, for example—are directed at near-sonic speeds through a magnetic field, producing a voltage that can be used to drive an external circuit. The exhaust gases, reduced only a few hundred degrees in temperature, can then be passed through a heat exchanger, producing steam to drive a conventional electrical generator.

According to NASA's 1976 Energy Conversion Alternatives Study, MHD appears to offer an overall power plant efficiency of more than 50 percent, compared with 34 percent for conventional coal-fired plants and 25 to 30 percent for nuclear plants. But MHD becomes economically feasible only with superconducting magnets.

MHD research is underway at a number of locations, with the greatest U.S. effort focusing on a 50-megawatt test unit at DOE's Component Development and Integration Facility in Butte, Mont. Researchers are expecting to build a complete 250-megawatt MHD pilot plant by the mid-1980s. Eventually, MHD may be a part of between 40 and 100 percent of all new power plants, according to the Electric Power Research Institute (EPRI).

They won't be the only part to be superconducting. In January of this year, Westinghouse Electric Corp. was awarded an EPRI contract to design and manufacture a 300-megawatt turbogenerator with superconducting windings for installation in an operating power plant by 1983. Superconducting generators of 250 to 1,250 megawatts could begin replacing conventional power plant generators by the early 1990s, according to Westinghouse, at a cost savings of up to 20 percent.

Superconducting magnets have also opened a new era of high-energy physics by enabling particle accelerators to control more powerful beams. Japanese and German groups are developing high-speed trains that will be levitated and propelled by superconducting magnets. Compact, superconducting magnetic memory systems may be in use in high-capacity computers by 1985. Superconducting magnets for the magnetic separation of lower grade ores or tailings have been under development for years. They may be necessary as the richer iron reserves are depleted. And one scientist has predicted that water purification may be one of the first large-scale applications of superconductivity.

Helium will find increasing use in high-powered lasers for defense, medicine and laser fusion, and in lighter-than-air cargo ships. Helium's high thermal conductivity and the fact that it is relatively invisible to radiation will make it a valuable medium of heat exchange in nuclear reactors.

And then there are the more familiar, "dissipative" uses that release helium to the atmosphere as a matter of course, including welding, chromatography, synthetic breathing mixtures for deep diving and space activities, leak detection, and pressurizing and purging of vessels. These account for most of today's helium demand. A single gas chromatograph, for example, requires only a small volume of helium, but the cumulative effect nationwide is attested to by the 35 million cubic feet used for this purpose in 1975.

"It is conceivable," says the NRC, "that dissipative uses alone could, if permitted, exhaust the present helium stockpile before the inventory demand of the new technologies develops."

Meanwhile, the United States is recovering just over one Bcf of helium each year and losing about 15 Bcf. The House Subcommittee on Energy and Power has estimated that during the next 16 years the United States will lose 54 Bcf of recoverable helium, the equivalent of 150 percent of the existing national stockpile of 39 Bcf now stored underground in the Cliffside facility, a partially drained natural gas deposit in Texas.

"The only way to stop such waste," asserts Dingell, "is to enact a Federal program that deals with the economic and legal barriers to helium conservation and requires that this invaluable element be preserved for future generations. The total cost of this program to the Federal government over the next six years would be about $500 million, half of which will be recovered by 1990 and half of which will be recovered when the helium is sold."

Dingell's remarks opened the second of three public hearings on H.R. 2620, "The Helium-Energy Act of 1979," on June 11. The House bill, introduced last March, is intended to forestall a helium shortage to at least 2040 and possibly until 2070.

Helium—formed deep within the earth by radioactive decay of the elements uranium and thorium over billions of years and trapped as it rises toward the surface beneath the same dome-like geological formations that trap natural gas—is today being extracted from only two of the nation's hundreds of natural gas streams, and those two streams are helium-rich (concentrations of more than .3 percent helium). H.R. 2620 would mandate helium extraction not only from all helium-rich natural gas but also from the helium-lean deposits (as low as .1 percent and possibly lower), which actually hold the bulk of the world's helium supply.

The federal government would bear only the costs of storage and transportation from the wellhead to storage. Companies transporting or selling the natural gas would be required to extract the helium, and would be allowed to pass the cost on to the natural gas consumer.

There are those, however, who think the price will be too high. Ray Munnerlyn, chief of the Bureau of Mines' Division of Helium, explains, "Under H.R. 2620 practically every helium gas stream in this country would have to be processed. If the Secretary of Energy took H.R. 2620 to the letter, it would require the construction of hundreds of helium extraction plants." One of H.R. 2620's provisions would transfer control of the helium program from the BOM to the Secretary of Energy.

Private industry is also reluctant; they have been burned in the past. The 39 Bcf now in storage is mostly a holdover from the last federal helium conservation program begun in 1960. In the early 1960s four companies entered into 22-year helium-purchase contacts with the federal government, built extraction plants and began producing helium for storage at Cliffside.

At that time, the Bureau of Mines was the sole supplier of helium to both the government and public markets at the legislated price of $35/Mcf. Between 1961 and 1968, however, 12 additional private helium extraction plants were built and the market price of helium fell to $25/Mcf. Federal sales fell off and the BOM program went deep into debt.

In 1973, the Nixon administration canceled the helium purchase contacts as an austerity measure. Since helium production was then about seven times the demand, this left the four government contractors with no market. They began releasing the helium to the atmosphere and filed suits against the government.

Private companies have their reservations about HR 2620. Long-term government contracts have been canceled in the past, and the 25-year contracts suggested under HR 2620 may not be long-term enough for a helium market to have developed from the new technologies. The government's large helium store represents a potential threat to future markets. Recent court decisions have raised the possibility that helium extractors may have to pay natural gas producers and landowners for part of its value.

Sometime before fall, HR 2620 will be reported in the House and may pass there, according to Michael Kitzmiller, counsel to the Subcommittee on Energy and Power. Kitzmiller refuses to speculate on the bill's changes, adding, "Every year somebody introduces a bill that would rehabilitate the helium program and every year it doesn't happen. But there is a lot of enthusiasm for the bill in the Senate."

BOM Helium Division chief Ray Munnerlyn disagrees: "It's our impression from hearing the testimony that HR 2620 has very little support outside the subcommittee."

The situation of helium reserves today has been compared to that of natural gas between 1930 and 1980. During that period the United States flared or vented about 119 trillion cubic feet (Tcf) of natural gas, regarding it merely as a byproduct of petroleum production. 119 Tcf equals 58 percent of proven U.S. reserves as of 1977. Had this waste been prevented, the United States would be in a better energy situation today. Will future generations view helium in the same manner?

"You've spent a billion dollars so far on fusion," says Charles Laverick, a consultant formerly with Argonne National Laboratory and an insistent presence at helium policy gatherings. "You'll have spent $20 billion on fusion by the time you get it and, if things continue as they've been going, you'll have no helium." ●

5740, THE JEWISH NEW YEAR

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

○ Mr. GILMAN. Mr. Speaker, September 22 marks the start of the Jewish high holy days. Throughout the world, Jews will join in common bond to celebrate this joyous period. Beginning with Rosh Hashana, the first day of the Jewish New Year, and climaxing the 10-day period with the holiest of all Jewish holidays, the Day of Atonement, Yom Kippur.

The start of this New Year, 5740 is the most solemn time of the year for Jews. It is a time to reflect on the events of the past year, repent for transgressions, to pray for forgiveness and for a year of peace and happiness for the world. More than ever, there is reflection on the universal establishment of principles of compassion and tolerence for which Judaism has so long and painfully fought.

The true meaning and significance of this most holy period is important to all, Jews and non-Jews alike. By recalling the suffering endured throughout history by the Jewish people, as well as the many obstacles which have been placed in the path of their pursuit of religious freedom and their exercise of basic human rights, we can better appreciate our Nation's independence and freedom.

Unfortunately, the compassion and tolerance that symbolizes the principles of Judaism have not always been shared with the Jews. Throughout history,

prejudice and persecution have been their unfortunate companions. Whatever accomplishments that world Jewry achieved in the year 5739, remain overshadowed by their continuous plight of persecution and violence. Far too many nations have demonstrated their callous disregard for the rights of the Jewish population in their country.

In the Soviet Union today, there remains some 200,000 Jewish citizens who await the opportunity to leave. In addition, some 2,000 others known as refuseniks, have for spurious reasons experienced 5 to 10 years wait for the right to leave Russia.

During a recent trip to the Soviet Union, along with my congressional colleagues, I met with many Soviet Jews in Moscow and Leningrad who had been denied exit because of the so-called sensitive nature of their jobs. Included in this group was a meatcutter and a laser scientist who had not worked in his field for over 10 years.

The blatant disregard in the Soviet Union for the rights of the individual was clearly demonstrated to me by the Chief of Justice of Soviet Supreme Court, the Honorable Len N. Smirnov, who, in response to my appeals for the human rights of the political prisoners in the Soviet Union, responded by handing me his recent White Paper on Human Rights in which he concluded that the "human rights issue is a propaganda device by the West."

Most disturbing to me was the decay of religious freedom throughout Russia. During my visit, I prayed at the synagogues in Moscow and Leningrad. Sadly, there was not one young person in sight. Only a handful of elderly citizens were there to carry on the traditions of their faith.

Due to a Soviet prohibition on teaching religion to the youth, generations of Soviet Jews are being denied their religious freedom. I met with one man whose son was accused of teaching Judaism. His 70-year-old father, who had been a war hero for his country during World War II, had been arrested to pressure his son to stop his religious teaching activities.

It is evident that the Soviet Government seeks to curtail religious freedom by noting the limited number of places of worship. In all of Moscow, a city with an estimated Jewish population of some 400,000, there is but one temple.

In Moscow as well as throughout Russia, the life of the Soviet Jew continues to be one of both persecution and violence, of limitations on educational opportunities as well as the inability to emigrate freely. On all official papers, including his passport, the nationality of a Russian Jew is listed as "Jew." Political prisoners, such as Anatoly Shcharansky and Yuri Orlov, who have dared to speak out in opposition to the violation of human rights, still linger in Soviet cells. Yet Russia is not the only nation where Jewish people continue to suffer the pains of persecution.

Revolution in Iran may have ended the persecution of some of its citizens, but it has brought terror to the non-Moslem minorities. That nation's embrace of the PLO, support of the destruction of Israel and establishment of an Islamic State have ominous implications for the already suppressed Jewish population of that Arab nation.

In Syria, a once thriving Jewish community of 45,000 in 1948 has now dwindled to some 4,500. Strict emigration laws prevent Jews from being reunited with their families abroad. Syrian Jews must carry special I.D. cards identifying them as Jews. There continues to be frequent reports of harassment, arrests, torture and interrogations.

In an obvious attempt to improve its image in the West, last year Syria permitted 12 Jewish girls to be married to Syrian Jewish men from the Brooklyn community. As hopeful as this action was, it has not led to further steps to aid the remaining 500 unmarried Jewish girls still trapped in Syria.

As Syria moves deeper into the radical Arab camp in its war with Israel, the fate of its Jewish citizens becomes more precarious. Encouragement from Lybia and Iraq can only increase persecution of the Syrian Jews.

Even in the Western Hemisphere there is reason for increased concern. The growing influence of the PLO among terrorists organizations and their ties to several leftist governments such as Cuba, Panama and the new government in Nicaragua, has brought fear to the normally peaceful and prosperous Jewish communities throughout the area.

As history has sadly shown, anti-Semetic attitudes have no political ideology. The largest Jewish community in South America, in Argentina, numbering some 400,000 strong, has become a major target of elements of the police and armed forces. Death threats, kidnapping, torture, beatings and disappearance have been directed at leading Argentine Jews. Nazi literature and facist organizations flourish.

One of the more noted Argentine human rights cases is that of Jacobo Timerman, a leading journalist and respected defender of human rights. Arrested in 1977, he still remains under house arrest, having been tortured, beaten, and held for months in isolation. When the government was unable to prove illegal dealings or guerrilla activities which he had been charged with, he became the target of anti-Semitism that has become entrenched in the extreme right wing sectors of Argentine society.

Even in Israel, where life has never been easy, new tension and uncertainty has developed. Soon after the celebrations following the Camp David agreements, it became clear that this action would not lead to more tranquility for Jews, but instead increase the threat of terrorism. As Israel seeks to implement those agreements and to seek support for further peace settlements, the PLO and radical Arab States have increased their subversive activities.

As Jews in this country and in other nations of the world turn themselves to their devotions during the High Holy Days, our thoughts will be with our brothers and sisters in other repressive lands, most of whom have no place to worship, no synagogue, no Ark containing the Holy Torah and no rabbis to lead their congregations in prayer. We call on all peoples to identify with the prayers for universal brotherhood, world peace, individual freedom, and spiritual and moral growth which mark the observance of this holy period.

The world might well benefit from the true meaning of this celebration to take the time at least once a year, for sincere soul searching and self-criticism, for repentance and forgiveness, and for prayers of genuine peace and better understanding.

In this spirit of reflection on the past and hope for the future of all people, I urge my colleagues to join in greetings to all of our constituents of the Jewish faith and to join with them in prayer for a year of peace, hope, and prosperity, wishing one and all a "L'shana tova"—a happy, healthy and peaceful New Year.●

CONGRESSIONAL SALUTE TO THE HONORABLE RICHARD J. HUGHES OF NEW JERSEY, STATE'S DISTINGUISHED CHIEF JUSTICE, GOVERNOR, JURIST, ADMINISTRATOR, STATESMAN, AND GREAT AMERICAN

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. ROE. Mr. Speaker, on Wednesday evening, September 19, the people of our State of New Jersey will gather together with other national and international leaders in testimony to our State's most distinguished chief justice, beloved Governor, prominent statesman, and good friend, the Honorable Richard J. Hughes, whose untiring and herculean efforts throughout his lifetime of outstanding public service in ever seeking the highest standards of excellence on behalf of our people have truly enriched our communities, State, and Nation. I know you and our colleagues will want to join with me in extending our warmest greetings and felicitations to him and share the pride of his good wife Betty and their children in his unprecedented record of exemplary achievements and good works.

Mr. Speaker, as a member of Governor Hughes cabinet during his tenure at the helm of our State government, I can attest to the richness of his wisdom, the quality of his leadership, sincerity of purpose, dedication to the public good, and personal commitment that has enabled him to attain not only the highest office of public trust in the executive branch but the judicial branch of our State government.

The Honorable Richard J. Hughes was appointed chief justice of the New Jersey Supreme Court in 1973 and served two consecutive 4-year terms as Governor of the State of New Jersey commencing January 16, 1962. He was born August 10, 1909, and his alma maters in education included Cathedral High School, Trenton; St. Joseph's College,

Philadelphia, Pa.; and Rutgers University Law School. He served with distinction as assistant U.S. attorney 1939–45; judge, Mercer County Court, 1948–52; judge, Superior Court of New Jersey, 1952–57, appellate division 1957. His published biography during the last year of his tenure as Governor reads, as follows:

GOVERNOR OF NEW JERSEY: RICHARD J. HUGHES, TRUSTEE

Richard J. Hughes was born in Florence, Bartington County, on August 10, 1909.

After graduation from high school in Trenton, he attended St. Joseph's College in Philadelphia and received his Law degree from the New Jersey Law School, now a part of Rutgers University.

He established a law office in Trenton in 1932. At the age of 30, he was named Assistant United States Attorney for New Jersey and embarked on a six year term of prosecuting federal cases and administering such war-time measures as the Enemy Alice Art.

Republican Governor Alfred R. Driscoll named him Mercer County judge in 1948. While serving on the county bench, he deepened his interest in juvenile problems and won recognition as an outstanding authority on probation systems.

Judge Hughes was elected to the Superior Court of New Jersey in 1952 by Governor Driscoll. Chief Justice Arthur Vanderbilt named him chairman of the Supreme Court's Committee on Juvenile and Domestic Relations Courts. This committee, in a historic two-year study, produced a report that served as the foundation for New Jersey's forward-looking handling of youthful offenders.

In 1957, Judge Hughes was named to the Appellate Division by Chief Justice Joseph Weistraub. He later returned to private practice and continued a record of distinguished public service which led to his unanimous selection as the Democratic candidate for Governor.

On November 7, 1961, he was elected by a 25,000 plurality.

On November 2, 1965, he was re-elected by a 868,000 plurality, the greatest ever achieved by a Governor of New Jersey.

Richard Hughes also was the Democratic candidate for Congress from the Fourth District in 1968. A Past Exalted Ruler in the Elks and a Past Grand Knight of the Knights of Columbus, he has been a leader in many civic affairs. In 1958, he was chairman of the Delaware Valley United Fund. In 1960, he was chairman of the fund-raising campaign for St. Francis Hospital, Trenton. He also served as chairman of the Citizens' Advisory Committee to investigate welfare practices in Treaton.

His first wife, the former Mrs. Miriam McGrory Hughes, died in 1950. She left four children. In 1954, he married Mrs. Betty Murphy, who had been widowed in 1951 when her husband, Air Force Captain William M. Murphy, died in an airplane crash in the Azores. She was left with two boys. Her third son was born three months after his father's death. The Governor and Mrs. Hughes have three children.

Mr. Speaker, there is so much that could be said of the many, many accomplishments that Dick Hughes has attained during his lifetime and public career of four decades. With your permission I would like to insert at this point in our historic journal of Congress excerpts of a most eloquent article that recently appeared in the New York Times authored by one of our most prestigious news correspondents, Ronald Sullivan, who is well known in New Jersey for his fine expertise as an accomplished journalist of long standing. Ron Sullivan has intertwined his intimate knowledge of New Jersey politics and government with an exceptional profile of Dick Hughes, the chief justice, the jurist, the Governor, the administrator, the humanitarian, the family man, and good friend. Highlights of this news article are, as follows:

HUGHES IN RETROSPECT: A PUBLIC LIFE

(By Ronald Sullivan)

TRENTON.—When Richard J. Hughes left, the New Jersey Governor' office in 1970, he was widely regarded as one of the best chief executives in the state's history. He also was rated as an outstanding politician, having been among those considered for the Democratic Vice Presidential nomination two years earlier.

Mr. Hughes' wife, Betty, and many friends urged him then to be content with his past public achievements. There were still children to education, bank loans to be paid and a great deal of money to be made as a lawyer.

But M. Hughes didn't stay out of the limelight long. In 1973, he accepted an offer by his outgoing Republican successor, Gov. William T. Cahill, to become Chief Justice of the State Supreme Court and thus the first person to serve as the state's Governor and in the top judiciary post.

Mr. Hughes will leave the court on Friday, when he reaches the mandatory retirement age of 70, and Robert N. Wilentz, who was sworn in last Thursday, will take over as Chief Justice.

Many officials had warned Mr. Hughes that he would be risking his gubernatorial reputation on a court that had been molded by two outstanding jurists, the late Arthur Vanderbilt and Joseph Weintraub.

While under Justice Hughes' reign, the Supreme Court did not often speak as one, as it had many times under previous leaders; however, its record, in the opinion of legislative and judicial leaders, will never embarrass the former Governor. In fact, a number of officials regard the six years of the Hughes court as a reflection of his ability to move opposing forces toward compromise and resolution.

Under Mr. Hughes's leadership, the court grappled with the politically and emotionally charged issues of public-school financing and exclusionary zoning: It also handed down a landmark ruling that allowed the parents of Karen Anne Quinlan to disconnect their comatose daughter from a respirator.

Perhaps more than anything else, however, Justice Hughes sought to open the courts to closer public scrutiny, making what almost sounded like old campaign speeches in favor of judicial reform.

The court established new rules that allowed for pretrial court intervention, a move designed to prevent young offenders from being tried, or contained unnecessarily. It also instituted extensive administrative and consumer-oriented reforms aimed at making the courts more accessible and making it easier for those involved with the judicial process to understand their rights.

According to Justice Morris Pashman, one of the court's seven members, the Hughes tribunal will be remembered "as one of the most productive chapter's in New Jersey's judicial history."

"The Chief Justice was not only a great jurist, but also a great administrator and a great humanitarian," Justice Pashman said.

Although he has held the state's two highest offices, Justice Hughes remains an informal man. By his own admission, he also is uncomplicated and not given to introspection, intellectual daring or clever remarks, despite his reputation as perhaps the wittiest stand-up comedian ever to regate the annual dinners of the Legislative Correspondents Association. Thus, any personal recapitulation of Mr. Hughes's years as Governor and as Chief Justice tends to be a little self-conscious, even self-effacing.

While his gubernatorial record on such issues as higher education, tax reform, pollution control, urban aid and gun control is well known, Justice Hughes said that the recollections that gave him the "warmest feelings" were smaller events. * * *

There were other events involving Mr. Hughes that made the 1960's one of the most exciting and scaring decades in history. These included the racial riots in Newark, the summit meeting between Premier Alexei N. Kosygin of the Soviet Union and President Lyndon B. Johnson at Glassboro State College and the expulsion of the all-white Mississippi delegation by the Hughes headed Credentials Committee at the 1968 Democratic National Convention in Chicago. * * * his friends offer this explanation:

"To understand Dick Hughes, you have to remember one thing. He raised 10 children and he values peace above anything else."

Mr. Speaker, it is indeed my honor and privilege to present this testimonial to Chief Justice-Governor Dick Hughes and seek this national recognition of his distinguished service to our people. As we convene to commemorate his retirement as chief justice of New Jersey, we do indeed salute a splendid jurist, an outstanding administrator, a distinguished citizen and great American—the Honorable Richard J. Hughes of New Jersey.●

WELCOMING A TORTURER

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. HYDE. Mr. Speaker, in Washington and in Congress we are blessed with some of the most vigorous defenders of "human rights" on this globe. The transgressions of every South American right-wing government are never overlooked, but rather are relentlessly exposed and castigated.

It comes as somewhat of a disappointment then to learn that the Mayor of Washington, D.C., would present the key to this Nation's Capital to what columnist Michael Novak has termed "the world's most accomplished extinguisher of human rights," President Sekou Toure of Guinea.

It comes as an even greater disappointment (although certainly no surprise) that all of our congressional guardians of global human rights have kept silent on this affront.

I herewith commend Mr. Novak's column to my colleagues:

[From the Washington Star, Aug. 22, 1979]

WELCOMING A TORTURER

(By Michael Novak)

Mayor Marion Barry presented a key of Washington, D.C., the city of Jefferson and Lincoln and Franklin Delano Roosevelt, to Guinea's President Sekou Toure, the world's most accomplished extinguisher of human rights. This was Barry's first venture into international politics. It does not speak well for his judgment or his moral values.

Barry has met Toure before, and should

know his record well. At the beginning of his Marxist days, back in 1964, Toure invited Barry and other leaders of the Student Nonviolent Coordinating Committee to Guinea. Stokely Carmichael, the leader of SNCC, now lives in Guinea. In July of this year, Toure and Barry met again in Africa. So Barry is in a strong position to know Toure drove at least one million of his little nation's 5.5 million people from the country in the 1960s.

In 1972, *Newsweek* described one massive purge: "Getting confessions has proved easy. As one Guinean recently told a reporter for *The New York Times*, 'They put you in a little kennel where there's no room to stand, and nobody pays any attention to you for five or six days. No water, no food, nothing. Then, they take you to the interrogation room, where there's a glass of water you can have if you say what they want to hear. It's not too long before you start saying, yes, I was spying for the French, and for the Germans and for the Americans, and here's a list of the others who were doing it, too.' "

A book by Jean Paul Alata, African Prisons, reports on systematic torture and death among Toure's political prisoners. In 1977, the International League for Human Rights in a 300-page report based on eyewitness accounts, accused Toure of conducting a reign of terror. Freedom House gave Guinea a "seven" rating on political rights and liberties in 1978, as low as it is possible to score. Only 14 other nations are thoroughly repressive enough to hit "seven," but Toure did it.

Toure is only 56 years old. He was 40 when he turned his nation in Moscow's direction, and made war on the most talented individuals among his people. Although Guinea has almost one-third of the world's bauxite (necessary for aluminum), uranium deposits, potential oil fields, and rich agricultural lands, Toure's socialism has kept his population one of the poorest in the world, with an average income of $140 a year.

This great exponent of human rights was put up for the night in Blair House in early August, had a meeting with President Carter "that went beyond the usual courtesies accorded a foreign leader on a private visit" according to news reports, and also met with Secretary of State Vance. The meaning of the Carter campaign for human rights was thereby, no doubt, clarified for all the world.

One hopes Carter assured Toure, just as he assured the Shah of Iran in 1978, that all his people love him. One hopes Carter also promised to support Toure just as loyally as he supported President Somoza of Nicaragua, even though his human rights ratings fall below those of Nicaragua under Somoza. One hopes Carter practiced "evenhanded diplomacy."

To be sure, Toure has thrown out the Soviets, and desperately wants U.S. businessmen to come mine his bauxite and his uranium, find oil for him, and help his agriculture. The U.S., he believes, needs new anti-Soviet friends in Africa. Toure expressed the hope South Africa would accept "majority black rule" just as peacefully as the city of Washington has, where "we see black leaders who welcome us and a city council that reflects the will of the majority."

Perhaps out of embarrassment, the city's major papers ignored the news of Toure's visit, except in Section B of The Post and the Portfolio section of The Star. Thus, the style of the visit was covered, but not its political significance: A rhythm and blues band played on one side of the door, and the U.S. honor guard and the 3rd U.S. Infantry's Old Guard Fife and Drum Corps, in red and white Colonial army uniforms, played on the other.

A key to the city of Washington flashed gold in his blood-stained hand, and the President of Guinea smiled as he received it.●

FURTHER OPEC PRICE RISE?

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. ROSENTHAL. Mr. Speaker, to evade official OPEC prices Nigeria, Iraq, and other OPEC nations have broken contracts with the multinational oil companies and forced them to go to the spot markets and pay spot market prices for the same oil. In turn, the companies, in accordance with Department of Energy regulations, merely pass through the increased price to the U.S. consumer.

Now Nigeria and others including Saudi Arabia are talking further OPEC price increases for 1979 despite administration statements to the contrary. In this connection I bring to my colleagues' attention the following news items: an excerpt from a Wall Street Journal article of September 13, 1979, entitled "Carter Sees No New Price Boosts by OPEC for Rest of '79 Causing Inflation To Slow" and an excerpt from a Saudi Arabian State radio newscast dated September 11, 1979, entitled "Shaykh Yamani Expects 'Small' Increase in Oil Price." The Yamani interview is also interesting in his reference to oil companies which make unlawful profits. I believe it is time that the administration and the Congress face up to this ever-increasing inflationary trend and its impact on our economy and citizens especially the old, handicapped, and poor by creating a Federal nonprofit corporation to purchase through bid or other means the crude oil imported into the United States and to abolish the foreign oil tax credit which creates the incentive for U.S. companies to develop and import foreign crude oil.

The material follows:

CARTER SEES NO NEW PRICE BOOSTS BY OPEC FOR REST OF 1979, CAUSING INFLATION TO SLOW

HARTFORD, CONN.—President Carter said that he doesn't expect foreign oil producers to boost their prices further this year, and that as a result the nation's inflation rate should slow in the months ahead.

"Although I cannot control this, we do not anticipate any further increases" in prices by the Organization of Petroleum Exporting Countries in 1979, Mr. Carter told two major groups of retired persons here.

He blamed OPEC for contributing heavily to the country's torrid inflation rate, currently running at a 13 percent annual pace, by increasing prices 60 percent this year. He said the leveling of oil prices that he anticipates should slow inflation. "I expect the rate of inflation to go down the rest of this year," he asserted.

A presidential aide said he doesn't believe the Carter administration has received assurances from the OPEC members that they won't boost prices again this year. But he said indications are that another price increase is unlikely.

SHAYKH YAMANI EXPECTS "SMALL" INCREASE IN OIL PRICE

In an interview with the Danish POLITIKEN, carried today by AL-BILAD, Shaykh Yamani explained that the dollar is heading toward stability and its progress in this manner does not require consideration about replacing it. * * *

He welcomed the idea of imposing supervision on oil companies which make unlawful profits. He declared that the kingdom tries to keep track of the shipments of Saudi oil which leave Saudi Arabia until they are delivered at the refineries to make sure that they are delivered at Saudi prices. He stated that if the efforts of other countries were united toward this aim we would be certain that there would be no mishandling of prices.

Shaykh Yamani expressed his hope that the decisions adopted by the Tokyo industrial summit meetings would be implemented. He explained that if the consuming countries were able to reduce their consumption by a good amount, the oil market would become steadier to the same extent. However, what is happening is contrary to this, since some states reduce their consumption for a certain time, then production is increased rapidly, and then we notice shortage countries can avoid this by reducing their consumption in a manner which would prevent this from happening.

In reply to a question about the existence of factors which would lead to a decision on a new increase in oil prices, Shaykh Yamani stated that in fact the role these factors play is no more than 50 percent; in any event, between now and the end of this year matters will become clearer. He expressed his belief that the price will rise but that the increase will be small.●

TERRORISM IN WEST GERMANY, PART II

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 17, 1979

● Mr. McDONALD. Mr. Speaker, this is the second section of my report on the West German terrorist movement and its role in the international terrorist network.

THE ROTE ARMEE FRAKTION (RAF)

Except for a simultaneous armed robbery operation against three banks in West Berlin, involving 12 terrorists and six vehicles fully equipped with false registrations and license plates on September 29, 1970, that netted some $55,000 and was for "self-funding" purposes, the RAF nucleus was quiet until the completion of their logistical network in 1971.

One most significant operation in November 1970 was the burglary of the West Berlin motor vehicle registry and theft of blank license forms. One of these forged licenses made out in the name of Klaus Müller was used early in 1975 in France by Johannes Weinrich, a 28-year-old lawyer who ran the Red Star publishing house in Frankfurt. At that time he rented cars for the terrorist assassin Ilich Ramirez Sanchez, "Carlos," a KGB trained killer then working in London and Paris with a Cuban DGI case officer of Ecuadorean origin, Antonio Dages Bouvier, for the leader of the Palestine Liberation Organization's Rejectionist Front faction, the Popular Front for the Liberation of Palestine (PFLP). These vehicles were abandoned by the members of the "Carlos group" who attempted to shoot down an El Al

passenger flight on January 13 and 19, 1975.

In any event, 1971 saw the emergence of the RAF which made a specialty of bank robberies. The first RAF ideological statement called "Urban Guerrilla Concepts" by Horst Mahler appeared. Mahler clearly saw the RAF as a part of the "world revolutionary movement" and intended that the RAF should move into assassinations of FRG civilians and officials. He wrote that persons declared by the RAF to be personally responsible for "crimes against the people" including social workers, judges, teachers, and lawyers, would be RAF targets.

Terrorist actions included a shootout near Hamburg in which RAF member Petra Schelm, girlfriend of a jailed J2M member, Bommi Baumann, crashed through a police roadblock, leaped out of her car firing at police and was shot to death in return. Later in the year, Baumann was released from custody and promptly went underground into the ranks of the terrorists. Baumann and his friend George von Rauch, soon of a Kiel University professor, were surrounded in a roundup by officials of the Office for the Protection of the Constitution (BfV), they opened fire. Von Rauch was shot dead, but Baumann ran into an apartment block occupied mainly by students, burst into an apartment, cut his hair and changed his clothes slightly, then forced one of the women there to walk out with him through police lines and escaped.

The founding nucleus of the RAF were subjected to intense investigation by West German police and internal security authorities. New laws prohibiting membership in criminal organizations facilitated arrests of a number of those in the overt support apparatuses of the RAF, the J2M, and related terrorist groupings.

The RAF began a major terrorist drive in 1972 that started on May 11 with the bombing of U.S. Fifth Army Headquarters in Frankfurt. Thirteen people were wounded and Col. Paul Bloomquist was killed. Within a few days, bomb attacks had been carried out against the FRG criminal investigative office and police headquarters in Augsburg and Munich and on the home of a judge that injured the judge's wife. The May 24, 1972, car bomb explosion in Heidelburg at the U.S. Army European Headquarters killed three American servicemen and wounded eight.

If the RAF had hoped to gain any sympathy from its attack on banks and NATO and U.S. military installations, such plans were ended by the revulsion over the May multiple bombing of the offices of the Springer publishing house in Hamburg. Explosions of bombs hidden in women's restrooms collapsed interior walls, burying victims. Some 38 people were seriously injured, some maimed for life.

Major setbacks for the RAF followed with the arrests after a shootout of Baader and former socialist/pacifist conscientious objector Holger Meins, son of a business executive. Meins was a student at West Berlin's film and television academy, and worked on television film production. On June 7, 1972, Gudrun Ensslin was captured in a Hamburg boutique when a clerk noticed a gun in her purse; and finally on June 15, 1972, Ulricke Mainhof was turned in by Hanover leftist schoolteacher Fritz Rodewald, in whose apartment she was hiding.

Among Meinhof's papers were many messages from RAF comrades already imprisoned, thus indicating even at this early stage the key role played by the revolutionary lawyers in keeping the terrorist networks together. One of those lawyers, Otto Schilly, visited Gudrun Ensslin 5 days after her arrest and is believed to have taken out her outline on how jailed RAF members were supposed to conduct themselves, on actions of RAF members at large, and on the overall defense strategy including organizing international committees to defend them as "political prisoners."

By the end of 1972, virtually all the remaining RAF founding nucleus were in jail, including Horst Mahler; Karl Ruhland, a mechanic who later gave evidence; Astrid Proll; Rolf Pohle; Manfred Grashof, wounded in a March shootout; Verena Backer, bomber of a British boating club in West Berlin; and nearly a dozen other RAF cadre.

RAF IDEOLOGY

Meinhof, Baader and Horst Mahler relied to a considerable extent on rhetoric in the style of the U.S. Black Panther Party (BPP) and the Castroite and Maoist groups that arose in the late 1960s in the U.S. For example, Ulricke Meinhof said in an interview with Der Spiegel, June 15, 1970:

> We say the person in uniform is a "pig," that is not a human being; and thus we have to settle the matter with him. It is wrong to talk to these people at all, and shooting is taken for granted * * *.

She used the English "pig" as her insult, not the German "schwein" which does not carry the same sort of emotional impact. For the RAF, their acts of "armed struggle" were intended to provoke other radicals to emulation. In a tape recorded speech by Ulricke Meinhof played to a "teach-in" by the Frankfurt chapter of their support group, Red Help Roten Hilfen, on March 31, 1972, she said:

> Our actions against the exterminating strategists of Vietnam are certainly understood by everybody today. Our actions for the protection of the life and health of those arrested and for RAF followers also can be understood clearly by all.

In a television interview in March 1978, Horst Mahler, who refused to be "liberated" to the People's Democratic Republic of Yemen (PDRY) in 1975 despite the demands for his freedom by the kidnappers of West Berlin Christian Democratic leader Peter Lorenz, stated that terrorism was necessary because "fascism" had to be "tickled to the surface, so that the brutality of suppression may raise resistance which then achieves a new historical level."

Mahler appears to have been a careful student of the late Herbert Marcuse's essay on "repressive tolerance" in which he argued that tolerance of dissent in representative governments was merely a facade hiding totalitarian fascism.

West German newspapers and magazines have always insisted in characterizing the terror cadres of the RAF, J2M, the Revolutionary Cells (RZ) and the former Socialist Patients Collective (SPK) as "anarchists," when in fact these terrorist have repeatedly defined themselves as revolutionary Marxist-Leninists acting as the armed branch of an as-yet-to-be-formed revolutionary party.

In his 1971 essay, "An Armed Struggle in Western Europe," Horst Mahler had extensively quoted Lenin's outlines for revolutionary terrorism in his directives such as the "Letter to the Combat Committee of the St. Petersburg Committee [of the Party] (1905)" and the essay on the conduct of guerilla warfare that appeared in Proletary in September 1906.

Tactically, the RAF and its successors have relied extensively on the "Minimanual of the Urban Guerilla" by Brazillian Communist Party Central Committee member Carlos Marighella, first published in January 1970 Tricontinental magazine of Castro's Organization of Solidarity with the People's of Asia, Africa, and Latin America (OSPAAL). A German translation was serialized in the West Berlin radical paper "Agit-833" in June 1970, followed by two other German New Left editions. At the end of 1971, a FRG paperback publishing house produced an edition of Marighella's essays including the "Minimanual" under the title, "Destroy the Islands of Wealth in the Third World."

Marighella was not the only RAF source of terrorist tactics and organizations. In an article, "Urban Guerrila and Class Conflict," that appeared in April 1972, Meinhof noted:

> We think that the guerrilla is going to spread and gain a footing, that the development of the class struggle will carry through the idea * * * that the idea of the guerrilla developed by Mao, Fidel, Che, Giap, Marighella is a good idea, that no one will every be able to do away with it * * *.

With the capture and eventual suicides in prison of Ulrike Meinhof in May 1976, and of Baader, Ensslin and Jan-Carl Raspe immediately after the failure of the Lufthansa hijacking to Mogadiscio, Somalia, on October 18, 1977—followed three weeks later by the suicide of Ingrid Schubert—ideological statements and arguments from the RAF have dwindled.

New recruits from a number of "armed struggle" groups that developed in emulation of the RAF and from the RAF support groups work intimately with the international network of terrorists of Arab, Japanese, German, and Swiss nationalities that is controlled by the PFLP of George Habash and was headed until his reported death from cancer in an East Berlin hospital early in 1978, by the PFLP's "chief of external operations," Wadi Haddad.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated

by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 18, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 19

8:00 a.m.
Select on Small Business
To continue oversight hearings on the implementation of the Small Business Administration's regular business loan program.
5302 Dirksen Building

9:00 a.m.
*Judiciary
Constitution Subcommittee
Business meeting, to consider S. 506, to provide the Department of Housing and Urban Development with new enforcement powers to insure compliance with statutes guaranteeing equal access to housing in the United States.
457 Russell Building

Veterans' Affairs
To hold hearings on S. 759, to provide for the right of the United States to recover the costs of hospital nursing home or outpatient medical care furnished by the Veterans' Administration to veterans for non-service-connected disabilities to the extent that they have health insurance or similar contracts.
5110 Dirksen Building

9:30 a.m.
Armed Services
Business meeting, closed to resume consideration of S. 1186, to provide for the improvement in the appointment, promotion, separation, and retirement policies provided members of the armed forces.
212 Russell Building

Commerce, Science, and Transportation
Consumer Subcommittee
To continue oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission.
6226 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Business meeting on pending calendar business.
322 Russell Building

Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 1460, 1462, and 1463, bill to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.
235 Russell Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
To continue oversight hearings to examine current financing procedures for construction of new Federal buildings.
4200 Dirksen Building

Finance
Business meeting, to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Foreign Relations
To continue hearings on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
318 Russell Building

Judiciary
Criminal Justice Subcommittee
To resume oversight hearings on the scope of narcotics use and abuse in the U.S. and abroad, and on the adequacy of programs of the Drug Enforcement Administration to cope with the illegal drug traffic.
2228 Dirksen Building

Rules and Administration
Business meeting, to consider proposed regulations pursuant to S. Res. 170, to require that documentation be submitted with vouchers for reimbursement out of a Senator's official expense account; and other legislative and administrative committee business.
301 Russell Building

2:00 p.m.
Finance
Health Subcommittee
To continue hearings to review the administration and operation of the professional standards review program.
2221 Dirksen Building

Office of Technology Assessment
Board to hold a business meeting.
EF-100, Capitol

SEPTEMBER 20

9:30 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume oversight hearings on the scope of general revenue sharing programs.
3302 Dirksen Building

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 1112, to bring congressional employees under the coverage of certain Federal laws pertaining to employment, privacy, and social security.
357 Russell Building

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To continue hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.
235 Russell Building

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To hold hearings on S. 599, to expand the historic Indiana Dunes National Lakeshore Park in northwest Indiana.
3110 Dirksen Building

Finance
Business meeting, to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Governmental Affairs
To hold hearings on the nomination of Frankie M. Freeman, of Missouri, to be Inspector General, Community Services Administration.
6226 Dirksen Building

Judiciary
To resume hearings on S. 1722 and 1723, bills to reform the Federal criminal laws and streamline the administration of criminal justice.
2228 Dirksen Building

2:00 p.m.
Appropriations
Business meeting, to mark up proposed legislation making continuing appropriations for fiscal year 1979.
S-128, Capitol

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Foreign Relations
To resume hearings on the nomination of Robert Krueger, of Texas, to be Ambassador at Large and Coordinator for Mexican Affairs.
4221 Dirksen Building

3:00 p.m.
Conferees
On H.R. 3875, to amend and extend through fiscal year 1980 certain Federal laws relating to housing, community and neighborhood development and preservation programs.
S-126, Capitol

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 21

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 1420 and 475, bills authorizing the Secretary of the Interior to construct and maintain hydroelectric powerplants at various existing water projects.
3110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
Economic Stabilization Subcommittee
To resume oversight hearings to examine proposed revisions to the Administration's anti-inflation program.
5302 Dirksen Building

Commerce, Science, and Transportation
Business meeting on pending calendar business.
235 Russell Building

Finance
Business meetings to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on S. 691, to prohibit the use of Federal funds to lobby State and local legislatures.
3302 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 24

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on current energy impacts on the railroad industry, focusing on the recent coal rate increase for the Louisville-Nashville railroad.
235 Russell Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Foreign Relations
To resume hearings on the SALT II Treaty (Exec. Y, 96th Congress, 1st session).
318 Russell Building

Judiciary
To resume hearings on S. 1722 and 1723, bills to reform the Federal criminal laws, and streamline the administration of criminal justice.
2228 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 25

9:30 a.m.
Governmental Affairs
Civil Service and General Services Subcommittee
To hold oversight hearings on the activities of the General Services Administration, with emphasis on the art in architecture program.
324 Russell Building

Judiciary
Business meeting, to consider pending nominations and legislation.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
Business meeting, to resume consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Foreign Relations
To continue hearings, in closed session, on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
S-116, Capitol

Governmental Affairs
To hold hearings on S. 1564, to require public disclosure of certain lobbying activities to influence issues before the Congress.
3302 Dirksen Building

*Labor and Human Resources
To hold hearings on S. 1724, 771, 1270, 1331, and 1603, bills to provide financial assistance to low and lower middle income, and fixed-income households to meet the increased cost of home energy.
4232 Dirksen Building

11:00 a.m.
Judiciary
To hold hearings on S. 43, to grant a Federal charter to the National Ski Patrol System.
2228 Dirksen Building

Veterans' Affairs
To resume hearings on fiscal year 1980 legislative recommendations for veterans' programs.
5110 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

SEPTEMBER 26

9:30 a.m.
Select on Small Business
To resume hearings to explore the potential of small businesses to contribute in solving the energy crisis.
424 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To resume hearings on S. 85, 353, and H.R. 7, bills to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Finance
Business meeting, to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

Governmental Affairs
To continue hearings on S. 1564, to require public disclosure of certain lobbying activities to influence issues before the Congress.
3302 Dirksen Building

*Labor and Human Resources
To continue hearings on S. 1724, 771, 1270, 1331, and 1603, bills to provide financial assistance to low and lower middle income, and fixed-income households to meet the increased cost of home energy.
4232 Dirksen Building

SEPTEMBER 27

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To resume oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission.
235 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 85, 353, and H.R. 7, bills to strengthen the ability of the Federal Reserve Board to conduct monetary policy, promote greater competitive equality, enhance the safety and soundness of the banking system, and improve the efficiency of the Federal Reserve payments system.
5302 Dirksen Building

Energy and Natural Resources
Parks, Recreation, and Renewable Resources Subcommittee
To hold hearings on S. 812 and 1369, bills to designate certain areas as wilderness areas, focusing on the Secretary of Agriculture's Roadless Area Review and Evaluation program (RARE II) as it applies to certain lands in the State of Oregon for inclusion in the National Wilderness Preservation System.
3110 Dirksen Building

Finance
Business meeting, to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

*Labor and Human Resources
To continue hearings on S. 1724, 771, 1270, 1331, and 1603, bills to provide financial assistance to low and lower middle income, and fixed-income households to meet the increased cost of home energy.
4232 Dirksen Building

2:00 p.m.
Foreign Relations
To resume hearings, in closed session, on the SALT II Treaty (Exec. Y, 96th Cong., 1st sess.).
S-116, Capitol

SEPTEMBER 28

9:00 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To continue oversight hearings to examine the enforcement and administrative authority of the Federal Trade Commission.
235 Russell Building

10:00 a.m.
Finance
Business meeting, to continue consideration of H.R. 3919, to impose a windfall profit tax on domestic crude oil.
2221 Dirksen Building

11:00 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 1460, 1462, and 1463, bills to facilitate and streamline the implementation of the regulatory part of U.S. maritime policy.
6226 Dirksen Building

OCTOBER 1

9:30 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To resume oversight hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.
3110 Dirksen Building

Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).
4232 Dirksen Building

OCTOBER 2

9:30 a.m.
Energy and Natural Resources
Energy Regulation Subcommittee
To continue hearings on S. 1684, to provide for the development, improvement, and operation of domestic refinery capabilities.
3110 Dirksen Building

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on S. 1681, to require that a contractor on a Federal public construction project submit a notarized statement at the beginning and the end of each contract with respect to the wages and fringes to be paid or which have been paid on the project.
1318 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.
4232 Dirksen Building

OCTOBER 3

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1656, to promote the development of a strong domestic fishing industry, by strengthening the provisions of the Saltonstall-Kennedy Act which established a reserve fund to support fisheries development projects.
235 Russell Building

Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).
4232 Dirksen Building

9:45 a.m.
Governmental Affairs
Intergovernmental Relations Subcommittee
To resume hearings on S. 878 and 904, bills to simplify the administration of national policy requirements applicable to Federal assistance programs to State and local governments.
1114 Dirksen Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee

To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

6226 Dirksen Building

Labor and Human Resources
Health and Scientific Research Subcommittee
To mark up S. 1177, to establish a partnership between the Federal government and the States in the planning and provisions of mental health services.

Room to be announced

OCTOBER 4

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To hold hearings on S. 1465, proposed Farm Credit Act Amendments.

322 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 5

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To continue hearings on S. 1465, proposed Farm Credit Act Amendments.

322 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 9

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit and Rural Electrification Subcommittee
To resume hearings on S. 1465, proposed Farm Credit Act Amendments.

322 Russell Building

OCTOBER 10

9:30 a.m.
Labor and Human Resources
Handicapped Subcommittee
To resume oversight hearings on the implementation of the Education for All Handicapped Children Act of 1975 (P.L. 94-142).

4232 Dirksen Building

Veterans' Affairs
To hold hearings on S. 1523 and H.R. 4015, bills to provide the capability of maintaining health care and medical services for the elderly under the Veterans' Administration.

457 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

1318 Dirksen Building

OCTOBER 11

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 12

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To continue hearings on proposed authorizations for fiscal year 1981 for programs under the Higher Education Act.

4232 Dirksen Building

OCTOBER 17

8:00 a.m.
Labor and Human Resources
Child and Human Development Subcommittee
To hold oversight hearings on the implementation of older American volunteer programs by ACTION agencies.

4232 Dirksen Building

CANCELLATIONS

SEPTEMBER 19

9:30 a.m.
Labor and Human Resources
To continue hearings on S. 1486, to exempt family farms and nonhazardous small businesses from the Occupational Safety and Health Act of 1970.

4232 Dirksen Building

SENATE—*Tuesday, September 18, 1979*

(Legislative day of Thursday, June 21, 1979)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. J. JAMES EXON, a Senator from the State of Nebraska, the Acting President pro tempore.

PRAYER

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

Let us pray.

Open our lives, O Lord, to the wonders of the world of the spirit. Open our hearts to beauty and goodness and truth. Make us apostles of hope transformed from apathy, cynicism, and despair; ready to work for that higher kingdom yet to come, whose builder and maker is God. Move us to a deeper, profounder understanding of man and the world and Thy coming kingdom. Take from us all that obstructs doing Thy will. To all who serve this Government impart Thy grace and wisdom. Bind us together in Thy love that with purity of purpose we may walk in the steps of the Master, in whose name we pray. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

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.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that Mr. PELL desires to have me yield to him and I do so.

Mr. PELL. Mr. President, I thank the majority leader.

I am glad at this time to make a comment on the resolution of disallowance of the debate regulations submitted by the Federal Election Commission which I submit.

RESOLUTION RELATING TO FUNDING AND SPONSORSHIP OF CANDIDATE DEBATES

Mr. PELL. Mr. President, I wish to make a brief comment on the resolution of disapproval of the debate regulations submitted by the Federal Election Commission which I submitted. This resolution is submitted pursuant to the FECA which reserves to the Congress the power to disapprove regulations.

The Senate's action today should not be construed to prohibit, in any way, organizations such as the League of Women Voters, or broadcasters from sponsoring candidate debates. Debates have been a beneficial means of presenting the views of the candidates on issues of concern and should continue.

Rather, it is my hope, in introducing this resolution with Senator HATFIELD, not to discourage such debates, but to encourage them. Consistent with my support of debates, I feel that any regulation which could be interpreted as being burdensome to organizations which are likely to sponsor candidate debates, or which could in any way impede the heretofore successful debate procedure that has evolved through direct arrangements made between sponsors and candidates should not be allowed to take effect.

I feel that this resolution is necessary to keep the candidate debate process which has evolved workable, open, and accessible to candidates. I would strongly support the passage of legislation or the promulgation of any regulation which would encourage candidate debates. However, I am of the opinion that we must disapprove these regulations for the reasons previously set forth.

Mr. HATFIELD. Mr. President, I am concerned that the Federal Election Commission's proposed regulations on the funding and sponsorship of candidate debates represent an unwarranted

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