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PROCEEDINGS AND DEBATES OF THE 96th CONGRESS, FIRST SESSION

SENATE—*Friday, December 7, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

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

PEARL HARBOR ANNIVERSARY

Almighty God, on this day which lives in the memory of the Nation as a day of tragedy, of suffering, and heartache, we beseech Thee to unite us now as once we were united in a common endeavor to achieve the reign of justice and truth. Marshal our resources of mind and heart, of personality and material substance, that we may stand strong and unafraid in the hour of trial. May we dedicate ourselves to purer, nobler living, to a more unselfish patriotism, to true religion and loyalty to the kingship of Thy Son. Draw together the peoples of all races and tongues into a firm spiritual allegiance, dedicated to obeying Thy law and ever striving to know and to do Thy will. O Lord, begin with each of us. 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 7, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

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

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

ANN STEVENS MEMORIAL RED CROSS BUILDING

Mr. ROBERT C. BYRD. Mr. President, it had been my intention and my hope on yesterday to attend a fund raiser for the Ann Stevens Memorial Red Cross Building in Anchorage, Alaska. Because of the pressing business here and because of the uncertainty of programing amendments, I felt that I could not go, and I am truly sorry that I was not able to go. I have so explained to my friend, Senator STEVENS, and he graciously stated his understanding.

The Red Cross, one might say, was inevitable because compassion is a nearly universal impulse among men of good will.

I suppose everyone has experienced a sometimes agonizing sense of frustration in the face of obvious human suffering that is being endured hundreds of miles away, or we have at times had a maddening feeling of helplessness in the weight of an awful disaster in some part of the world.

The Red Cross serves as an almost instinctive response that civilized men and women can make to the otherwise unchallenged onslaught of the unexpected and the unimaginable—earthquakes, storms, epidemics, war, fire—or even personal calamities that may beset any individual from time to time. The Red Cross is one of the world's most dependable helping hands.

Ann Stevens realized this better than most people. Whether in Alaska or in Washington, the Red Cross was for Ann Stevens a primary means of expressing her love and her concern for human beings in need.

Four thousand years ago, an ancient Egyptian sculptor etched on the walls of a tomb: "A man's virtue is his monument." That may be partially so, but the Ann Stevens Memorial Building will help to make possible the culmination of the desires of people to help others.

And it will serve as an extension of Ann Stevens' virtue and as a continuing reminder of the devotion and commitment that Ann Stevens embodied for many years in her Red Cross service.

A Senator's wife has to be a special kind of person, and Mrs. Stevens more than met the demands of her role. She chose to sublimate many of her own potential ambitions to the public needs of her husband, but she was uncontent to bury her talents or hide her light under a bushel. Ann was a woman who found rich fulfillment in so many ways that one might well describe her as a "Renaissance Woman." She shared her abilities with us as a writer, a community leader, a businesswoman, a politician and diplomat in her own right, and as a wife and mother. Her life was never without purpose and direction, and in all that Mrs. Stevens accomplished, she complemented the life of her husband, the very distinguished Republican whip—now the acting Republican leader during this period—a Senator who represents the State of Alaska in a very fine way, a Senator who is beloved by his colleagues on both sides of the aisle.

Her life enhanced the well-being of her fellow man.

Many years ago, Ann came to Alaska with her husband, and threw her arms around this vast and wonderful State and its people. She coursed throughout Alaska with TED on his political campaigns, and she traveled often between Washington and Alaska. She met constituents and aided Senator STEVENS in his work.

So closely did the people of Alaska come to identify with Ann that she was able to boast understandably that she was one of the few women ever invited on the annual whale hunts and attendant ceremonies held in the Eskimo villages in the North.

So while I was not able to go yesterday with Senator STEVENS, Mr. President, may I say, in our beloved colleague's necessary absence from the Senate today, on behalf of all of my colleagues that the completion of the Ann Stevens Memorial Building will insure that the star-crossed partnership of Ann's talents and interests with the purposes and activities of the Red Cross will continue in the days ahead.

I extend my congratulations to all persons who were at the event last evening,

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

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to all who participated and who will participate in this worthy project, and I wish them every success in this effort to honor the memory of a great lady, Ann Stevens, and to serve the needs of the people of Alaska.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is now recognized.

ANN STEVENS MEMORIAL RED CROSS BUILDING

Mr. TOWER. Mr. President, I at once wish to thank the distinguished majority leader on behalf of my colleague TED STEVENS and on behalf of all of us on the Republican side of the aisle for his very eloquent and sincere remarks and to associate myself with those remarks. There is very little that I could add to what he has said.

Ann Stevens was a woman of superior quality, a person much loved by all who knew her and who were privileged to be associated with her, and I think it is fitting that her memory should be honored in such a fashion and because of this occasion I feel privileged to have contributed only the small thing of filling in for our very distinguished acting minority leader while he is participating in this occasion.

PEARL HARBOR DAY

Mr. TOWER. Mr. President, the Chaplain's eloquent prayer this morning reminded us that this is Pearl Harbor Day.

As one who was privileged to serve in the U.S. Navy during World War II, I am bound to observe that this should be not only a day of recollection but a day of resolve.

We, the American people, should resolve that we will never again be perceived as being so weak and so unprepared that any power on Earth can feel that it can risk an attack against us.

It was such a perception that brought about the attack at Pearl Harbor on December 7, 1941.

As a Navy man I am inclined to recall the somber words of Kipling:

Far-called, our navies melt away—
On dune and headland sinks the fire—
Lo, all our pomp of yesterday
Is one with Nineveh and Tyre!
Judge of the Nations, spare us yet,
Lest we forget—lest we forget!

Mr. President, today our navies are far called. Today we have no carriers in the Western Pacific because they have been diverted to the Indian Ocean, and this simply illuminates in glaring light the current deficiencies in the naval capability of the United States of America.

In this instance we have no foreign power to blame. No adversary has decimated our fleet. We have done so ourselves by our own lack of vision and we are fast losing naval supremacy to another great power who challenges us throughout the world and whose global objectives are certainly not consonant with our own.

I hope in our resolve to be sure that we are never so weak again nor perceived to be weak again, that we will be aware that the Navy is our first line of defense—it is the cutting edge of the military capability of the United States of America—and that we will look to the future and examine the plans that we have for the maintenance of the fleet and make sure that we do enough that future generations may be secure in the knowledge that the U.S. Navy is still the most powerful maritime force in the world.

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

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

Mr. TOWER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I want to join with the distinguished acting Republican leader in what he said about the need for preparation lest we ever again be perceived as being weak, unresolved, or unprepared.

I commend him for reminding us that today is the day which will long live in the memories of millions of people all over the world, and especially in the memories of the American people.

It is time, Mr. President, that we act prudently, carefully, thoughtfully, and wisely to improve our defense capabilities.

There is a national debate going on right now, and it has been precipitated as much as anything by the hearings on the SALT II treaty. Those hearings have alerted me to the fact that although we have taken steps forward, we have not stood still; nevertheless, we have not done enough to keep our defense arm as strong as we should have.

So, Mr. President, I think on this day we ought to rededicate ourselves to the principles that made this country great, and reconsecrate ourselves to the ideals for which many Americans fought and gave their lives and fortunes and, hopefully, experience a recrudescence of the spirit if we are to save the flesh, if I may paraphrase the words of General MacArthur, and with that recrudescence of spirit experience a renewed determination to take whatever prudent steps are necessary to make sure that our country will not again be attacked, to make sure that we are prepared to state our national interests clearly, and prepared to protect those interests wherever it may become necessary.

The distinguished Senator from Texas referred to that great British poet Rudyard Kipling, I think quite appropriately, and I would like to close my remarks in the same way, with lines from Kipling's "The Heritage:"

Our fathers in a wondrous age,
Ere yet the Earth was small,
Ensured to us an heritage,
And doubted not at all
That we, the children of their heart,
Which then did beat so high,
In later time should play like part
For our posterity.
Then fretful murmur not they gave
So great a charge to keep,
Nor dream that awestruck time shall save
Their labour while we sleep.
Dear-bought and clear, a thousand year
Our fathers' title runs.
Make we likewise their sacrifice,
Defrauding not our sons.

RECOGNITION OF SENATOR JEPSEN

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

COMMEMORATING THE ATTACK ON PEARL HARBOR, DECEMBER 7, 1941

Mr. JEPSEN. I thank the Chair.

I wish to commend the distinguished acting minority leader and the distinguished majority leader. It is a proud moment for me to sit and listen to the reflections of what took place on this day 38 years ago, December 7, 1941.

The muffled cries and the haunting memories of the poor state of preparedness that this country was in 38 years ago today ring true and remind us that there are some similar things taking place in our hearings, and that there are some who would have the United States of America become a second-rate, third-rate, or fourth-rate power under the well-meant but erroneous thought that this will lend itself to peace in the world and prevent war.

Mr. President, on this date 38 years ago, December 7, 1941, the combined forces of the empire of Japan launched a coordinated strategic attack upon U.S. land, sea, and air forces in the Far East.

There are young people in this room who were not born when this event took place, but it was, as President Roosevelt described it, "a day of infamy;" a day which would become forever forged upon the minds of all who experienced this historic event. The circumstances surrounding this attack which abruptly cast the United States into an already raging world war have come to symbolize America's historic lack of preparation for conflict.

I rise this morning, Mr. President, to remind my colleagues of the role which the Congress played in the making of national security policy during those critical prewar years.

The rather significant contribution of the Congress to our military unprepared-

ness at that time is well documented in the official history of prewar plans.

Several themes appear to predominate: an over-reliance on arms control agreements, or unilateral restraint by other nations, as a substitute for adequate national security.

Another theme seems to predominate, one of economic and fiscal constraints which successively tightened the defense budget first at the War Department, then at the White House, then the Bureau of the Budget, and finally at the Congress; and a lack of political determination to stand up to the gravity of the international situation—a seemingly persistent view that war could not happen or that if war should occur—which it finally did in Europe—the United States would escape involvement.

I quote from the excerpted remarks of the official historians on these issues (Matloff, Snell, and Watson), from the following sources:

Chief of Staff: Prewar Plans and Preparations. Mark S. Watson, Historical Division, United States Army (Washington, D.C. 1950).

Strategic Planning for Coalition Warfare: 1941–42. Matloff and Snell, Office of the Chief of Military History, Department of the Army (Washington, D.C. 1953).

Regarding the defense budget process:

General Pershing's pungent remarks on 4 July 1925 noted that "Under our very eyes there have already been serious reductions made by Congress" and that "the politician, himself oftentimes uninformed as to his country's history, frequently appeals to the ignorant and unthinking on the score of economy; . . . such demagogues are dangerous." Gen. Douglas MacArthur in 1934 summarized the personnel shortage dramatically, declaring: "In many cases there is but one officer on duty with an entire battalion; this lack of officers [has] brought Regular Army training in the continental United States to a virtual standstill . . . correction is mandatory." Stocks of materiel, he continued, were "inadequate even for limited forces . . . and, such as they are, manifestly obsolescent. The secrets of our weakness are secrets only to our own people." The 1935 report from Mr. Dern predicted that in the event of war "we should find that our so-called economies have in reality been a hideously extravagant waste of money and lives." With less rhetoric Secretary Henry L. Stimson in his 1941 report made the following statement:

"Not until our country saw its former democratic allies and friends struck down in quick succession did our Congress, representing accurately the view of our public, authorize the fiscal appropriations necessary to make any adequate defense. Until such Congressional action, no increased American armies would be raised and paid for and no contracts for munitions could be entered into."

The routine, disciplined obedience of the Army to the President as Commander in Chief and to such of his agents as the Budget Director was itself a handicap to Army programs, barring any save a refractory officer from demanding more funds than were approved by the White House. This fact was illustrated every year, and often in every year, and the reason for it made clear on 25 November 1924 when Brig. Gen. K. W. Walker, then Army Chief of Finance, was interrogated by a committeeman on this issue of full acceptance of Presidential directions:

"Q. In general, which do you regard as the more important—the President's policy of economy or the actual needs and requirements of the War Department?

"Gen. WALKER. That is a pretty hard question for me to answer. . . . The President's policy is the controlling factor and must be our guide; but that does not prevent the War Department from stating to the President through the Budget Bureau its needs as it sees them.

"Q. Would it prevent the War Department from presenting its needs before this committee?

"Gen. WALKER. I think it would. I think when the Budget has once been approved by the President and transmitted to Congress, it is his budget estimate and no officer or official of the War Department would have any right to come up here and attempt to get a single dollar more than is contained in that estimate. . . .

"Q. So the final analysis of it is, General, that up to the present the $336,000,000 must suffice, even though that does not meet your requirements at all?

"Gen. WALKER. Insofar as the War Department is concerned, yes, sir. If this committee should develop that more money should be had for any specific purpose, it would be of course its prerogative to give it, just as it is its prerogative to reduce any amount. This prerogative has been exercised time and time again."

A year late, on 8 December 1925, when again the Secretary's plea for an army of 150,000 had been ignored and the Department's reduced estimates were laid before Congress, Maj. Gen. Dennis E. Nolan, then Deputy Chief of Staff, answered similar questioning from appropriations committeemen in a somewhat tarter manner.

"Q. If you do not get all you need that is because you do not ask for it?

"Gen. NOLAN. Oh yes, we ask for it.

"Q. Well, you ask the Budget and they do not give you the money, nor does Congress?

"Gen. NOLAN. But we are prohibited by law from asking Congress for anything except the amount that is allowed here in the Budget.

"Q. . . . Now, why should you not come up here and frankly tell us that the amount is not sufficient to maintain those activities . . .?

"Gen. NOLAN. Because Congress passed a Budget law, in which there is a proviso prohibiting any official of the Government coming before a Committee of Congress and arguing for more money than is permitted under the Budget sent up by the President. That is a matter of law."

Still more directly pointing at the Congressional responsibility, Gen. MacArthur, before the same committee, on 28 November 1932, in his pleas for the Army's miniature armored forces of that day said explosively that "they suffer tremendously from one thing and one thing only—that Congress will not give them enough money to equip them properly with modern tanks."

Regarding the impact of arms control and unilateral restraint:

During these years national policy was deeply influenced by popular beliefs relating to national security which had in common the idea that the United States should not enter into military alliance or maintain military forces capable of offensive operations. National policy provided a narrow basis and small scope for military planning. During the 1920's the United States entered into international agreements to limit naval construction and to "outlaw" war. In the 1930's the United States experimented with the use of diplomatic and economic sanctions to discourage military aggression, and with legislation intended to keep the United States out of European and Asiatic wars.

This between-wars idea that American armed forces should be designed for defense only, not offense, illuminated as it was by the Washington Treaties for arms limitation (1922) and the Kellogg-Briand Pact (1929), was so completely a national policy imposed upon the Army that it became a guide to Army planning and upon occasion had a particularly crippling effect upon the Air Corps. Thus, in May 1938 a program for acquiring long-range bombers was sent back to the planners by the Deputy Chief of Staff with a sharp restatement of Air Corps limitations. He directed restudy of the program, with the following reminder:

"(1) Our national policy contemplates preparation for defense, not aggression, (2) Defense of sea areas, other than within the coastal zone, is a function of the Navy, (3) The Military superiority of . . . a B–17 over the two or three smaller planes that could be procured with the same funds remains to be established, in view of the vulnerability, air-base limitation and complexity in operation of the former type. . . . If the equipment to be provided for the Air Corps be that best adapted to carry out the specific functions appropriately assigned it under Joint Action . . . there would appear to be no need for a plane larger than the B–17."

Even in early 1940 an urgent Army plea to Congress for 166 airplanes was beaten down to 57, and no 4-motor bombers were permitted, an opponent making the explanation that these were not defensive but "aggressive" weapons, the very type against which the American delegates' efforts had been directed at Geneva in 1934.

Regarding the widespread belief that could not happen:

The Army and the War Department as a whole were heirs also to what had been left undone in a peace-minded nation whose day-by-day thinking from 1919 onward had been on other than military affairs, partly from actual antagonism to everything suggestive of "militarism," but chiefly from ignorance and apathy about the peacetime requirements of national defense. During the prosperous decade there was a popular delusion that another war was so remote from possibility that no large defenses against it were necessary, and certainly no acquisition of offensive means; appropriations for military purposes were made grudgingly and on a falling scale. During the succeeding decade of depression, the enormous governmental deficits of each fiscal year discouraged anything beyond bare maintenance of even the small establishment which the recent years' reduced appropriations had permitted. The first resumption of a naval building program in mid-depression years was justified by the White House itself on the ground that it was a make-work enterprise to reduce public unemployment.[1]

After two decades of neglect, despite known armings in Germany and Japan, the United States Army of 1939, reviving from its

[1] See "Plant Surveys and Educational Orders in World War II," U.S. Army Industrial College, Department of Research, Jan. 47.

low point of 1933, was still weak in numbers, ill equipped by 1939 standards, scattered over a great many posts, and never assembled for true corps maneuvers, partly because it included no complete organization for corps or army troops or their service elements. The air elements were still feeble in numbers, but encouraged by the new appropriations stemming from a 1938 revitalizing. The National Guard, counted upon to provide early support for the Regular Army, was far below nominal peace equipped, and insufficiently trained. The strength, unbalanced, insufficiently equipped, and insufficiently trained. The supply services of the Regular force were low in number of personnel and in reserve stocks. Even so limited, their surviving personnel, notably that in ordnance arsenals, was efficient in operation and watchful in development work, and from that fortunate circumstance sprang memorable results. Industry as a whole, upon which the 1918 experience had clearly shown the armed services would have to rely for the vast output of wartime, was not set up for wartime production, nor even acquainted with the requirements for grand-scale munitions production. The "antimilitarism" groups throughout America, most of them temperamentally opposed to war of any sort, a few inspired from abroad to block American rearming, were still active, but were less of a handicap to national defense than was the apathy of the nation as a whole. Recalling today how magnificent was to be the effort of the nation and all its parts once war actually came, one is struck the more by the inertness of 1939, when war was almost at hand but when a large part of the American public was still suspicious of "militarists" and still sure that war could not come to America.

The public's hostility to both the principle and the cost of rearming inevitably affected White House thinking during the two decades between wars; Presidential messages to Congress sought much less in military appropriations than the services urged, and on one occasion (during the Coolidge administration) even the Congressional appropriations were reduced by a horizontal percentage cut. Public hostility to military outlay also influenced the attitude of Congress and was in turn encouraged by Congressional arguments in opposition to new outlays of money. Because Congress determined the appropriations, it was Congress which the War Department, aware of the rapidly changing world situation, had to inform of the full significance of the distant drumbeats in Berlin and Rome and Tokyo. Information had to be cautiously imparted at such a time. Yet until Congress should understand the dark prospect and the critical needs of America, there was small chance that the public would understand, or that the President would feel warranted in pressing the rearmament program with determination. National awareness of the situation appeared to come only with the burst of Blitzkrieg in mid-1940. Even this awakening was incomplete; some of the incredulity that war would really touch America, which had been shaken away in June 1940, was to return, and the public state of mind remained serene on the very eve of Pearl Harbor.

On December 7, 1941, our country was shaken by the realization that war could, in fact had, come to America; and many sailors from the land-locked State of Iowa gave their lives on that Sunday morning at Pearl Harbor.

I ask unanimous consent that the names of those Iowans who went down with the battleship Arizona be printed in the record at this point.

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

MEMORIAL LIST OF NAVAL PERSONNEL ENTOMBED IN THE U.S.S. "ARIZONA"

IOWA—27

Anderson, Lawrence Donald, Ensign, Waukon.

Ball, William V., S1c, Fredericksburg.
Barker, Loren Joe, Cox, Keosauqua.
Bersch, Arthur Anthony, S1c, Muscatine.
Bosley, Kenneth LeRoy, EM3c, Sioux City.
Bowman, Howard Alton, S2c, Coon Rapids.
Bridie, Robert Maurice, F1c, Colfax.
Eulberg, Richard Henry, FC2c, Garnsville.
Giesen, Karl Anthony, Y2c, Decorah.
Granger, Raymond Edward, F3c, Des Moines.

Grosnickle, Warren Wilbert, EM2c, Econe.
Herring, James, Jr., SM3c, Iowa City.
Jackson, Robert Woods, Y3c, Glenwood.
Jante, Edwin Earl, Y3c, Garner.
Johann, Paul Frederick, GM3c, Altavesta.
Kellogg, Wilbur Leroy, F1c, Shenandoah.
Langenwalter, Orville J., SK2c, Storm Lake.

Leedy, David Alonzo, FC2c, Muscatine.
Lincoln, John William, F1c, Norway.
Loustanau, Charles Bernard, S1c, Gray.
Manske, Robert Francis, Y2c, Waterloo.
Peavey, William Howard, QM2c, Iowa Falls.
Seaman, Russell Otto, F1c, Fairfield.
Taylor, Robert Danzil, Cox, Sabula.

Thorman, John Christopher, EM2c, Granville.

Wilcox, Arnold Alfred, QM2c, Cherokee.
Wilson, Ray Milo, RM3c, Charles City.

Mr. JEPSEN. Mr. President, these 27 Iowans who remain entombed in the sunken battleship U.S.S. *Arizona* are, I believe, a testament to a lack of military preparedness which I am determined to avoid.

As the Congress enters the fiscal year 1981 defense budget cycle in the midst of growing international turmoil I urge my colleagues in the Senate, and in the lower body, to consider the bitter experience gained by our predecessors.

Douglas MacArthur once noted:

> The history of failure in war can be summed up in two words: Too Late. Too late in comprehending the deadly purpose of a potential enemy; too late in realizing the mortal danger; too late in preparedness; too late in uniting all possible forces for resistance; too late in standing with one's friends.

In his annual report of 1939, Chief of Staff, General Craig remarked:

> What transpires on prospective battlefields is influenced vitally years before in the councils of the staff and in the legislative halls of Congress. TIME is the only thing that may be irrevocably lost, and it is the thing first lost sight of in the seductive false security of peaceful times.

S. 2097—JOINT EXPORT MARKETING ASSISTANCE ACT OF 1979

Mr. JEPSEN. Mr. President, the expansion of exports is an area of paramount importance to the State of Iowa and to our Nation. During the last 16 years, Iowa's exporting has grown from less than $500 million in 1960 to more than $2.9 billion in 1976. Approximately 20 percent of Iowa's manufacturers export more than twice the national average of 9 percent. Export expansion and promotion is critical to reducing the 1978 trade deficit of $29 billion.

Mr. President, little attention has been given to the small- and medium-size exporters. Today, in an effort to assist the smaller exporters of this country, I am introducing the Joint Export Marketing Assistance Act of 1979. This legislation would offer a program designed to reduce the financial risks entailed in initial export market development. This legislation will provide support and help to encourage the small- and medium-size firms of our Nation to take advantage of potential exporting opportunities and to commit themselves to a serious, ongoing export program.

I am not an advocate of Government expansion and Government spending; that is why I am sponsoring legislation that would require businessmen to return the Government's money after they have successfully marketed their products in foreign countries. That is, the Joint Export Marketing Assistance Act will not provide a Government subsidy, since repayment of the Government's share of the marketing costs is required, except in cases where the new marketing effort fails. Individual firms as well as groups of exporters would be eligible for assistance under this legislation.

Funding for joint export marketing assistance was included in the original 1980 Commerce budget.

Though many programs exist that attempt to benefit U.S. exporters, my bill can be distinguished from existing programs in three ways as indicated in the fiscal year 1980 congressional budget submission for joint export marketing assistance.

First. Assistance. Since potential small exporters fear high risk in foreign marketing efforts, this program will relieve some of the financial burden. For example, a small or medium size firm may need to invest between $30,000 and a $100,000 during the initial 2 to 3 years of its export development activities before obtaining significant export sales. For a small- or medium-size firm this can constitute a significant financial exposure. To reduce this financial risk which is not addressed by traditional Government loan programs, the joint export marketing assistance program will share specified cost relating to initial overseas market development activities with individual firms or groups of firms on a contractual basis. Only marketing costs that can be specifically related to initial development of foreign markets for U.S. products are eligible for assistance.

Second. The requirements of the program. As I previously mentioned, participants will be required to repay Government costs based on total sales in the market during a period specified in the contract. The repayment provisions will be designed to minimize the possibility of default by participants. Firms seeking financial support will be required to pre-

pare detailed development proposals setting forth a comprehensive market plan that offers a reasonable prospect for sustained export sales after Government support is withdrawn. This is an important point because it will help to insure sound investment and assures a common sense and responsible approach to Government involvement in export development.

Third. Eligibility. Only firms with a proven track record and viable financial assets will be allowed to participate in this export assistance program. Emphasis will be given to the smaller exporter.

Mr. President, this country must aggressively develop marketing opportunities in every foreign market. We must realize, also that the small and medium size exporter can substantially impact our balance of trade. And therefore, we must guide and assist these companies in their trade efforts.

I send the bill to the desk for appropriate referral.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, Mr. LEVIN had an order for this morning, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may control that order.

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

ORDER VITIATING ORDER FOR RECOGNITION OF SENATOR MORGAN

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. MORGAN wants to cancel his order. I, therefore, ask unanimous consent that the order for Mr. MORGAN be vitiated.

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

Mr. ROBERT C. BYRD. I yield back the remainder of my time.

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 not to exceed beyond 5 minutes and that Senators may speak therein.

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

FINANCIAL DEPOSITORY INSTITUTION DEREGULATION ACT—H.R. 4986

Mr. MORGAN. Mr. President, a few weeks ago the Senate enacted the Depository Institutions Deregulation Act, H.R. 4986. As my colleagues will recall, this was a rather far-reaching bill entailing many changes in the basic financial institution laws of our Nation.

Yesterday, I understand the conference on H.R. 4986 met for the first time and, according to my information, little progress was made on resolving the differences on the many controversial matters in that bill.

Mr. TOWER. Will the Senator yield?

Mr. MORGAN. I am happy to yield.

Mr. TOWER. That conference was the day before yesterday and I can assure the Senator that nothing at all was resolved and the conference dissolved in disagreement at an early period.

Mr. MORGAN. I would ask my colleague if it would not be more accurate, according to my information, to say that the conference adjourned in a state of disarray.

Mr. TOWER. Disarray would be an appropriate characterization of how the conference dissolved.

Mr. MORGAN. That was according to my information.

I think my colleague from Texas, Mr. President, helps to make the point very well. What I am simply trying to say is that the likelihood of resolving the difference between the House bill and the Senate bill is not very good.

Mr. TOWER. If the Senator will yield, I should say the likelihood is virtually nonexistent at this point.

Mr. MORGAN. That, too, was my understanding. Unless some action is taken now in light of that fact, millions of users of credit union share drafts, automatic transfer plans, and remote service units will be adversely affected on January 1, 1980, which is just around the corner.

My colleagues will remember that these are services that are now being offered by financial institutions, especially the credit union share drafts, which are the equivalent in everyday language of checking accounts. The Federal court, the Supreme Court having affirmed it, some time ago ruled that there was no statutory authority for these instruments and, therefore they would have to be discontinued unless the Congress acted to authorize them specifically by January 1.

As my distinguished colleague, the Senator from Texas (Mr. TOWER) and I were just indicating, there is no likelihood that H.R. 4986 will be satisfactorily resolved by then.

Earlier I offered legislation which would have authorized all three of these types of instruments on the same basis on which they have been operating and had been operating prior to the Court decision. I wanted to bring to the attention of my colleagues that I think we could still enact a simple bill overturning the Court decisions outlawing all of these three services in adequate time or at least in time to permit these institutions to continue these services until next year and until such time as the Senate can resolve these other difficulties.

I simply would support and call to the attention of the Senate that this earlier bill would have authorized these matters, and I think maybe we in the Senate should give some consideration to proceeding in this manner. To require the credit unions to discontinue their share draft accounts, which they have been offering for a long time, would entail not only great inconvenience to their members, but also entail a cost of probably millions of dollars.

I hope my colleagues will give some consideration to enacting a simple bill to simply extend these rights until such time as the Senate and the House can reach agreement.

Mr. TOWER. Will the Senator from North Carolina yield?

Mr. MORGAN. I am happy to yield.

Mr. TOWER. I think what the Senator from North Carolina proposes is the probable solution to the problem we have at the moment, that is the extension of a moratorium on the application of the Court decision until such time as we can agree on a more comprehensive bill.

As the Senator is aware, there are some differences between the Senate and the House on the important issue of regulation Q, and also a difference between the Senate and the House on the question of Federal Reserve membership, neither of which seem likely to be resolved before the first of the year.

Therefore, I might suggest to the Senator from North Carolina that probably the appropriate course for us to take would be for us to extend the moratorium for a limited period of time, though not too long a time because I think we should have the external discipline of an expiration date to force us to arrive at some sort of accommodation with the House and for them to arrive at an accommodation with us on those two unresolved questions I have mentioned.

Mr. MORGAN. I thank my colleague. I will probably proceed to try to work with the Senator from Texas and other members of the committee to do that. I believe the idea of a limitation of time would be good and would impose some discipline on us.

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

ORDER FOR RECESS TODAY UNTIL MONDAY, DECEMBER 10, 1979, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, the Senate will not be in tomorrow. We announced that on yesterday. I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 10 o'clock on Monday morning.

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

WINDFALL PROFIT TAX BILL

SCHEDULE TODAY

Mr. ROBERT C. BYRD. Mr. President, the Senate will be on the windfall profit tax bill throughout the day. I anticipate several rollcalls. In view of the fact that the Senate will not be in tomorrow, I wonder if Mr. LONG can agree with me that it is quite conceivable that the Senate will be in until a reasonably early

hour in the evening today. Normally, when we are in on Friday, we do not stay around much after 4 or 5 o'clock, but in view of the press of circumstances and the fact that we are not going to be in tomorrow, I should like to alert the Senators that we may be in until 6 o'clock, perhaps, today.

AMENDMENTS

Mr. LONG. Mr. President, it is fine with me to stay in session as long as the majority leader wants to stay in session this evening. But I want to point out to him that there are some amendments that people ought to be offering, that they should just bring them up.

I am not saying anybody is engaging in dilatory tactics. But there is an amendment that the Senator form West Virginia will offer, or at least support. He will support an amendment involving a minimum tax. I do not think I am going to vote for it, but it ought to be offered.

There is no man I love more than the distinguished majority leader. I say that sincerely. Mr. President, I have had complete sympathy for the Senator when he has stood here on this floor and pleaded with Senators, if they want their amendments agreed to, to bring it on in here. I have really felt for him, because I can recall the day when I was an assistant majority leader here on the Senate floor and when the majority leader was not here, I would stand and plead with people to get on with the business.

I must say, Mr. President, it does not entirely behoove our great leader to stand here and say, "Come on, fellows, let us do business," when he himself wants an amendment to go. It ought to be brought out here and offered so we can vote on it.

So, if we can go ahead and act on these significant amendments until we only have some minor amendments left, that would give us some encouragement to stay around the clock if need be to try to finish the bill. But as long as we have major amendments that people are holding back, other Senators are just as inclined to hold back on theirs.

Mr. ROBERT C. BYRD. I understand.

Mr. President, may I say that the minimum tax amendment is not ready to be brought up yet because we are trying to prepare it. I had a meeting in my office yesterday, a luncheon, at which a good many Senators were in attendance and the subject was a minimum tax. So we are attempting to develop an amendment, and as soon as we can get it prepared, I hope we will get it up.

I also hope Mr. DANFORTH would call up his amendment. He has an amendment we have been hearing a lot about for quite some time, and I hope that amendment could be called up. So we have two big amendments that I hope can be called up in the next not too many days, certainly.

Mr. LONG. Let us hope the next couple of days.

Mr. ROBERT C. BYRD. Yes, the next couple of days. And there are other amendments. I join with the distinguished Senator in hoping we can dispose of these amendments.

I am very interested in a minimum tax amendment. I hope we can get it up and disposed of. As soon as the Senators complete its preparation, I assure the Senator from Louisiana that as far as I am concerned, we are ready to go with it.

Mr. LONG. In line with what the majority leader said, I would not at all mind if some people would change their minds. If Mr. DANFORTH could see the light and decide his amendment is ill-considered, and tell us so, that would be great news to all of us.

We would know then that we are going to make great progress, and the debate would be shortened somewhat. In any event, if Senators are going to insist on their amendments, they should bring them in.

Mr. ROBERT C. BYRD. I do agree. Mr. President, I anticipate rollcall votes throughout the day and urge Senators not to make airline reservations too early in the day.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 3919.

The Senate resumed consideration of the bill H.R. 3919.

The PRESIDING OFFICER. The pending question is on the amendment No. 711 offered by the Senator from Colorado (Mr. HART).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 711

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. What is the pending business?

The PRESIDING OFFICER. The pending question before the Senate is the amendment offered by the Senator from Colorado (Mr. HART).

Mr. HART. Mr. President, that is amendment No. 711.

The PRESIDING OFFICER. The Senator is correct.

Mr. HART. A further parliamentary inquiry: Is unanimous consent required for the Senator from Colorado to make a change in his amendment or to amend his own amendment?

The PRESIDING OFFICER. Unanimous consent is not required for the Senator to modify his amendment at this point.

Mr. HART. Has the amendment been stated?

The PRESIDING OFFICER. The amendment has been stated.

Mr. HART. I thank the Chair.

Mr. President, for the information of the distinguished floor manager and acting leader on the other side, the only change that was made in the amendment that is at the desk was to change the applicable date for the effect of this amendment to September 30, 1980; that is to say, a year from now, to avoid the budget problems that are going to be minor anyhow if the amendment had taken effect this year.

The PRESIDING OFFICER. The amendment is modified as requested by the Senator from Colorado.

Mr. HART. I thank the Chair.

The amendment, as modified, is as follows:

On page 152, between lines 11 and 12, insert the following new section:

SEC. 272. CREDIT FOR PASSIVE SOLAR RESIDENTIAL CONSTRUCTION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable), as amended by section 301, is amended by inserting immediately before section 45 the following new section:

"SEC. 44G. CREDIT FOR PASSIVE SOLAR RESIDENTIAL CONSTRUCTION.

"(a) ALLOWANCE OF CREDIT.—In the case of a builder of a new residential unit which incorporates a passive solar energy system, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount determined under the solar construction credit table which shall be prescribed by the Secretary, based on the ratio of the solar collection area to the house heating load.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT PER UNIT.—The amount of the credit allowed by subsection (a) shall not exceed $2,000 for a residential unit.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) BUILDER.—The term 'builder' means a person who is in the trade or business of building residential units and has a proprietary interest in the residential unit built.

"(2) NEW RESIDENTIAL UNIT.—The term 'new residential unit' means any unit—

"(A) which is located in the United States,

"(B) which is designed for use as a residence,

"(C) which is a unit of a building having less than five residential units,

"(D) the construction of which is completed after September 30, 1980, and before January 1, 1986, and

"(E) which is ready for occupancy before such date.

"(3) PASSIVE SOLAR ENERGY SYSTEM.—The term 'passive solar energy system' means a system—

"(A) which contains—

"(i) a solar collection area,

"(ii) an absorber,

"(iii) a storage mass,

"(iv) a heat distribution method, and

"(v) heat regulation devices, and

"(B) which is installed in a new residential unit after September 30, 1980, and before January 1, 1986.

"(4) SOLAR COLLECTION AREA.—The term 'solar collection area' means an expanse of transparent or translucent material that—

"(A) is located on that side of the structure which faces (within 30 degrees) south, and

"(B) the position of which may be changed from vertical to horizontal in such a manner that the rays of the Sun directly strike an absorber.

"(5) ABSORBER.—The term 'absorber' means a hard surface that—

"(A) is exposed to the rays of the Sun admitted through a solar collection area.

"(B) converts solar radiation into heat, and

"(C) transfers heat to a storage mass

"(6) STORAGE MASS.—The term 'storage mass' means a dense, heavy material that—

"(A) receives and holds heat from an absorber and later releases the heat to the interior of the structure,

"(B) is of sufficient volume, depth, and thermal energy capacity to store and deliver adequate amounts of solar heat for the structure in which it is incorporated.

"(C) is located so that it is capable of distributing the stored heat directly to the habitable areas of the structure through a heat distribution method, and

"(D) has an area of direct irradiated material (that is, floors, walls, etc.) equal to or greater than the solar collection area.

"(7) HEAT DISTRIBUTION METHOD.—The term 'heat distribution method' means—

"(A) the release of radiant heat from a storage mass within the habitable areas of the structure, or

"(B) convective heating from a storage mass, through airflow paths provided by openings or by ducts (with or without the assistance of a fan or pump having a horsepower rating of less than 1 horsepower) in the storage mass, to habitable areas of a structure.

"(B) HEAT REGULATION DEVICE.—The term 'heat regulation device' means—

"(A) shading or venting mechanisms to control the amount of solar heat admitted through solar collection area; and

"(B) nighttime insulation or its equivalent to control the amount of heat permitted to escape from the interior of a structure.

"(9) HOUSE HEATING LOAD.—The term 'house heating load' is the product of the number of square feet in the habitable floor area of the house multiplied by the insulation factor obtained from the insulation factor table under subsection (d) (1) (B).

"(10) JOINT PROPRIETARY INTEREST IN RESIDENTIAL UNIT.—If 2 or more builders have a proprietary interest in a residential unit, the credit allowable under subsection (a) shall be apportioned to each builder on the basis of his ownership interest in the residential unit.

"(d) SOLAR CONSTRUCTION CREDIT TABLE.—

"(1) PRESCRIPTION OF TABLE.—After consultation with the Secretary of Energy and the Secretary of Housing and Urban Development, the Secretary by regulations shall—

"(A) prescribe a solar construction credit table, to which reference is made in subsection (a), which meets the requirements set forth in paragraph (2), and

"(B) prescribe a table of insulation factors, based on the amounts of insulation in floors, walls, and ceilings and the number of panes of glass in the windows of a structure, for 8 categories of residential units ranging from one having no added insulation to one having the maximum feasible amount of insulation.

"(2) REQUIREMENTS FOR SOLAR CONSTRUCTION CREDIT TABLE.—

"(A) IN GENERAL.—In order to meet the requirements of this paragraph, the table prescribed by the Secretary—

"(i) shall provide a credit at the rate of $60 for each 1 million Btu's of annual energy savings per residential unit, and

"(ii) shall set forth different amounts of credit for different ratios of solar collection area to house heating load and for residential units located in different areas of the United States.

"(3) ANNUAL ENERGY SAVINGS PER RESIDENTIAL UNIT.—For purposes of subparagraph (A), the annual energy saving for a residential unit shall be the amount by which the number of Btu's of nonsolar energy required to provide heat to a reference house for a calendar year exceeds the number of Btu's of nonsolar energy required to heat a similar house, in the same or a similar location, which uses an incorporated passive solar energy system for a calendar year.

"(C) REFERENCE HOUSE.—For purposes of subparagraph (B), the term 'reference house' means a residential unit with 1,500 square feet of habitable floor space and a heating load of 7.5 Btu's per square foot per degree day.

"(D) HEATING LOAD.—For purposes of subparagraph (C), the term 'heating load' means the product of the number of square feet of habitable floor space of a residential unit multiplied by the appropriate insulation factor, set forth in the table prescribed by the Secretary under paragraph (1) (B), for that unit.

"(e) TERMINATION.—The credit allowable by subsection (a) shall not be allowed with respect to a residential unit the construction of which is completed after December 31, 1985.".

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 331, is amended by inserting immediately after the item relating to section 44F the following new item:

"Sec. 44G. Credit for passive solar residential construction.".

(2) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 331, is amended by striking out "and 44F" and inserting "44F, and 44G".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after September 30, 1980.

Mr. HART. Mr. President, before proceeding further, I had intended earlier to say to the floor manager that I would be willing to enter into a time agreement if he wishes.

Mr. LONG. Mr. President, I do not believe we need to enter into a time agreement. If the Senator wants the yeas and nays, he can have them. I think we can dispose of this amendment with reasonable dispatch. I think we can just go on.

Mr. President, on second thought, I believe I will take the Senator up on his proposal because I believe it might expedite matters.

I ask unanimous consent that debate on the amendment be limited to—how much time would the Senator like?

Mr. HART. I suggest an hour and a half equally divided, but I do not intend to use all that. I have about 15 cosponsors, and about half would like to say a word.

Mr. LONG. I would say 1½ hours equally divided under the usual germane requirements.

Mr. TOWER. Reserving the right to object, and I have no particular desire to object, but we are still trying to touch base with the minority floor manager of the bill. If the Senator will withhold that request, I am sure we can probably accommodate it. I cannot, at the moment, agree to it.

Mr. LONG. No problem, we shall wait.

Mr. HART. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment as modified.

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

Mr. HART. Mr. President, on June 20, 1979, at the occasion of the dedication of the White House solar system, President Carter established as a national goal that 20 percent of our energy in the year 2000 be derived from renewable resources.

I believe this goal is both realistic and obtainable—but not without a concerted effort to encourage the use of currently available, cost-effective solar systems.

"Passive" solar systems rely on energy-efficient architectural techniques and the use of special building materials, rather than mechanical means, to make maximum use of the sun's energy.

The use of passive solar techniques is hardly a novel concept. More than 400 years ago, the cliff dwellers of Mesa Verde in western Colorado made simple adaptions to capture and store the Sun's energy during the chill winter months, and deflect the Sun's scorching summer rays.

In general, passive solar techniques are relatively simple, inexpensive and just a matter of commonsense. For example, new homes should be constructed with eaves on their summer exposure which block the direct rays of the high southern Sun, while permitting direct light from the low winter Sun to heat the structure. Other passive design features, such as Trombe walls which capture, store, and gradually release heat from the Sun, are more sophisticated and somewhat more expensive. But a well-designed passive solar system can reduce the heating load of a standard home by as much as 80 percent.

In general, passive solar systems are the most cost-effective solar technology for heating and cooling homes. Passive solar is a sound investment today which will reap additional benefits as the cost of fuel oil, natural gas, and electricity continues to rise. The potential of passive solar systems to reduce our reliance on conventional energy for residential space heating and cooling is significant.

While opportunities exist to add passive features to existing homes, the greatest potential for energy savings are realized when passive solar systems are incorporated as part of the original design of the home. In light of the fact that the Nation's entire housing stock is expected to be replaced over the course of the next 50 years, it is vitally important that new housing incorporate passive solar systems (as well as other energy-efficiency measures) if future generations are not to be "locked-in" to increasingly costly and uncertain supplies of energy for their residential needs.

Clearly, a concerted effort to encourage the use of passive solar systems in new housing is an essential element of any program to achieve the aggressive goals we have established for solar en-

ergy. By that, I mean not only the President but also Congress.

The question then arises, if passive solar makes economic sense today, why are not builders including passive solar features in new housing? Although a passive solar system will often pay for itself over the course of just a few years, this saving accrues to the owner of the house rather than to the builder. Builders and developers, who must compete in an extremely tight capital market, are understandably hesitant to make any addition to a home which will increase its cost. This problem is magnified by the recent increase in mortgage rates which makes it difficult for prospective homeowners to obtain the additional capital necessary for a passive solar home.

In addition, the homebuilding industry in this country is dominated by small businesses which construct, on the average, only nine homes a year. Small homebuilders can ill afford the risk that the public will not readily accept—or cannot find the financial backing for—passive solar homes. Given these barriers, there is a clear need to provide a strong incentive to builders to include passive solar features as an integral part of new housing.

Despite longstanding congressional interest in passive solar, it has not been possible to implement a residential passive solar tax credit in the past because of difficulties in determining how to provide a tax credit for components of a home which serve a "dual" function, for example, a Trombe wall which stores heat (a passive solar function), as well as supporting the ceiling (a structural function).

The amendment I am offering today circumvents this problem by providing a tax credit to builders of new homes based on their effectiveness in reducing the energy load of the home, rather than providing a credit for a percentage of the cost of the components of a passive solar system. This approach has the additional advantage of encouraging the use of low-cost, high-performance passive solar designs.

To qualify for the credit, a passive solar system must possess all of the following elements:

First, a solar collection area;

Second, an absorber;

Third, a heat storage "mass";

Fourth, a heat distribution mechanism; and

Fifth, heat regulation devices.

To determine the amount of the credit for a given passive solar system—based on its performance—the builder must know:

First, the size of the solar collection area of the passive home;

Second, the amount of insulation and other energy-conserving features in the home; and

Third, the nearest city, to determine the amount of sunlight which falls on the home.

These factors can be compared on a simple chart which will predetermine the amount of the credit based on the extent to which the passive solar system has reduced the heating and cooling requirement of the home.

The maximum credit for a passive solar system would be $2,000. An average passive solar system would be eligible for a $1,000 credit, which would cover about 20 percent of the total cost of an average system. The builders would be eligible for this credit from September 30, 1979, through December 31, 1985. According to the Internal Revenue Service, total revenue loss for the passive solar tax credits during that period would be $328 million.

Mr. President, I am pleased to be joined in offering this amendment by Senators PERCY, DURKIN, TSONGAS, HEINZ, DOMENICI, BRADLEY, LEAHY, BAUCUS, CRANSTON, and RANDOLPH and some of them have asked for an opportunity to speak on it. This amendment also has the full support of the administration. I ask unanimous consent to have printed in the RECORD a letter from Mr. Stuart Eizenstat, the President's Domestic Affairs Adviser, strongly endorsing this amendment, together with a letter from Donald C. Lubick, Department of the Treasury.

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

THE WHITE HOUSE,
Washington, D.C., November 14, 1979.

Hon. GARY W. HART,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: As you know, in July of this year President Carter proposed the establishment of a new tax credit of up to $2,000 per unit for builders of residences designed to make use of passive solar energy. This was one of a series of initiatives recommended by the President to reduce our dangerous dependence on imported oil.

The builder's "passive solar tax credit" is an extremely important component of the President's program. Although it is generally recognized that a well designed home using solar energy can produce fuel savings of as much as 80%, most of the homes now being built fail to take advantage of this free and inexhaustible resource. The passive solar tax credit will provide a strong incentive to the homebuilding industry to build houses which will make maximum use of solar power and minimum use of scarce fossil fuels.

It is my understanding that you plan to offer on the Senate Floor an amendment to the Windfall Profits Tax Bill which would implement the President's proposal for a builder's tax credit for passive solar residences. I also understand that this amendment has been developed in consultation with the Treasury Department, the Department of Energy and the Department of Housing and Urban Development.

I wish to assure you that your efforts to carry forward this portion of the President's program have our complete support.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President, for Domestic Affairs and Policy.

DEPARTMENT OF THE TREASURY,
Washington, D.C.

Hon. GARY W. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: Enclosed is the Administration's proposed tax credit for passive solar residential construction and a draft of legislative language for the proposal. As you know, the Administration strongly encourages the use of solar energy and has proposed several incentives to stimulate growth in this area.

The specific proposal and legislative language were developed jointly by Treasury and the Department of Energy. We believe that the proposed credit would provide builders a worthwhile incentive to incorporate passive solar energy designs in new construction. We are satisfied as well that the proposal is both administrable for the Internal Revenue Service and workable for the builders who would claim the credit. In addition, we have consulted the Department of Housing and Urban Development to ensure that the proposal is consistent with the standards of the Solar Bank's proposed loan program.

The Administration recommends that the passive solar residential construction credit be included as part of the conservation measures of the Windfall Profit Tax Bill.

I appreciate your interest in the proposal and look forward to your comments on the legislative draft.

Sincerely,

DONALD C. LUBICK.

Mr. HART. Mr. President, this amendment has been endorsed by the following national organizations:

National Conference of State Legislatures, National League of Cities, National Association of Home Builders, Sierra Club, Friends of the Earth, Environmental Action, National Wildlife Federation, Environmental Policy Center, League of Women Voters, Solar Lobby, American Institute of Architects, National Woodwork Manufacturers Association.

Mr. President, the reality of this Nation's energy situation makes it vitally important that new housing incorporate passive solar systems. This amendment provides important incentives toward that goal and I urge my colleagues to support it.

Mr. DOLE. Mr. President, I have indicated to the distinguished Senator from Colorado that, so far as this Senator is concerned, we will be willing to accept the amendment.

I understand that a number of other Senators wish to be heard on the amendment and that the Senator from Colorado would like a rollcall vote following the discussion.

Is that correct?

Mr. HART. Mr. President, I do not want to impede the Senate in moving on with the bill.

The amendment was brought up in the committee and was not accepted, for a variety of reasons. Since it was not accepted by the committee, it is important that there be some demonstration of support for it.

Also, for the purpose of getting it accepted in the conference, I think a strong Senate vote would be important. I do not want a rollcall vote simply for the sake of a rollcall vote.

Mr. DOLE. I understand that—just to indicate that there is support for the amendment.

Mr. President, in the absence of other speakers, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HART. 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. HART. Mr. President, I ask for the yeas and the nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PERCY. 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. PERCY. Mr. President, I ask unanimous consent that Dana Peck have the privilege of the floor during the discussion of this amendment and any votes thereon.

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

Mr. PERCY. Mr. President, during 1976, the Governmental Affairs Committee developed the Energy Conservation and Production Act (ECPA). It was our intent to raise energy conservation considerations to the same position then occupied by supply side policies.

In doing that, we quickly identified the buildings sector as a primary target for any energy conservation effort. Our specific response in ECPA was the "Energy Conservation Standards for New Buildings" title, a legislative undertaken originally in the Banking Committee.

Testimony had indicated that considerable energy savings could be gained through new construction techniques and materials. At the same time, a GAO report underscored the need for national residential sector conservation goals.

The buildings sector in general, and residential construction in particular, is highly sensitive to changes in the cost and availability of credit. This is why first cost considerations are given the highest priority in home buying decisions by consumers. Builders understand this and do everything possible to insure the lowest first costs.

The result is homes designed for quicker sale, not homes with adequate priority on careful design and building to save energy and to minimize life-cycle costs.

Conservation, while important to the Nation as a whole, has never been a major interest among home buyers or builders. The validity of this finding has been dramaticaly shown over the last 3 years. In 1976, the buildings sector accounted for 32 percent of the Nation's end use energy consumption. By 1979, with the industrial sector working on conservation and automotive efficiency standards beginning to bite, the buildings sector accounted for 37 percent of end use consumption. It has not matched the other sectors in conservation.

Buildings sector consumption is extremely important. Most of the 74 million residential buildings and 1.5 million commercial buildings were constructed when energy was not a major consideration. The focus on low first costs has brought about a tremendous waste of energy by most of the existing inventory of buildings.

Fully one-third of the total energy consumed in the United States—almost 14 million barrels of oil equivalent per day—is consumed by buildings. They represent a major opportunity for conservation.

Decisions regarding the building energy performance standards (BEPS) area are still some months away. The passive solar tax credit now before us would do much to start the Nation on its way toward efficient buildings by encouraging builders to use passive solar design techniques in new construction. At a low cost over the life of the program, the passive credit offers the chance to gain energy savings of 30 to 80 percent in a large portion of 1 to 1.5 million new homes constructed annually.

In effect, we are establishing a passive solar demonstration program while avoiding additional bureaucratic costs of program administration. Those using the credit provide the examples needed to stimulate others to enter into passive home construction. As the savings potential of passive solar design become better known through this process, it has been projected that another 300,000 to 400,000 passive homes will be constructed at no cost to the Treasury.

Passive solar credits help offset higher first costs of home construction. The definition of what constitutes a passive solar home has been carefully developed with the fullest possible input from the Treasury Department and IRS. And the cost to the Treasury is marginal over the life of the program, especially when the reduction in energy use is considered.

Mr. President, this amendment would encourage sound home design. Passive solar designs make good sense—to the homebuilder, the homeowner, and to the Nation. I urge my colleagues to support this amendment.

Mr. President, I shall comment briefly on the short-run and the long-run solution to this energy problem. Obviously, as I mentioned in the Chamber yesterday, the best short-run solution is conservation. Just stop using as much energy as we do, and this particularly effects imported oil. We should find a way to impose a sensible gasoline tax. I introduced legislation several years ago to tax gasoline at 30 cents a gallon. After all, some countries today tax it anywhere from $1 to $1.50 a gallon. They have been paying $2 a gallon for years in Europe. And we think we can get by by imposing a 4-cent Federal tax. It is absolutely outrageous. A strong gasoline tax is just one of many steps we can do to move forward and encourage conservation.

I pay particular tribute to the courage and foresight of JOHN ANDERSON, my distinguished Illinois colleague. He is running for President and advocating a 50 cent per gallon tax. In taking that stance, he is absolutely right. It probably should be double that if we are ever to price the product at what it is really worth. We are wasting it, we are squandering it, we are using up far too much. We are encouraging use of the automobile and ever-increasing gasoline consumption by underpricing the product, making it impossible through free Federal parking, we are making it much cheaper to drive than to use mass transit, and that makes no sense at all. Conservation is the most important single thing we can do. We must recognize that fact ad move decisively on these short-term conservation issues.

The next step which must be taken is the move to the direct use of coal. We should double our production and consumption of coal, and the President has called upon the Nation to establish that goal. The Coal Coalition, on which I serve under the chairmanship of the Governor of West Virginia, the distinguished Jay Rockefeller, will issue a report early next year indicating how this Nation can move forward and save millions of barrels of imported oil by the direct use of coal. That is the second thing that can be done.

I commend all the members of the Coal Coalition and our distinguished majority leader, ROBERT BYRD, and his distinguished colleague, JENNINGS RANDOLPH, of West Virginia, for the leadership that they have provided, together with DEE HUDDLESTON and other members of the Coal Coalition, in finding ways that the Nation can mandate the use of coal if necessary in order to move forward and lessen our dependence on oil.

But looking to the short, medium, and long run, there is no greater hope than in solar energy. The Solar Coalition, on which I am pleased to serve, benefits from the tremendous leadership provided by our distinguished colleague Senator GARY HART, of Colorado. In this whole area of solar use, Senator HART is a visionary. At an earlier time, solar was looked upon as utterly preposterous, some dream. Now, it is looked upon as pragmatic, hard, sensible, cost-effective and an area where we must move ahead. We are gratified that the President has come at least 80 percent of the way with us in his solar policy as outlined in the domestic policy review. We felt it was achievable to have a national goal of at least 25 percent of our energy requirements from solar by the year 2000.

Within 2 or 3 weeks of calling on the President, together with my distinguished colleague from Colorado, Senator HART, the President adopted a goal of 20 percent. That is better than half a loaf. That is four-fifths of a loaf. We join together with the President now in trying to make this a practical reality, and it can be done.

But we cannot do it unless we start to bite the bullet, unless we start to do the kinds of things day-by-day that will provide the incentive to move forward. We cannot establish a goal without doing something about it. We must take action.

This amendment is a major step forward because there are all types of solar energy, and passive is an extraordinarily important element. People in this country have to begin to learn that in a well-designed house, when the Sun comes up it can offset a large portion of heating

needs which would otherwise have to be met by energy-consuming heating equipment. Why not use this infinite source of energy rather than precious oil or gas burning down in the basement?

All we have to do is provide the incentives to encourage more people to take advantage of the benefits good, passive solar design can bring.

I commend my distinguished colleague for the leadership he has provided in this and many other fields. I think in this area he has been a real giant. I trust the country will follow in this leadership now and recognize that this is the path down which we must go if this Nation's national security and balance of payments are to be freed from the excessive pressures of huge oil payments. This really gets to the heart of what this country is all about: flexibility, ingenuity, and a strong desire to be free from external controls.

I trust that our colleagues will overwhelmingly support this amendment.

Mr. HART. Mr. President, I thank the Senator from Illinois both for his support of this amendment and for his kind words. I say on his behalf he has demonstrated as much vision in this area as any one of our Members and I am pleased to have him in support of this amendment.

Mr. President, I wish to take only a very few minutes to walk through the system for calculating this tax credit so that the RECORD at least will reflect how this works and hopefully our colleagues who are in the conference on this legislation will be able to support it a little more thoughtfully by having this information available to them.

Mr. President, as the charts here on the Chamber floor show the system would work as follows: To determine whether a passive solar system qualified, the builder would complete a very simple recognition form. That form would establish that the passive solar system contained all of the following components:

First of all, a solar collection area; that is to say, south window, and an absorber, a storage mass, heat distribution method and heat regulation devices.

These are simple definitions that have been worked out for each of these components. Information on all of these components is known to the builder which would allow him to easily perform this recognition step.

Second, to determine his tax credit, the builder would also have to know the closest city to the builder—there is a list of 219 urban areas around the country—the size of the passive collection area, that is the total area of south-facing window; and

Then, third, the house, heating load. That is to say the amount of heating energy required by the house. The third factor will be used to determine the passive rating of the house. The builder would then determine the ratio of passive collection areas to the house-heating load.

That calculation is the result. The house heating load is determined by the builder by taking the floor area of the house, that is to say, the square feet, and multiplying by one of eight selective insulation factors or eight levels from the installation factor table.

The Internal Revenue Service and the Department of Energy are, in fact, in the process of preparing those or have them already prepared in preliminary form.

Next, Mr. President, the builder would then determine the passive solar rating by dividing the area of south glass by the heating load, and that would give him the passive solar rating.

The builder then checks the passive solar rating in comparison with the closest number on the nearest construction credit table.

In the hypothetical case, a passive rating would be 0.6. We are using the hypothetical city of Sacramento, and the credit would be $708.

Just to walk through this very quickly, the house location in this hypothetical would be in Roseville, Calif., the nearest location would be Sacramento, a very easily determined factor; the passive collection area is 279 square feet, again a very simple calculation by the builder.

The house heating load, determined as we have already indicated by the process described, is also fairly easily done by the builder.

Using those two factors, three and four, making a simple calculation that the passive rating is 0.6, he then, referring again to the chart below, calculates that his building is nearest Sacramento, and using that passive rating of 0.6, his credit is $708, and that is what he would claim in his tax return forms.

Mr. President, although this may sound at first as a rather complicated procedure, it is not and, in fact, can be done in a relatively few minutes by any builder in the country, who can then determine for himself what his tax credit should be and claim that on his return.

He would, of course, be subject to audit as any other taxpayer is for any miscalculations or conscious or purposeful evasion of the law. But in consulting and discussing this with the administration, the Internal Revenue Service, the Department of Energy, and other agencies involved, it is the judgment of the Administrator and, I think, all the agencies involved, as I have indicated, the White House itself, that this is simple and workable and pragmatic enough to make sense and be available to any builder in the country who qualifies and, therefore, Mr. President, I urge the distinguished floor manager to accept the amendment.

Mr. LONG. Mr. President, there may be others who would wish to speak to the amendment. I will be glad to speak about it in due course. I would like, however, to ask the Senator from Colorado whether his cosponsors desire to speak to the amendment?

Mr. President, when we on the committee looked at the proposed tax credit of passive solar it presented a great number of problems that the committee could not satisfactorily resolve. Among other things was the fact that the credit would go, not to the homeowner, but, to the builder. There also was the question whether it might be better to have such a program, not as a part of the tax system, but, as a part of the more traditional Federal spending programs for which the Government authorizes a grant and money for it is appropriated by the traditional authorizing and appropriating processes.

We on the Finance Committee are not necessarily prejudiced against the idea of using the tax system for economic incentives. We have sometimes been severely criticized by some of our colleagues for preferring the tax approach over the appropriation and authorizing approach when we felt the taxing approach might be more efficient.

The House looked at the same problems, with providing a tax credit for residential passive solar systems that we did, and the Ways and Means Committee concluded that the various problems raised at that point were insurmountable.

The Senator and his cosponsors have worked diligently to find answers to the various problems that caused so many of us to feel it was not the time to move forward with the passive solar tax credit. It may very well be, Mr. President, that with the advice of able staff members and fellow Senators that the sponsors of the amendment have effected an approach that might be in the national interest.

Therefore, I would be willing to take the amendment to conference and discuss it with the House Members who really felt that, on first consideration, it just would not work. I am willing to see if they could be persuaded that enough answers have been provided to make this credit work and to make it the more logical way to do the job that the Senator, I believe, and his cosponsors want it to do.

I believe the Senator has some cosponsors who might want to address themselves to the issue.

As far as this Senator is concerned, it is perfectly all right with the manager of the bill for the Senate to vote the amendment, and if that be the judgment of the Senate, we would be glad to discuss it with the House and see what can be worked out.

At one time we went so far in voting for tax credits to try to develop alternative sources of energy that we ourselves were severely criticized for reducing the amount of net revenue in the bill to the point that the bill lost more money than it raised. Then, we had to trim back our credits after persuasion by some of the members of the Finance Committee who believed that the bill should stay within budget limits.

The bill now raises additional revenue as a result of the increase in the tax, and if it be the judgment of the Senate that it would like to give further consideration to this type of proposal, then so far as this Senator is concerned, he would be glad to take it to conference and see what the House would like to do about the matter.

Mr. HART. Mr. President. I thank the distinguished chairman of the committee and floor manager for his willingness to accept the amendment and his attitude toward it.

I want to yield to my colleague from Montana as a cosponsor and colleague of the amendment.

Before doing that, let me just cite two excerpts from letters of endorsement, one from Mr. Eizenstat, whom I mentioned on behalf of the administration, saying:

The builder's "passive solar tax credit" is an extremely important component of the President's program.

Skipping down:

The passive solar tax credit will provide a strong incentive to the homebuilding industry to build houses which will make maximum use of solar power and minimum use of scarce fossil fuels.

Then, Mr. Donald C. Lubick of the Treasury Department states:

We believe that the proposed credit would provide builders a worthwhile incentive to incorporate passive solar energy design in new construction. We are satisfied as well that the proposal is both administrable for the Internal Revenue Service and workable for the builders who would claim the credit.

The administration recommends that the passive solar residential construction credit be included as part of the conservation measures of the windfall profit tax bill.

I yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the Senator for yielding.

As the chairman of the committee knows, this amendment was essentially discussed in the Finance Committee. We all realize it is important; that is, that because of our energy difficulties, we have to find whatever means we can to produce energy and also to conserve energy.

Certainly active solar energy is gaining in prominence in American construction and the development of our country. Moreover, Mr. President, we all agree that it would be helpful if we could find some way to develop passive solar systems in addition. Passive solar systems, after all, are those kinds of systems built into homes to take advantage of sunlight, to take advantage of natural heating processes, and to take advantage of natural insulation, including the ground. Basically, the passive systems are included in the design of the home, much more than active systems, such as the solar collector, using sunlight to heat water, and so forth.

The basic difficulty was finding some way for the Treasury Department to develop regulations that would stimulate the production of homes utilizing solar technology, and also to develop sufficient guidelines so that people would not take advantage of it. It is a matter of administration. It is a little ticklish, and it was for that reason that we in the committee did not frontally address the problem, and we did not find a solution at the time. We really did not focus on it.

I think as we look further into it, we will find a way to develop regulations that will give us both the initial production and also not let people take advantage, in trying to build homes, of credits they should not be given the advantage of. I think the Senator from Colorado is performing an excellent service in forcing us to focus on the question even more. I am glad to see the chairman of the committee willing to accept the amendment. I am confident that by the time we go to conference, we will iron out the difficulties that remain, so that we will have the passive solar credit in the bill when it is finally passed by Congress.

I think, Mr. President, that when we do reach that point, as I say, the Internal Revenue Service, along with all of us who are interested in the measure, will find a way. It may not be perfect, but it will certainly be better than not having the passive credit at all.

I am a cosponsor of the amendment. Its provisions are similar to one on which action was deferred in the Senate Finance Committee. I regret that the committee did not include passive solar home construction in its list of allowable conservation credits, but I am hopeful the Senate will now take the proper action.

Mr. President, there is simply no persuasive reason why we should delay any longer a national commitment to the construction of passive solar homes. There are many such homes now in use in this country. The technology is known. Savings are proven. All that is needed is the proper incentive to stimulate their construction.

The amendment before us defines a passive solar home as one which possesses five characteristics: A solar collection area, an absorber, a heat storage mass, a heat distribution device and heat regulation device. Put in layman's terms, it normally means a south-facing house with plenty of glass to let the sun in, a stone or brick wall or floor to absorb the heat, some method for distributing the heat, and a roof overhang which blocks the rays of the sun in the summer when they are not wanted.

The amendment makes a tax break available to the builder so that he may incorporate passive solar design features in the original blueprints. He does not have to worry about building a solar home and then wonder whether customer acceptance will permit him to recoup the necessary expense. As for customer acceptance, surveys have shown that buyers who might have balked at paying the additional amount in advance are extremely satisfied later with their purchase.

Incorporation of the right designs into homes can mean substantial savings in heating costs. With the construction of 1 to 2 million housing units annually, the potential savings run into billions of gallons of precious heating fuel.

This amendment offers a maximum credit of $2,000 for a passive solar system, with the average expected to be about $1,000. This constitutes a subsidy of about 20 percent for residential passive solar systems.

Individuals would be eligible for this credit from April 5, 1979 through December 31, 1985.

According to the Internal Revenue Service, total revenue loss during that period is expected to be $328 million, with $4.1 million during the current fiscal year.

I might say that the amendment can have a great impact on my State of Montana. It is precisely in the northern climates, where the heating demands are greatest, that the savings of fuel are also greatest. The State of Montana has a strong record of support of solar programs, and such organizations as the Alternate Energy Resource Organization (AERO) have done much to stimulate public interest in solar power. In cooperation, they have produced the most extensive solar manual of any State in the Union. The number of sun-free days have been plotted for all regions of Montana and every community of substantial size, as have the average temperature and other factors which would affect heating performance.

Mr. President, this amendment is but one of many initiatives in solar power and conservation which I think the Congress should adopt.

I urge the adoption of the amendment, and I thank the Senator for yielding.

Mr. HART. I thank the Senator from Montana.

Mr. President, let me just say there is a misconception, I believe, that anyone who builds a house facing south that has a window in it would qualify. It is a little more complicated than that, as I believe the evidence in connection with this amendment shows. People would not only have to be able to capture the heat energy of the sun from the direction of that south facing window, but would also have to have the storage facilities and the ability to store and utilize that heat from the sun. It would have to be a system that would work.

Mr. BAUCUS. I think that is the critical point. I think too many people do misunderstand the idea of the credit. Just because your house faces south does not mean you will get the credit. You have to have devices in the construction of the home to show that you are taking an action that would save energy which would not otherwise be available.

Mr. HART. I thank the Senator. I yield to the Senator from New Mexico.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank my friend from Colorado. It has been my privilege to be a cosponsor of this amendment.

What we have been trying to do here in Congress is to create certain tax incentives for increased utilization of solar technology by Americans. But for the most part, until this idea has come along, we have concentrated our efforts on giving tax credits for solar energy in the area of home ownership and home buildings that are insignificant in numbers when compared to the mass-produced homes in America. If you go into any city where new homes are being produced, and you find a whole new subdivision going up, usually a home builder or two or three of them are building new homes in large quantities, and the remarkable thing is that you do not find any solar equipment in those homes of the kind that we have had over the past 20 years. This is true of almost all of the new housing for Americans.

Basically, the reason has been that when the buyer comes into this new subdivision and takes a look, even if you have a model home that has some solar equipment in it, it is significantly higher priced than the one beside it; and even though you try to impress them that they might save energy on the one that has

solar equipment in it, they look at the mortgage payment, and the mortgage payment over 25 years or 30 years is more for the solar home than the other one.

It is the custom in America to fit your budget to the mortgage payment. So the homebuilders who are adding the huge new stock of homes cannot sell such homes. Yet we come along and continue to try to say to individuals, "If you will do it, we will give you the credit." The fact of the matter is that there is not anyone who is in a position to go into these mass-produced homes, where we are really producing the inventory, and apply that individual tax incentive.

So what we are doing here today, as I understand it, is to put these homes side by side as they are built, and be able to tell the homebuilder, "You take the credit." Two homes, the solar home and the nonsolar home, might now be setting side by side with the same price, relatively speaking or perhaps even identical; and this is the real opportunity for a breakthrough. Because now, when you go there to look at it as an average new home buyer, the tax credit will already have been built into the base price of the home. That is not a bonanza to the homebuilder, because pretty soon homes with the credit will become competitive. So we can give that homebuilder a big tax break; we are giving him the opportunity to take the credit on that home so he can offer it at a competitive price.

Unless and until this happens, we are not going to get the kind of demand for solar technology that will cause it to be mass produced and make it efficient, make it possible for the builder to apply this mass production talent and yet have individual homes at an acceptable market price.

I am sure the Senator from Colorado understands that we do not have everything precise here. It is very complicated as to how we are doing it, but the theory is an excellent one.

When you go into the average new home area, where they have their model homes, the problem we have had with solar technology is that the bottom line on the mortgage payments is that the one is cheaper than the other; and you cannot have the buyer figure in the energy, because he pays that separately. The way to get it competitive is to say to the homebuilder, "We will help you make it more competitive"; therefore, there will be more people interested, because when they look at the home, it will not have the disparity built into the price the new customer pays, but rather we will have given the credit to the homebuilder so he can make it competitive.

I hope I have not improperly stated what we are trying to do, but it seems to me that is what we ought to want to see happen, and it also seems certain to me that unless we do something like this, we will get one American with one house trying to build solar, and that is not what we need, because that is not where the inventory of new homes is coming from.

It is coming from the homebuilder who is a part of a subdivision. And that is what we are directing this to, the new homebuilding in America.

Mr. HART. The Senator is correct, with a few possible exceptions. One, the system looks a lot more complicated than it is. The procedures under the amendment are a lot more simple than they might seem from these charts. It is a calculation that a builder can make in a very few minutes, as a matter of fact, based on information he has or will shortly have.

Second, it is a lot tighter than it seems, in terms of its applicability. People will have to do very specific things to qualify. There are a million or a million and a half homes built in this country each year.

The Los Alamos Scientific Laboratory, which I am sure the Senator is familiar with, has estimated that approximately 220,000 new homes between the period of 1979 and 1985 would incorporate passive solar energy systems are a direct result of the passive tax credit proposed in this amendment. They further estimate that, in the period 1985–90, an additional 350,000 to 400,000 new homes would be built with passive solar energy systems as a direct result of changes in the building industry and in public demand for energy conservation and housing.

These passive solar homes will require 30 to 80 percent less energy than the homes of similar living characteristics without passive solar energy systems.

So it is not just a hope. I think there is some very precise scientific and marketing data available to support the theory behind this amendment.

Mr. DOMENICI. I thank the Senator for his explanation. When I used the word "hope," I did not mean we did not have market data. I meant that it is our expectation that this would really happen.

Mr. HART. I yield to the Senator from Alabama (Mr. STEWART) and then to the Senator from Pennsylvania (Mr. HEINZ).

Mr. STEWART. Mr. President, as a strong and enthusiastic supporter of solar energy, I am proud to be a cosponsor of this amendment with the Senator from Colorado to provide tax credits to building to include passive solar energy systems in new homes.

I want to associate myself with the remarks of the Senator from New Mexico (Mr. DOMENICI). One of the things that I think this amendment offers in the way of a benefit is to provide homes with passive solar systems in the new homes that are built in this country.

For too long, Mr. President, we have heard the tired old line that solar energy will be great in the future, that it is the energy of the 21st century. The people who say this are often the people who have vested interests in other forms of energy, people who fear the competition of an abundant, cheap energy source that cannot be controlled or owned by a handful of multinational energy conglomerates. These people do not want the American people to know that solar energy is an energy source for today, as well as a source for tomorrow.

With the passage of this amendment, the American public will see more and more evidence that solar energy is here today. This amendment will encourage home builders to use passive solar energy systems. At present, the obstacles to a builder including a passive solar energy system are almost insurmountable. We all know of the severe impact that astronomical interest rates are having on the housing market. Builders are paying unbearable rates for construction money. In the face of this, a builder is very reluctant to add to his cost by installing a passive solar system. This amendment will offer added incentive.

Also, Mr. President, the major problem in my State is that people simply cannot afford to buy a house, particularly with the soaring interest rates on mortgages. These people, hardworking Alabamians who have saved for years to be able to afford a house, are reluctant to pay a higher price for a house to include a solar energy system. With this amendment, however, the builder will be able to pass the cost savings along to the buyer. When coupled with the savings in energy costs, I am very hopeful that buyers will find passive solar energy systems to be attractive additions to their new homes.

Again, I commend the Senator from Colorado and Senator PERCY for their leadership on this vital issue.

I thank the Senator for yielding time to me to make these remarks.

Mr. HART. Mr. President, I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator from Colorado.

Mr. President, I am very pleased to also be a cosponsor of the amendment of the Senator from Colorado (Mr. HART) and the Senator from Illinois (Mr. PERCY).

Mr. President, I commend my colleague from Colorado for his efforts to make solar design in residences a reality by offering this amendment. The passive solar tax credit amendment, of which I am proud to be a cosponsor, solves the technical problems encountered in previous attempts to construct a passive solar tax credit.

This amendment provides a meaningful economic incentive for builders to incorporate passive solar design into the construction of America's homes. In the past, it has not been possible to implement a tax credit for passive solar because of technical difficulties in making a distinction between components which serve both a structural and a passive solar function. This amendment resolves this problem by providing a tax credit based on the effectiveness of the passive solar components in reducing the standard heating and cooling needs of the home in which they are installed.

Mr. President, the Nation must reduce its consumption of energy and passive solar design can reduce the heating and cooling demand of a home by up to 80 percent. This amendment will provide a credit for the energy saved by incorporating passive solar design into new homes. This will contribute to the reduction in energy use now and in the future. It is an investment to protect the future of the Nation by making homes more energy efficient today.

Earlier this year, I had the opportunity to tour a home in Pittsburgh which was renovated based on a design which included a passive solar heating system. My first impression of the house was that it looked unlike any other house that I have ever seen. The unconventional design of houses constructed to take maximum advantage of the free energy from the sun is just one of many different factors which have prevented broad application of the principles of passive solar design. As a result, we are unnecessarily consuming more oil and natural gas and electricity in the heating and cooling of our homes.

This amendment will also help overcome the bias against including passive solar design caused by the increase in the initial cost of the home that results from the incorporation of solar design into the home. With interest rates at 14 percent and above, the average home buyer is primarily concerned with the principal on which he will have to pay interest. The builder in a competitive market is very sensitive to this concern of the buyer and is therefore reluctant to take an action which would raise the cost of the home, even if it would lead to lower operating costs during the life of the residence. This amendment will eliminate this disincentive and encourage intelligent energy-conserving design of homes.

The fact of the matter is that until recently energy consumption was not an important factor in the design of residential structures. When energy was inexpensive, there was no consideration of the energy efficiency of homes. Simply put, it was cheaper to design and build energy inefficient buildings than it was to spend a few extra dollars to minimize the energy needs of the structure.

However, today energy prices are rising and supply is dwindling. A well-designed passive solar home has the potential to reduce the heating-load of the structure by 80 percent. This can be accomplished by constructing the home with a proper orientation toward the Sun, by minimizing the exposure to the north, east, and west while allowing the Sun's energy to enter from the south through a bank of windows. Glazing on the windows gathers heat during the winter to prevent heat loss from the home.

The energy saved through passive solar design will benefit the country today by reducing the demand for limited supplies of oil and natural gas, but will also protect us in the future by preventing the construction of energy inefficient homes.

This amendment makes a significant positive contribution to meeting our national energy needs through dependence on domestic sources of energy, and I encourage my colleagues to support it.

Mr. President, sometimes people come to the conclusion that the only future for solar energy is in the Sunbelt. That is not at all the case. There is a tremendous future for solar energy in residential construction as a major source of energy throughout the United States.

I come from a Snowbelt State—Pennsylvania. Even as we put up with our poor weather during the winter, as we put up with its unpredictability during other seasons, the fact is that solar energy in a State as far north as Pennsylvania is an efficient and effective way of saving other forms of energy.

Just this last summer, I had the opportunity to visit a new solar-designed house, incorporating both passive and active solar elements. The house is located in the South Oakland area of the city of Pittsburgh. That house, because of the nature of its very intelligent solar design, which was worked on with great thought and care by some of the people associated with the Architectural School at Carnegie-Mellon University, if the estimates of those who have built it and who will be watching carefully its performance are correct, will cost, in energy costs in the coming year, less than $300. And this is for a 2,000-square-foot house, a not inconsiderable sized house.

Notwithstanding the fact that our heating bills are all doubling, fuel oil costs are going up, electricity costs are going up, this house will have a total energy outlay per year estimated at less than $300. If it is such a great deal, why will people not buy it? Well, the Senator from New Mexico (Mr. DOMENICI) touched on it a few minutes ago, and I imagine some of my other colleagues have spoken to this point.

Solar houses, because of the innovativeness, the newness of solar design, are at this point more expensive to construct. That has, I am sure been well documented in the discussion already.

And what may have been touched on, but I want to emphasize it, is that the houses do not exactly look like your typical house. They are also not only unconventional in the kind of energy they use, they are unconventional in their appearance. So there is both a financial question that must be addressed, which this amendment addresses, and there is a marketing question that must be addressed, which is: How do you insure that a home buyer, who goes to buy a home out of an inventory of existing prebuilt houses by a developer, that they gravitate towards what does not look like your average house?

I think the financial incentives structured into Senator HART's amendment is the best answer we have come up with so far. I think it is a good answer. I think it is an answer that will work.

I have great hope, as a result of this amendment, that we will see the kind of progress we all hope to see in the solar area.

Mr. President, I thank the Senator from Colorado for yielding. I commend him once again for his excellent work in this area.

Mr. HART. I thank the Senator from Pennsylvania.

Mr. President, on November 19, 1979, an article appeared in the Denver Post on the passive solar home of Stuart Krebs in Fort Collins, Colo.

I ask unanimous consent that that article be printed in the RECORD at this point.

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

PASSIVE SOLAR HOUSE MIXES ANCIENT AND MODERN CONCEPTS

(By Barbara Allbrandt)

FORT COLLINS.—The simple, clean lines of the Stuart Krebs home in Fort Collins seem to harmonize with the environment, but they don't give adequate testimony to the uniqueness of the structure.

And it is unique. A passive solar house based on ancient concepts and implemented by 20th century understanding, the house embodies everything that Stuart and Barbara Krebs believe about how to live. Both have long been dedicated to conserving energy and not disrupting nature.

But it wasn't easy to achieve. The Krebses, who can safely be described as a middle-income family, had to work hard to put their beliefs so concretely into their lives. Building the house required unexpected amounts of time, money, work and stubborn commitment.

The result, a house which not only implements passive solar heat but contains composting toilets and a wood-burning stove, (the only backup heating source) has been worth the effort, says Barbara Krebs. Since the couple and their two young sons moved into the house in June, they've found it cool on hot days (the highest temperature inside was 83 degrees, when it was 95 outside), warm on cold days (it has maintained an average temperature of 65 degrees), and livable every day.

Concave, the house is shaped like a sharp-angled horseshoe. The front, which faces south, is two stories high, with large expanses of double-paned glass. The house backs into a hill; its northern wall is solid brick, to absorb and retain the sun's heat.

That's the idea, explains Mrs. Krebs. Passive solar heat depends on solid masses to catch and hold heat; thus the masses—the brick wall, a concrete floor, and earth. Eventually, she says, the greenhouse, which is attached to the front of the house, will contain drums of water to act as additional thermal masses.

Because the floor is a thermal mass, it can only be covered with area rugs that aren't so thick they would prevent absorption of heat. Long-range plans call for flagstone flooring over the concrete, but Mrs. Krebs says living with the bare concrete floor hasn't been unpleasant so far, and the floor is consistently warm to the touch.

Enlarging on the concept of masses to hold heat, Mrs. Krebs uncovers the water bed in the master bedroom every day to let the sun shine on it. Thus far, she says, there's been no need to heat the bed artificially.

At night, the thick wooden shutters on the inside of the windows are closed, to hold in the heat that's been caught. On one window, Mrs. Krebs has put a window quilt—a thick dacron covering which is rolled up in the daytime and down at night, in lieu of curtains. It works well, she says, costs no more than good draperies would, and is available in the region. She likes it and probably will buy more window quilts.

Like a symphony orchestra, many coordinates have to harmonize if the passive-solar-heat concept is to function properly, she explains. Consequently, the material of which the house is built was chosen with the orchestration in mind—it is concrete, filled with insulating foam. Made in Fort Collins, the material fits together like a giant erector set. Fiberglass stucco goes over it.

All these materials help to insulate the structure. The roof is metal—a choice Mrs. Krebs says she unhesitatingly would make again—and brown, a neutral color for heat. The roof survived the devastating July hailstorm in Fort Collins with only "some small dents," and it was no more expensive than wooden shakes, she says.

Roof to floor, the house came to be because of Mrs. Kreb's long involvement with the

League of Women Voters. She attended an energy conservation seminar in Boulder in 1976 and was inspired by the possibilities passive solar heat seemed to have, Later she read a book, "Design With Climate," by Victor Olgyay, and what had been a mere idea gradually took shape as a feasible concept.

Together, the Krebses designed a house. Mrs. Kreb's father, an architect, drew up plans. An appropriate site was found; the couple hired one carpenter, Dennis Sovcik, and work began. It took about 18 months to build the house. The cost, excluding the land, was about $45,000. The house has 1,900 square feet of living space.

There were obstacles. For one, building codes for passive solar homes aren't well-defined yet. Larimer County officials, though "very supportive," couldn't be very specific. Moreover, the county health department was uncertain, to put it mildly, about the composting toilet system, she says. At length, after a meeting with the department's director, the Krebses were issued the first permit in Larimer County for such a system. However, they also installed a septic system that can be made operational if necessary.

The toilet works well, says Mrs. Krebs. The holding tank also receives kitchen garbage and that, combined with the human waste, activities composting. There's been no problem with odor, she says, but they did discover that an adequate sealant is needed for the seats.

Done artistically in woods, the bathroom is unusual and attractive. One young guest, says Mrs. Krebs, refused to use the toilet, "because it seemed like an outhouse to her—you can't see the bottom, you know." But by and large, the toilet hasn't been a problem.

The finished bathroom typifies the experimental nature of the project. As building progressed, many original ideas were altered. There are two toilet stools, back to back, for instance, instead of one. On the advice of knowledgeable friends, the Krebs' left the brick wall uncovered instead of insulating it as planned. The brick wall was vented on the bottom to pull in cool air in the summer, and two skylights were installed on the roof.

Inside, the house is homey, comfortable and attractive. Woods dominate the decor. The living-dining-kitchen area, the house's center, is two stories high; both wings have main-floor bedrooms and second-story lofts.

One problem, says Mrs. Krebs, has been the walkway and plant shelf which connects the wing lofts. Open-slatted, the shelf goes right over the dining room tables, which suffered at first from feet overhead, so rules had to be made.

Small holes between the floorboards in the lofts, left in order to allow air to circulate freely throughout the house, have proved something of a problem, too. When a loft room is occupied ("The boys use theirs all the time," says Mrs. Krebs, dirt can fall through on objects below.

But such problems are minor, Mrs. Krebs feels. Their way of life "took getting used to," but it's really not difficult or time-consuming, she says. It takes only 15 or 20 minutes a day. "I could work full time and keep the house functional. I wouldn't be able to fine-tune it, but it would work."

At the moment, Barbara Krebs—a small, energetic, outgoing woman—is working full time at home. Though the bulk of the work on the house (a fair amount of which she did also) is completed, there are many finishing-up tasks left, and she works at them as she can. This fall, she's been putting the outside stucco on. Later, she wants to install a solar water-heating system, put in the flagstone floor, and finish the patio in the front.

Sovik has gone on to start a business of building solar greenhouses, and Stuart Krebs, a professor at CSU, has limited spare time, so that leaves the job to her.

She hopes, too, to get the root cellar at the back of the house functioning properly soon; right now, she says, non-edibles are stored there and the door is consequently opened too often for the room to stay properly cool.

Before they had even moved in, the Krebses shared their innovative ideas with League members and others when they opened the house for a public tour last fall. The response, says Barbara Krebs, was exciting. She believes that a great many people are interested in and committed to finding non-destructive ways to cope with dwindling energy supplies. Not everyone has the opportunity the Krebs' have had to put that concern and commitment into such definitive action, but the Krebs' home west of Fort Collins stands as concrete evidence that it can be done.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HART. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limit of 30 minutes on this amendment to be equally divided between Mr. HART and Mr. DOLE.

Mr. DOLE. Mr. President, I support the amendment.

Mr. DURKIN. Mr. President, reserving the right to object, how much time is left?

Mr. HART. There is no time limit.

Mr. ROBERT C. BYRD. Then, under the control of Mr. HART, I do not know of anyone who is opposing the amendment.

Mr. DOLE. I will take 15 minutes.

Mr. ROBERT C. BYRD. Yes, half to Mr. DOLE.

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

Mr. HART. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I support renewable energy sources development in this country. I have some doubt, however, whether tax credits for possible solar devices is the most appropriate way to foster the development of this source.

In the first place the credit goes to the builder not the home buyer. This, of course, is not a problem to the extent that the credit is passed on. I feel, however, that in all cases it will not be passed on.

More importantly, however, I am bothered by the complication of the credit scheme. Indeed, when the administration first made this proposal there was substantial concern about the complication. As an example, the amendment would put the IRS into the business of checking whether windows in new homes are "located on that side of the structure which faces (within 30 degrees) south." This type of complication will be difficult for the builders and difficult for the IRS to monitor compliance.

It may be wiser to spend our money educating the public about the substantial savings that can be made from possible solar devices.

On balance I support the amendment. We must do whatever is possible to conserve oil and gas in this country. This is one way to conserve that deserves a boost.

I have some questions about the amendment and some serious reservations. The Senator from Kansas may be a conferee, I am not certain. But if we can work out some of the problems that may not be apparent, then I believe we can come back with the conference report with the amendment in it, which I assume is the goal of the distinguished Senator from Colorado.

Mr. HART. Mr. President, I certainly am prepared to work with the Senator from Kansas in trying to answer those questions.

I yield to the Senator from New Hampshire (Mr. DURKIN).

Mr. DURKIN. Mr. President, I thank the Senator from Colorado.

At the outset, I am pleased to be a cosponsor of the legislation of the Senator from Colorado. I commend him for his efforts in the solar field.

We in the Energy Committee have been working for several months on the renewables title. We held a hearing in the State of New Hampshire. Of the houses in the State of New Hampshire last year, there was one incorporating passive designs with a total heating and cooling bill for the year of $160, having an electric backup. It would have been substantially less if it had been a backup system other than electric. That house did not qualify for any tax credit under the existing solar tax legislation.

Another house in the northern part of New Hampshire, a passive solar house, the total heating and cooling bill for the year—mind you, we had some unprecedented cold snaps during last January and February—the total heating and cooling bill for the year was just a cord and a half of wood.

I do not think we are ever going to solve our energy problem in this country if we leave it up to the bureaucrats at the Department of Energy, because we freeze the technology at the highest level of understanding of the particular bureaucrat.

I am concerned that had Edison been forced to do business with the Department of Energy, he would have started a hotdog stand in Hoboken and given up on the light bulb, and many of his inventions that we are still benefiting from today.

One problem today is the builders do not get any incentives. With interest rates as high as they are, with the real estate market slowing down substantially, we have got to provide an efficient incentive, an incentive for new construction, an incentive for retrofiting existing houses.

If we follow the thrust of the Hart amendment, we are giving the incentive to the builder and we are giving the incentive to the homeowner. That will translate into substantially more construction and retrofitting of passive solar. Passive solar is the technology of today. It is here and it is now. It is not, as the Mobil ads on issues and answers would have you believe, that it is something for our children or our children's children. It is here today. The most efficient way to create demand is with the tax code. I believe the Hart amendment is a tremendous step and a significant step in the right direction.

Mr. President, it is important to dispel those misconceptions which have clouded the development of solar energy. The Sun is often seen as exotic, ineffective, expensive source of energy. These misconceptions have in the past hampered Congress support for solar energy.

Far from being exotic, solar energy is just plain sensible. Tapping the Sun's resources makes sense both today and in the future. The Sun shines freely on New Hampshire's houses.

Passive solar design emphasizes constructing houses and commercial buildings to take full advantage of the Sun's heat. Savings from the passive approach can be substantial. During a recent Senate energy hearing on the use of solar energy which I held in Concord, N.H., numerous New Hampshire builders and homeowners testified that passive solar techniques in combination with good conservation measures, produce savings of 50 percent or better on heating bills. The passive approach, however, is genreally geared to new home construction so that the sooner we adopt this measure the sooner we can realize its savings.

Solar energy is nonpolluting, inexhaustible, and economical. Our Nation's energy security will no longer be jeopardized by hostile government's holding us over their oil barrels. A passive solar tax credit will also help to revitalize small business, especially in the housing industry. And, most important, it will provide much needed relief to the energy consumer.

I urge my Senate colleagues to support this amendment.

Mr. HART. Mr. President, I thank the Senator from New Hampshire for his support of this amendment and his strong words on behalf of the amendment.

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 ACTING PRESIDENT pro tempore (Mr. HEFLIN). Without objection, it is so ordered.

● Mr. LEAHY. Mr. President, I am pleased to be a cosponsor of the amendment offered by the distinguished Senator from Colorado (Mr. HART) and our other colleagues. The amendment would, very simply, provide the needed incentive for our homebuilders to construct an energy-efficient, passive solar home.

Many people have taken advantage of the conservation and renewable energy tax credits, included in the Energy Tax Act of 1978, to install insulation and weatherstripping, thermal pane windows and energy-efficient burners, wind-energy systems and solar collectors. These tax credits have provided an added incentive to purchase efficient, energy conserving equipment.

The Finance Committe has expanded the credits available to homeowners purchasing the more expensive solar (wind) and geothermal equipment to 50 percent. The committe has also made eligible solar equipment that is essentially a structural component of the home. By making these changes the solar credits will be far more effective in encouraging the use of renewable energy-source equipment.

However, the use of solar energy is not limited to expensive solar collectors or solar heating and cooling equipment. Passive solar energy can be used as effectively as erecting solar panels. But passive solar must be integrated into the home's design.

The existing credits cover primarily face-lifting additions—done by the homeowner after the house has been built or at his or her direction during its construction. The wisest use of passive solar techniques is to incorporate them into the building's design and construction—from the ground on up—by the builder. In these inflationary times, with home mortgage money in extremely short supply, builders and developers are reluctant to add anything to homes, even if the energy efficiency will be increased, if it will mean added costs to the buyer. This is especially true since the benefits of incorporating passive solar equipment right into the home's design will not accrue to the builder but to the owner.

We are entering an era of increased awareness of the need to conserve energy and homeowners have been the most active in this regard. What better way to insure the efficiency and comfort of a home than to start from scratch. This amendment will provide the incentive to take those extra steps when the house is being built.

Many people know how beautiful my State of Vermont is. I am also proud of the fact that Vermonters have been in the forefront of energy conservation—insulating their homes and buildings, changing from oil to wood for heating, erecting wind machines to capture the often stiff breezes that blow through the hills.

What many people do not realize is that the State is also extremely cloudy, with less than one-third of the year in sunshine. This atmospheric condition would appear to preclude the use of solar energy in any extensive form. But the State's energy office has been conducting surveys to dispel this myth that we cannot use solar without sunshine or that solar energy is limited to the Southwest's Sunshine Belt.

Mr. President, I submit for the RECORD several articles published in the recent newsletter of the State energy office on the amount of insulation available and how some enterprising Vermont architects have utilized solar design in their buildings.

I strongly recommend to my colleagues that this amendment be adopted.

The articles follow:

VERMONT ARCHITECT WINS INTERNATIONAL COMPETITION

The Architectural Association of Waitsfield, Vermont is one of three grand award winners in the Energy Efficient Design Competition organized by the Northeast International Committee on Energy, and sponsored by the New England Governors and Eastern Canadian Premiers Conference.

The $5,000 award won by Architectural Association came as a result of their design for a new single-family house using solar and/or other renewable energies.

According to the program requirements, the designer had to create a single-family detached dwelling, between 1000 and 2000 square feet, contain at least two bedrooms and exceed national minimum housing standards for the area typified by Boston, Massachusetts. The requirements also stipulated that construction costs, exclusive of land and site improvements not exceed $30–$40 per square foot.

The Waitsfield architectural firm was in competition with 52 other designers from New England and the five Eastern Canadian Provinces.

The general purpose of the competition was, first, to provide a series of low-to-moderate cost housing designs which contribute to a reduction in energy consumption through techniques of energy conservation and the use of renewable energies; second, to increase the awareness and incorporation of renewable energy in new housing design for low to moderate income markets by builders, engineers and architects; and, third, to generate designs of readily marketable buildings suited specifically to the Eastern Canadian Provinces and the New England States.

A special book, featuring the award-winning designs, will be distributed to the general public early next year through the state and provincial energy offices.

Funding for the project was provided by the New England Regional Commission, the six New England States, the five Eastern Canadian Provinces, and the Northeast Solar Energy Center.

YES, VIRGINIA, THERE IS ENOUGH SUNSHINE IN VERMONT—PART II

(By David C. Pinkham)

Last month we presented evidence verifying that the engineers and designers in Vermont do have a good basis for utilizing the sun to heat your home. A ten square foot vertical surface (like your winds facing true south) during the nine month heating season will collect 2,470,000 BTU's. This amount of energy would replace 24.5 gallons of fuel oil (figuring a 70 percent furnace efficiency).

This total, calculated from weather data for Burlington, Vermont and the historical insulation data from Amherst, Massachusetts, reflects the total energy reaching a window over a nine month heating season. The total does not reflect the monthly variaions in solar activity. Therefore, we thought you might be interested in looking at the monthly solar collection for Burlington and Amherst.

Vertical 10SF window facing true south

Heat month	Burl/ BTU	Amherst/ BTU
Sept.	310,000	280,000
Oct.	310,000	330,000
Nov.	190,000	250,000
Dec.	180,000	280,000
Jan.	250,000	220,000
Feb.	290,000	250,000
Mar.	390,000	390,000
Apr.	280,000	240,000
May	270,000	240,000
Total	2,470,000	2,480,000

As you see, these locations have slightly different monthly amounts. The lower amounts in November, December and January are due to the shorter hours of daylight and the additional length of the earth's atmosphere the low sun has to shine through. By April and May the sun is high enough to bounce more of its energy off the window and as a result the amount of energy passing through the vertical window begins to decrease. What these figures mean

to the average homeowner is that during the critical heating months of December, January and February you can utilize the sun's energy to contribute to the heating of your home. These figures represent historical data, and therefore refute the common belief that there is not enough sun to be useful for heating in the winter in Vermont.

The bottom line is this: Yes, Virginia, the State Energy Office and the professional solar people know there is enough sunshine in Vermont to help heat your home. What they do is take this fictional south-facing window and expand on it several ways: through large south-facing windows, with mass to absorb the energy in the house; trombe walls to absorb the energy and radiate it into the house at night; solar greenhouses to both heat your house and grow food; or collectors to heat your house and/or your hot water.

For readers who may have missed Dave Pinkham's article in the October '79 issue of Vermont Energy News, reprints are available. Write to the State Energy Office, State Office Bldg., Montpelier, VT 05602; or Vermonters can call the toll-free Energy Action Line: 1-800-642-3281.

THE FIRST SOLAR HEATED BANK IN NEW ENGLAND

(By Dick Cambio)

On October 20, 1979, a first in the ever-increasing use of solar energy occurred in the City of Winooski in Northwestern Vermont. The first passive solar heated bank building in the New England States was officially opened. The branch office of the Merchants Bank on Main Street was designed by the architectural/engineering firm of Parallax, Inc. of Hinesburg. They utilized two distinct passive solar techniques to provide space heating and much of the lighting necessary.

A large waterwall, utilizing fourteen one-foot diameter tubes of water, is located in the lobby and provides both space heating and lighting for this area. The tubes hold approximately 5800 pounds of water and are positioned to allow sunlight to pass through the water. Approximately 60 to 70 percent of the sunlight is absorbed by the water and converted to heat. The heat then is re-radiated into the lobby area as needed to provide space heating. The remaining sunlight passes through the water tubes and provides natural daylighting to the lobby area.

The second major heating component of the building is a direct gain wall placed high on the center section of the south-facing wall. This large double-glazed area provides direct access for sunlight to the massive vault located in the center of the bank. The vault, weighing more than 125,000 pounds, provides an excellent thermal mass to temper the interior of the building and prevent overheating of the area illuminated by the large direct gain windows.

In addition, a tank on top of the vault contains 2100 gallons (approximately 17,500 pounds) of water which is also heated by the direct gain windows. This water forms a heat reservoir to provide backup heat for the bank through a heat pump located in the mechanical room of the building. The heat pump removes energy from the pool and provides 110° air to the standard hot air system located throughout the bank.

At night large thermal shades are lowered over both of the south-facing windows to provide a barrier for the thermal energy collected during the daytime. These shades, which result in an effective R Value of 10 for these windows, restrict the heat loss through the large glassed areas.

Parallax estimates an annual heating, lighting and cooling cost of $918 for this building compared to an annual energy cost of $2,311 for a branch bank of similar design without the solar elements.

The resulting $1393 in energy savings include $972 from the passive solar components added to the structure and $421 from energy conservation measures within the building.

The cost of the solar components in the bank was pegged at $6,010. When compared with the annual energy savings of $972 for the solar equipment, the time period to recoup the initial investment is 6.2 years.

Obviously the additional investment in this building will result in a substantial savings for the owner, as well as a considerable savings on energy consumption by the building. The entire building will be extensively instrumented to provide hard data on the actual performance of this structure throughout the coming winter and next year's cooling season. The results of this monitoring program will be reported to us and will be reported in a later issue of the Vermont Energy News.

VERMONT GUIDE TO SOLAR HEATING

The Vermont State Energy Office has received a limited supply of booklets entitled Vermont Guide to Solar Heating.

The 95-page booklet provides an in-depth evaluation of some approaches to residential solar heating that are being used in this State today. The booklet also provides a rough but realistic dollars and cents picture of potential costs and savings for each approach.

The booklet stresses energy conservation and wise building design as a foundation on which to build further fuel savings through solar heating.

The booklet is available from the State Energy Office, State Office Building, Montpelier VT 05602.●

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

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. HART, I yield back the remainder of his time. I am authorized to do that.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment by the Senator from Colorado. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Oklahoma (Mr. BOREN), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Maryland (Mr. MATHIAS), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN) and the Senator from Utah (Mr. HATCH) would each vote "yea."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 82, nays 1, as follows:

[Rollcall Vote No. 462 Leg.]

YEAS—82

Armstrong	Hatfield	Nunn
Baucus	Hayakawa	Packwood
Bellmon	Heflin	Pell
Bentsen	Heinz	Percy
Boschwitz	Helms	Pressler
Bradley	Hollings	Proxmire
Bumpers	Huddleston	Pryor
Burdick	Humphrey	Randolph
Byrd, Harry F., Jr.	Inouye	Riegle
	Jackson	Roth
Byrd, Robert C.	Javits	Schmitt
Cannon	Jepsen	Schweiker
Chafee	Johnston	Simpson
Chiles	Kassebaum	Stafford
Cochran	Laxalt	Stennis
Cohen	Leahy	Stevenson
Cranston	Levin	Stewart
Danforth	Long	Stone
DeConcini	Lugar	Thurmond
Dole	McClure	Tower
Domenici	Magnuson	Tsongas
Durenberger	Matsunaga	Wallop
Durkin	Melcher	Warner
Eagleton	Metzenbaum	Weicker
Exon	Morgan	Williams
Ford	Moynihan	Young
Glenn	Muskie	Zorinsky
Hart	Nelson	

NAYS—1

Ribicoff

NOT VOTING—17

Baker	Garn	Mathias
Bayh	Goldwater	Sarbanes
Biden	Gravel	Sasser
Boren	Hatch	Stevens
Church	Kennedy	Talmadge
Culver	McGovern	

So Mr. HART's amendment (No. 711, as modified) was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I ask unanimous consent that on the amendment just agreed to, due to a misprinting on the last line of the amendment as printed, that it be in order that word "ending" be changed to "beginning."

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

Mr. HART. Mr. President, I also ask unanimous consent that the amendment remain open for further cosponsorship as long as the Senate is in session today.

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

Mr. HART. I thank the Chair.

AMENDMENT NO. 681

(Purpose: To provide a refundable tax credit for investment in qualified industrial conservation projects)

Mr. WALLOP. Mr. President, I call up my amendment No. 681 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an amendment numbered 681.

Mr. WALLOP. 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:

Insert at the appropriate place, the following:

TITLE V—COST EFFECTIVE INDUSTRIAL ENERGY CONSERVATION INCENTIVES

SEC. 501. SHORT TITLE.

This title may be cited as the "Industrial Energy Conservation Tax Act".

SEC. 502. ALLOWANCE OF CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting after section 44C the following new section:

"SEC. 44D. INVESTMENT IN QUALIFIED INDUSTRIAL CONSERVATION PROJECTS.

"(a) GENERAL RULE.—There is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage (determined under subsection (b)) of the qualified investment (as determined under sections 46 (c) and (d)) in section 38 property (determined without regard to the words '(not including a building or its structural components)' in section 48(a)(1)(B)) which is (or, for the purpose of applying section 46(d), will be) qualified industrial energy conservation property.

"(b) DETERMINATION OF PERCENTAGE.—

"(1) IN GENERAL.—For purposes of subsection (a) the applicable percentage is the smaller of—

"(A) 30 percent, or

"(B) the percentage determined under paragraph (2).

"(2) PARAGRAPH (2) PERCENTAGE.—For purposes of subparagraph (B) of paragraph (1), the percentage determined under this paragraph is that percentage (if any) which is necessary to enable the taxpayer to realize a real rate of return on investment in the property, over the useful life of the property, of 15 percent. The percentage described in the preceding sentence shall be determined, under regulations prescribed by the Secretary, by taking into account the cost of the property, the amount of the credit allowed by section 38 with respect to that property (determined without regard to this section and without regard to the energy percentage under section 46(a)(2)(C)), the amount of any deduction allowable with respect to such property under part VI of subchapter B of this chapter (relating to itemized deductions for individuals and corporations), the cost decreases resulting from the energy saved by the property, and all other costs and benefits resulting from the investment, including any reduction in production costs properly attributable to the use of such property, and a real rate of return on investment of 15 percent.

"(c) LIMITATION BASED ON ALTERNATIVE ENERGY COST EQUIVALENT.—

"(1) IN GENERAL.—If the conservation price of the taxpayer's qualified investment in qualified industrial energy conservation property with respect to a facility, item of equipment, or process exceeds the alternative energy cost equivalent, the amount of the credit allowed by subsection (a) with respect to that investment shall be zero.

"(2) CONSERVATION PRICE.—For purposes of paragraph (1), the conservation price of such a qualified investment shall be the cost over the useful life of the modified or replaced facility, equipment, or process, expressed in terms of dollars per barrel of oil equivalent, of producing the energy savings properly attributable to the replacement or modification of the facility, equipment, or process with respect to which the credit is allowed. Pursuant to regulations prescribed by the Secretary, the conservation price shall be determined by taking into account the energy saved, and the corresponding cost of the replacement or modification, the credit allowed by section 38 with respect to the qualified investment in property involved in the replacement or modification (determined without regard to this section and without regard to the energy percentage under section 46(a)(2)(C), the amount of any deduction allowable with respect to such property under part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), all other costs and benefits resulting from the investment, including any reduction in production costs properly attributable to the use of such property, and a real rate of return of 15 percent. Determinations under this paragraph with respect to electricity shall be made by employing a heat rate of 10,000 Btu per kilowatt hour.

"(3) ALTERNATIVE ENERGY COST EQUIVALENT.—For purposes of paragraph (1), the alternative energy cost equivalent of a barrel of oil shall be $32. The $32 amount in the preceding sentence shall be increased annually, beginning with 1980, by the Secretary by an amount which bears the same ratio to $32 as the amount, if any, by which the average landed price of a barrel of crude oil not produced in the United States during the 12-month period ending on September 30 of the year in which the determination is being made exceeds the average landed price of such oil for the 12-month period ending on September 30, 1979.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED INDUSTRIAL ENERGY CONSERVATION PROPERTY.—The term 'qualified industrial energy conservation property' means industrial energy conservation property used by the taxpayer as a modification to, or a replacement of, all or part of an existing productive facility, items of equipment, or process located in the United States if such modification or replacement—

"(A) results in the utilization of less energy per unit of production,

"(B) does not increase the total amount, in barrels of oil equivalent, or oil and natural gas (other than petroleum coke and waste gases from industrial operations) consumed per unit of production, and

"(C) results in an aggregate annual decrease in energy consumption, based upon levels of production in effect before such modification or replacement, of 15,000 or more barrels of oil equivalent per year.

"(2) INDUSTRIAL ENERGY CONSERVATION PROPERTY.—The term 'industrial energy conservation property' means tangible property—

"(A) used as an integral part of manufacturing, production, or extraction,

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(C) the useful life of which (determined as of the time such property is placed in service) is 3 years or more,

"(D) the original use of which commences with the taxpayer, and

"(E) which is part of, physically attached to, or otherwise directly associated with the property the use of which results in the utilization of less energy per unit of production.

"(3) EXISTING.—The term 'existing' means—

"(A) when used in connection with a building or facility, a building or facility the construction, reconstruction, or erection of which is completed before the date of enactment of the Industrial Energy Conservation Incentive Tax Act,

"(B) when used in connection with equipment, such equipment was placed in service before such date of enactment, and

"(C) when used in connection with a process, such process was carried on as of such date of enactment.

"(4) ALTERNATIVE SUBSTANCE.—The term 'alternate substance' means any substance other than—

"(A) oil,

"(B) natural gas, or

"(C) any product of oil or natural gas.

"(e) SPECIAL RULES.—

"(1) APPLICATION OF INVESTMENT CREDIT RULES.—

"(A) CREDIT IN ADDITION TO SECTION 38 CREDIT.—The credit allowed by this section is in addition to any amount allowed as a credit under section 38 (other than any amount determined under section 46(a)(2)(C) (relating to the energy percentage)).

"(B) CERTAIN SUBPART B RULES TO APPLY.—

"(i) Except as otherwise provided in this section, the provisions of sections 47 and 48 are hereby made applicable, under regulations prescribed by the Secretary, to the credit allowed by this section, except that the words '(not including a building and its structural components)' contained in section 48(a)(1)(B) shall be disregarded and any reference to 'section 38 property' shall be treated as a reference to 'qualified industrial energy conservation property'.

"(ii) For the purpose of determining the amount of the taxpayer's qualified investment, the applicable percentage (for purposes of section 46(c)(1)) shall be 100 percent for all items without regard to the useful life of any particular item.

"(iii) For purposes of applying section 47, if qualified industrial energy conservation property is disposed of or converted into property which is not qualified industrial energy conservation property, and if such disposition or conversion occurs before it has been in service for half its useful life, the disposition or conversion shall be treated as having occurred before the close of the third year after the property was placed in service.

"(iv) No credit shall be allowed under this section for property which is public utility property (within the meaning of section 46(f)(5)).

"(v) In the case of a taxpayer which is not a corporation, the credit allowed by subsection (a) shall be allowed with respect to property of which such person is the lessor under the rules applicable to the credit allowed by section 38 set forth in section 46(e)(3) (but without regard to the limitations of section 48(a)(4) and (5)).

"(2) PROPERTY FINANCED BY PUBLIC FUNDS.—Any investment in qualified industrial energy conservation property shall be reduced to the extent that such investment is made directly or indirectly, with funds provided for the acquisition or modification of such property by a grant paid by any agency of the United States.

"(3) PROPERTY FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—In the case of qualified industrial energy conservation property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, the applicable percentage, for purposes of subsection (a), shall be one-half of the applicable percentage determined under subsection (b).

"(4) CERTAIN OTHERWISE QUALIFIED PROPERTY NOT TO BE TREATED AS QUALIFIED.—No property shall be treated as qualified industrial energy conservation property if—

"(A) the taxpayer claims the energy percentage provided by section 46(a)(2)(C) with respect to that property, or

"(B) in the case of property which replaces an existing productive facility—

"(i) the replaced property is not retired from service, other than for use as a temporary replacement for the qualified industrial energy conservation property which replaced it during periods for which the qualified property is inoperable due to an emergency or on account of repairs or maintenance, or

"(ii) the replacement property is constructed on a site other than the site of the replaced property or reasonably adjacent to that site.

"(f) RECOMPUTATION OF CREDIT AMOUNT AFTER PERIOD OF OPERATION.—The amount of the credit allowed by subsection (a) with respect to the taxpayer's qualified investment in qualified industrial energy conservation property shall be redetermined as of the close of the first taxable year beginning after the property has been placed in service for more than 6 months, on the basis of actual costs and operating data and the alternative energy cost equivalent originally determined under subsection (c) with respect to the investment. If the amount of the credit so redetermined—

"(1) is greater than the amount of the credit allowed under subsection (a) for the taxable year in which the credit was claimed, then the excess shall be allowed as a credit against the tax imposed by this chapter for the taxable year for which the redetermination is made and added to the amount of the credit otherwise allowable under subsection (a) for that taxable year, or

"(2) is less than the amount of the credit allowed under subsection (a) for the taxable year in which the credit was claimed, then the tax under this chapter for the taxable year for which the redetermination is made shall be increased by the amount by which the credit allowed for the prior taxable year exceeds the amount of the credit as so redetermined.

"(g) APPLICATION OF CREDIT TO PROJECTS TO CONVERT TO COAL.—In applying this section to industrial conservation projects which increase the taxpayer's utilization of coal—

"(1) subsection (d)(1)(B) shall be disregarded, and

"(2) the computation of the applicable percentage under subsection (b) and the conservation price under subsection (c) shall take into account all costs and benefits associated with the utilization of coal.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Investment in qualified industrial conservation projects.".

(2) Paragraph (8) of section 46(f) of such Code is amended by striking out "and the Revenue Act of 1978" and inserting in lieu thereof "the Revenue Act of 1978, and the Industrial Energy Conservation Incentive Tax Act".

(3) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) REFUND OF EXCESS CREDIT ATTRIBUTABLE TO QUALIFIED INDUSTRIAL ENERGY CONSERVATION PROPERTY.—Section 6401(b) of such Code (relating to amounts treated as overpayments) is amended—

(1) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44D (relating to investment in qualified industrial energy conservation projects),", and

(2) by striking out "and 43" and inserting in lieu thereof "43, and 44D".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply 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 commenced by the taxpayer after September 30, 1979, and before January 1, 1985, and which is placed in service before January 1, 1989,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after September 30, 1979, and which is placed in service before January 1, 1989, and

(3) property to which section 46(d) of such Code applies which is placed in service before January 1, 1989, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after September 30, 1979.

Mr. WALLOP. Mr. President, I suggest that this amendment will not take very long, perhaps 15 minutes on each side. I call it up because I think it is a question worthy of serious consideration on the part of Senators. This amendment would add a new title to the pending windfall profits tax bill to provide for cost-effective tax incentives for industrial energy conservation projects.

What we have done so far by way of incentives for domestic conservation is in the realm of those efforts which are economical in and of themselves. While we are using windfall profit tax money to fund certain conservation projects they would probably proceed in any case because they are economical and in the interests of the people who are making the conservation investments.

Mr. President, to my way of thinking that is not the most effective use of the taxpayer's money. I have no doubt in my mind that the tax credits for conservation are going to carry. But if we are looking at how effectively and efficiently to spend the people's money to achieve the greatest conservation quota for the country, this amendment would go much farther in that direction and give us more conservation for the money.

Mr. President, may we have order?

Mr. MOYNIHAN. Mr. President, may we have order. The Senator from Wyoming is making an important statement and is entitled to the attention and respect of the Chamber.

Mr. WALLOP. I thank the Senator from New York.

Mr. President, this is a new idea and it is gathering support. I have no question in my mind but that it is acceptable right now, but in substance the amendment is identical to legislation Senator SIMPSON and I introduced as S. 1819 on the 25th of September of this year.

The Committee on Finance received testimony on S. 1819 but the substance of the bill was not included in the committee's windfall profits tax bill as reported.

Nevertheless, Mr. President, the subject of industrial conservation is so important that I have concluded that this legislation should be brought to the attention of the full Senate at this time. I hope it will receive some of the public awareness that the topic in and of itself deserves.

I believe that carefully structured tax incentives for industrial energy conservation projects can contribute significantly over the next decade to reducing our dependence upon imported energy.

Let me first address the question of why incentives for industrial energy conservation are needed at all. Obviously, the amount of energy consumed by our domestic industries is significant in amount and it must remain so if we are to have a healthy and vigorous economy. Nevertheless, we must not overlook those opportunities for conservation savings that exist in the industrial sector. Indeed, as the price of energy has increased, significant conservation savings have already been achieved by industry.

However, there is a potential for even greater savings with existing, proven technology. Projects to achieve these additional savings are in many instances not going forward today despite the presence of adequate technology. This is because the capital investment required for such projects is often so substantial that the projects will not produce a sufficient real rate of return on the investment. As the price of energy continues to escalate, many of these projects will ultimately be undertaken. However, with properly structured incentives, we can stimulate the early initiation of many of these projects so that we can benefit from the resulting energy savings over the decade of the 1980's, and not postpone benefits to the country into the 1990's.

Thus, the question is not whether incentives for industrial energy conservation are needed, but how those needed incentives should be structured to permit us to realize the benefits of conservation at an earlier time than we would otherwise realize them.

Before turning to the amendment itself, Mr. President, let me apprise the Senate of two significant developments which have occurred since the introduction of S. 1819. These two developments have strengthened my belief that the incentives contemplated by this amendment must receive early consideration by the Congress.

First, I have received from Professor Yergin of the Harvard Business School, and one of the coauthors of the influential book "Energy Future," a telegram indicating his strong support in principle for the types of incentives contemplated by S. 1819 and by this amendment. I ask unanimous consent that the text of Professor Yergin's telegram to me be printed in the RECORD at the conclusion of these remarks.

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

(See exhibit 1.)

Mr. WALLOP. Second, I have received a copy of a study prepared for the Department of Energy which compares the cost effectiveness and energy savings resulting from a variable incentive such as this amendment provides and a nonvariable or nonselective incentive such as that embodied in legislation introduced to provide a fixed payment to industry for each barrel of oil (or its equivalent) saved. This study, prepared by Energy and Environmental Analysis, Inc., reaches two central conclusions. First, the study clearly shows that additional industrial energy savings can be realized with carefully drafted incentives. Second, the study demonstrates that a variable incentive, such as that embodied in the amendment, will produce greater energy savings at a smaller revenue cost than will a nonvariable incentive such as a grant equal to $15 per barrel of oil equivalent saved.

Against this background, Mr. President, let me now turn to the amendment itself. Under this amendment, tax incentives—in the form of an additional,

refundable, 30 percent investment tax credit—would be made available for those industrial energy conservation projects which meet three criteria. First, the project would have to be one to modify or replace all or part of an existing domestic productive facility. Second, once completed, the project must result in the utilization of less energy, other than coal, per unit of production. Third, once completed, the project cannot increase the amount in oil and gas consumed per unit of production. The amendment thus applies both to projects which will result in the more-efficient use of energy and to projects which involve conversion coal, our most abundant domestic energy resource. In addition, the bill specifies a minimum level of energy savings. As a result of this minimum requirement, the bill will apply only to those cases where there are quantifiable energy savings sufficent in amount to justify the use of tax incentives.

After these initial three tests have been met, the special tax incentives would be available, but only if and to the extent they are necessary to enable a taxpayer to realize a real rate of return of 15 percent on the project. The determination of whether a taxpayer needs the additional investment tax credit allowed by the amendment to produce the specified real rate of return is to be made by reference to a formula similar to that commonly used by businesses to determine their rates of return on investment. If this formula indicates that a taxpayer will, without the additional incentives, realize a real rate of return on the project investment of 15 percent or more, then no incentive would be available because the project has a sufficient potential for producing an adequate return without the intervention of the Government through incentive. In short, there is no need for Government incentives for projects which will proceed without grants or incentives—which is, Mr. President, the single fault that I find with the credits included in the bill as it came from the Finance Committee.

On the other hand, if this formula indicates that less than a 15-percent real rate of return would be realized, the project is not economical to the taxpayer without the additional incentive and an incentive is therefore provided in a variable amount up to the amount necessary to produce a 15 percent real rate of return.

I should point out, Mr. President, that the formula used takes into account all of the costs and benefits accruing to the taxpayer as a result of the project including energy savings, existing tax incentives, and increased production and capacity. Thus, the credit allowed will necessarily vary from project to project and will never exceed the amount necessary to enable the taxpayer to produce a real rate of return of 15 percent.

By reason of this formulation, Mr. President, it is apparent that my amendment responds to the criticisms of many that incentives are frequently paid to invididuals and to businesses for doing something that they would do in any event. This criticism has been levied for example at those incentive programs which would provide a flat payment for energy savings irrespective of how those energy savings are achieved or whether they would be achieved without the granting of such incentives. My amendment, which has been carefully structured, meets this criticism head on. Incentives are to be available only if needed by the taxpayer and then only to the extent that they create an energy saving. All of those features have to be present.

Another central feature of my amendment is that even if incentives are needed for the project to be economical to the taxpayer, they will nevertheless be denied unless a second determination is made that granting of incentives for the particular project is cost effective to the Nation. The amendment recognizes that however desirable conservation may be, there is a point at which realizing additional energy production through conservation is too costly, when compared to the cost of producing the same amount of energy from an alternative domestic source. Under the amendment, the taxpayer, utilizing essentially the same formula, calculates the amount that he would have to sell the energy saved by the project in order for that project to produce a 15 percent real rate of return. If the taxpayer would have to sell the energy saved by the project at a price—expressed in terms of dollars per barrel of oil equivalent—for a price in excess of $32 per barrel of oil equivalent, then achieving the energy savings by conservation is not cost effective to the Nation and consequently incentives would be denied. On the other hand, so long as the conservation price is less than $32 per barrel of oil equivalent (which figure would increase with movements in the world price of oil) the granting of incentives for the project is remarkably cost effective to the Nation.

There is a third feature of this amendment, Mr. President, to which I wish to call the attention of my colleagues. Under the amendment, once a project has been completed and in operation for a reasonable period of time, the amount of the tax incentive to which a taxpayer is entitled will be recalculated. If, as a result of this recalculation, it is determined that the project did not achieve energy savings of the magnitude required by the amendment, then the entire incentive would have to be repaid to the Government by the taxpayer. Similarly, if the taxpayer was entitled to some incentive but not to as much as he had received, the excess incentive would be repaid to the Government at the time of the recalculation. This could occur, for example, if the taxpayer's estimates of its costs were too high or its energy savings were too low. Finally, and as a matter of fairness, if the recalculation shows that the taxpayer was entitled to a greater incentive, it would receive it at that time. The effect of this recalculation provision, Mr. President, is to assure that we will provide an incentive only where there is an actual savings of energy. Thus, we are not speculating whether the incentive will in fact produce the result that it is given for.

To summarize, Mr. President, the amendment has ample safeguards. First, it limits the amount of the incentive to that actually needed by the taxpayer in order for the project to be economical to the taxpayer. Second, it recognizes that there is a price above which the realization of additional energy savings by conservation is too expensive from the Nation's standpoint. Third, the bill provides, in effect, a guarantee to the Nation that the purpose of the incentive program will in fact be achieved in each and every case with respect to which incentives are made available.

Mr. President, I would ordinarily be inclined to ask for a roll call vote on the amendment at this time. I recognize, however, that we were able to develop this kind of creative and constructive approach to incentives for industrial energy conservation only after the Finance Committee had done much of its work on this bill, and that it may be premature to ask the entire Senate to consider it on its merits. Nevertheless prior to withdrawing the amendment, I would ask the distinguished chairman of the Finance Committee, and the distinguished ranking minority member, for assurances that this legislation will receive the most careful consideration by the committee in its deliberations, later this year or early next year when the subject of energy legislation is again before us.

Mr. LONG. Mr. President, I appreciate the Senator's very thoughtful remarks and his willingness to cooperate and to let us have more time to look at this matter before the Senate is required to vote on it.

I will be happy to cooperate with the Senator in seeing to it that the matter is considered in hearings at the appropriate time in the future.

Mr. WALLOP. I thank the Senator.

As the Senator knows, since he was in on at least part of the hearings, the one feature this proposal achieves—that all the rest of our panoply of incentives which we attached to the windfall profit bill do not—is to give the Nation something for the money it is buying on a calculable basis. I am not saying we will not achieve benefits by some of the incentives that we have put in the Senate bill. But those incentives are provided regardless of whether or not there is an energy savings.

We could stack the insulation in the attic and nothing may happen, but the incentive is still provided.

The country is in effect paying for these conservation incentives on the supposition that they will work, but there is nothing which guarantees they will be cost effective. The energy savings attached to this proposal are, calculated to be in the range of, 4½ to 5 million barrels per day potential. The Government of the United States and the public taxpayer will never pay more than the world price of oil for the energy saved by this variable incentive. Money is going to be spent here in this country and not handed over into the hands of OPEC.

I thank the Senator.

Mr. President, I ask unanimous con-

sent that there be printed in the RECORD at the conclusion of my remarks an analysis of the proposals to provide incentives for the reduction of oil and gas consumption in the industrial sector. This is the study prepared by Energy and Environment Analysis, Inc., at the request of the DOE. Mr. President, and it provides a very telling comparison between the bill that I sponsored with Senators KENNEDY and DURKIN and the one that I introduced by way of amendment here today.

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

(See exhibit 2.)

Mr. WALLOP. Mr. President, I thank the Chair and I thank my colleague, the chairman.

I withdraw my amendment.

The PRESIDING OFFICER (Mr. LONG). The amendment is withdrawn.

The Chair recognizes the Senator from Oklahoma.

EXHIBIT 1

Hon. Senator MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: Several Senators have introduced major new legislation that would significantly promote energy efficiency. I applaud the efforts by you and your colleagues in this matter and as a citizen am deeply appreciative. It is pragmatic efforts like these proposed by pragmatic men that will do more than anything else to resolve our Nation's energy problems. For conservation energy is the cheapest, most abundant, most accessible, and quickest source of energy. It is America's major new energy source for the 1980's. But it will not be tapped by magic. There are major barriers. There is no single perfect method to cross those barriers.

Among the several admirable and sensible proposals now on the agenda, your S. 1819 strikes me as deserving the most serious and careful attention. Several features recommended strongly. It goes right to the heart of major industrial use among major industrial energy consumers. The big hitters.

It serves the national interest well by encouraging cost effective domestic investment in energy conservation as an alternative to spending dollars to import oil, and pegs savings in relation to the cost of imported oil. It goes right to the problem of payback—by encouraging investments that will be increasingly economic for the firm as energy prices go up, but are not now—but are certainly most economic for the country today. And it is frugal. It does not subsidize what the firm would do anyway without incentives. And results are monitored. These type of investments create jobs in America—instead of driving up the price of gold in Europe. S. 1819 seems to me a particularly deft and thoughtful way to use the carrot and one that would promote a lot of energy saving very quickly. The potential is there as we have observed in energy future. I wish you and your colleagues the greatest success in finally getting the United States on to the sensible energy track.

PROF. DANIEL YERGIN,
Harvard University.

EXHIBIT 2

ANALYSIS OF PROPOSALS TO PROVIDE INCENTIVES FOR THE REDUCTION OF OIL AND GAS CONSUMPTION IN THE INDUSTRIAL SECTOR

ABSTRACT

Proposals put forth by Senators Kennedy and Durkin and Senator Wallop seek to reduce oil and gas use in the industrial sector. Both would provide financial incentives to industrial users who reduce their consumption of these fuels. While a complete analysis of each of these proposals was not possible, a more limited analysis was performed.

The major distinguishing element between these proposals is the selection of which projects undertaken by the industrial sector would be eligible for financial incentives. The Durkin-Kennedy plan would provide a fixed value rebate for all reductions in oil and natural gas use, while the Wallop proposal would provide a variable incentive only to users who reduce consumption due to the availability of the incentive. Thus the Kennedy-Durkin plan would select projects that would have been undertaken in the absence of the incentive while the Wallop proposal would not.

Energy and Environmental Analysis, Inc., under contract to the Department of Energy, Division of Conservation and Solar Applications, Office of Industrial Programs undertook an analysis of the selective versus non-selective aspects of the two plans. Using a model simulating industrial energy demand over the next several decades, the analysis found that:

A non-selective $15/bbl rebate would reduce oil/gas consumption in existing facilities by 164,000 Barrels of Oil Equivalent (BOE) per day, by 1990.

A selective incentive program could reduce oil/gas consumption by upwards of 700,000 BOE/day. The upper limit would be equivalent to an incentive which increased the opportunity cost of oil or gas consumption up to $32/bbl.

The cost of the $15/bbl rebate program would be nearly $6 billion (1978 $). To achieve the same reduction in oil/gas use the variable incentive program would cost the treasury $384 million.

The cost of the variable incentive program would range from $170 million to $7.4 billion by 1990 to save 114,000 to 700,000 BOE/day, respectively.

Both programs would appear to be cost effective. The non-selective program would cost approximately $9 for each barrel of oil equivalent saved. The cost per BOE saved under the discriminating variable incentive program would range from $.30 to $2.75.

Although no attempt was made to estimate the higher implementation costs of the selective incentive program, the comparative cost advantage demonstrated by this analysis would imply that the higher implementation costs could be absorbed without substantially altering the conclusions.

Mr. MOYNIHAN. It has been years since Harvard University has met with such approbation on that side of the aisle. Coming as it does from one educated elsewhere, it is indeed a compliment, and I thank the Senator for it.

Mr. WALLOP. Well, from time to time all of us are forced to recognize there are other pockets of learning.

Mr. MOYNIHAN. I thank the Senator.

UP AMENDMENT NO. 867

(Purpose: To clarify the definition of qualified fuels for the $3.00 production credit for synfuels from coal contained in subparagraph (C) of Section 44D(d)(1).)

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) proposes an unprinted amendment numbered 867:

On page 143, on line 8 after the word "alcohol" and before the " " and the word "produced", insert the following: ' ", but including such fuels when used as a petrochemical feedstock'."

Mr. BOREN. Mr. President, this amendment relates to the definition of qualified fuels for purposes of the $3 production credit allowed for the production of fuel from nonconventional sources. It appears on page 142 of the bill.

Subparagraph (C) of new section 44D (d)(1) provides that "liquid, gaseous, or solid synthetic fuels (other than alcohol) produced from coal" are qualified fuels for purposes of the $3 production credit. It has been called to my attention that in some cases the synthetic fuel produced from coal may not be used as fuel—but may be used as petrochemical feedstock.

My amendment is simply to clarify that synthetic fuel which otherwise qualifies for the $3 production credit will continue to qualify when it is used as petrochemical feedstock.

The Finance Committee did not focus on the possibility that synfuels produced from coal may be used not only as fuel but also as petrochemical feedstock. Since the primary purpose of encouraging the production of synfuels from coal is to conserve or displace the use of oil or natural gas, that purpose is served equally well whether the synfuel is used as fuel or as petrochemical feedstock.

I might add—by way of further explanation—that in considering the need for encouraging the development of synthetic solids, gas, and liquids derived from coal, we generally speak in terms of the production of synthetic fuels. This is because use as a fuel has received the major attention. It would be more accurate, technically, if we were to speak of synthetic substitutes displacing oil or natural gas—because that is the objective of our national energy policy. However, since use as a petrochemical feedstock is the only significant nonfuel use, and it is relatively minor in the overall picture, it is more practical to speak in terms of synthetic fuels or synfuels.

Finally, I note that my amendment involves no revenue loss. Due to the recent acceleration of world oil prices and the phase out of the production credits at $29.50 a barrel, the committee has estimated no revenue loss for the various production credits provided by the bill. It appears that at this time the production credits serve primarily as insurance against the unlikely event of world oil prices falling sometime after huge investments have been made.

I would simply add that since the price of oil is already above the $29 level specified in the credit section, that there should not be any dollar impact from this amendment. It simply is a technical one, which I think clarifies the general intent of the committee to provide the credit whenever we are using the synfuels to replace oil so that we can conserve oil.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

Who seeks recognition?

UP AMENDMENT NO. 868

(Purpose: To make technical corrections in the definition of "heavy oil")

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

The PRESIDING OFFICER. Is there objection to the amendment being considered at this time?

Without objection, the clerk will state the amendment.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 868.

Mr. CRANSTON. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

On page 64, beginning with line 16, strike out through line 18, page 64, and substitute the following language:

"(c) HEAVY OIL.—For the purposes of this chapter, the term 'heavy oil' means—

"(1) in the case of a property which had production prior to July, 1979, all crude oil produced from such property if, during the last month prior to July, 1979 in which crude oil was produced and sold from that property, such crude oil had a weighted average gravity of 16° API or less, corrected to 60° Fahrenheit, and

"(2) in the case of a property which does not satisfy the requirements of paragraph (1), all crude oil produced from such property if, during the taxable period, such crude oil has a weighted average gravity of 16° API or less, corrected to 60° Fahrenheit."

Mr. CRANSTON. Mr. President, I am advised that this amendment is acceptable to the administration and has been cleared by both sides of the aisle.

My amendment is simply a technical amendment to accomplish what I believe the Finance Committee intended in its definition of "heavy oils" appearing in section 4991 of this bill, the section defining special rules and categories of oil.

My amendment relates only to the definition of "heavy oil" which begins on line 16 of page 64 of the bill.

The bill provides that the term, "heavy oil," has the meaning given to such term by Executive Order 12153.

Section 1 of my amendment spells out this definition, which is merely incorporated by reference in the bill.

When the language is spelled out, the need for my amendment becomes clear.

The definition given for "heavy oil" in this chapter of the bill is all crude oil produced from a property if the oil produced and sold from that property had a weighted average gravity of 16 degrees API or less, corrected to 60° F. during any month prior to July 1979, the date when the Executive order was issued.

The committee apparently intended to apply the 16 degree standard to its exemption from the windfall profit tax for heavy oil.

There is general agreement that the expensive cost of production of these very heavy oils with a gravity of 16 degrees API or less require both a decontrolled price and an exemption from the windfall profit tax, if we are to get any new production of this great potential resource of domestic oil from these wells.

My amendment does not change the standard that the committee apparently intended to apply.

Its revenue effect is insignificant.

It does correct what otherwise will be a self-defeating and unintended arbitrary definition which will eliminate the very incentive to new heavy oil production that the committee apparently intended to provide.

That is because, as the unamended definition now stands, if the average gravity of a producing property was higher than 16 degrees up to July 1979, any increment of new production which brings the weighted average gravity below 16 degrees subsequent to July 1979 will not qualify the property for exemption from the windfall profit tax.

Hence, the incentive to produce heavy oil not now being produced is not there.

The second part of my amendment corrects this situation by providing the same treatment for crude oil from a property which reaches a weighted average gravity of 16 degrees API or less, corrected to 16° F, at any time during the effective period of the windfall profit tax, as provided by section 1 of my amendment and by the committee bill for properties which reach that average prior to the issuance of the Executive order.

Mr. President, this apparently is a noncontroversial amendment which can be accepted by the managers. I thank them for that if that is indeed the case. I move the adoption of the amendment.

Mr. LONG. Mr. President, I do not object to this amendment and I am not aware of any objection to it. As far as I am concerned, I am happy to accept the amendment.

Mr. CRANSTON. I thank the distinguished leader from Louisiana very, very much.

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

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator withhold that?

Mr. LONG. Yes.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I want to alert the distinguished Senator from North Carolina (Mr. HELMS) that a motion to reconsider will be made shortly on the vote that occurred last evening. I believe it was a 40 to 39 vote by which his amendment was not agreed to. At that late hour, several Senators had been told that there would be no more votes. Consequently, I put the Senate into morning business and did not move to reconsider.

That amendment was up under a 30-minute time limitation; and when the vote occurred, that meant there would be no time on the motion to reconsider. As one of those who voted against the amendment, with the prevailing side, I would be eligible—or any other Senator so voting would be eligible—to move to reconsider.

So if we could have an understanding to vote at, say, 1 o'clock today on the motion to table the motion to reconsider, I would be pleased to enter into that kind of arrangement.

Mr. DOLE. If the Senator will yield, we will contact Senator HELMS right now.

Mr. ROBERT C. BYRD. Earlier, I was sort of taking my time, so that Mr. HELMS could be alerted to the fact that a motion to reconsider will be made. Once that motion is made, there is no time for debate on it, because the time on the amendment was limited.

I would like the Senator to have an opportunity to address his remarks to the motion to reconsider before it is made, if we could work out a little agreement here, to allow a little time.

FIVE-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, with the understanding that I not lose my right to the floor, I ask unanimous consent that the Senate stand in recess for 5 minutes. By that time, Mr. HELMS will be here.

Mr. DOLE. Fine.

There being no objection, the Senate, at 12:12 p.m., recessed until 12:17 p.m.; whereupon, the Senate was called to order by the Presiding Officer (Mr. BENTSEN).

Mr. ROBERT C. BYRD. Mr. President, I am not going to make the motion to reconsider at the moment, because Mr. HELMS has not arrived as yet. I will, however, proceed with it in due time, but I want to give the Senator the opportunity to be here.

I will be happy to ask for unanimous consent that the motion to reconsider be made at 1 p.m. and that I be recognized to move to table immediately thereafter, and we can spend the time between now and then debating it, if any Senators wish to do so.

Mr. DOLE. The Senator from Kansas has no objection. I would rather that the Senator from North Carolina make that judgment.

Senator ARMSTRONG has an amendment he can bring up.

FIVE-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished Senator from North Caroina is on his way to the floor.

I ask unanimous consent that there be another recess for 5 minutes and that I then be recognized, without losing my right to the floor.

There being no objection, the Senate, at 12:19 p.m., recessed unti 12:24 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BENTSEN).

UNANIMOUS-CONSENT AGREEMENT—AMENDMENT NO. 632

Mr. ROBERT C. BYRD. Mr. President, I have discussed the matter concerning a motion to reconsider and a motion to table the motion to reconsider the vote by which amendment No. 632, by Mr. HELMS, was rejected on last evening by a vote of 40 to 39.

Mr. HELMS is here and he is consulting with Mr. DOLE. For the moment I will not press the motion to reconsider. I will shortly, however. But I have made the suggestion that we possibly vote at 1 p.m. to give Senators a little notice. If they want to say a few words they may do so.

While Mr. HELMS and Mr. DOLE are discussing this, I point out that there was a 30-minute time limitation on the amendment yesterday and that time was either yielded back or expired and the vote occurred which means in accordance with the precedents having a time agreement on the amendment there would be no time for debate on the motion to reconsider. And that motion to reconsider can be made by any Senator who voted with the prevailing side on the same day or on any one of 2 succeeding days that the Senate is in legislative session or a Senator who was absent when the vote occurred may also move to reconsider.

Last evening immediately following the vote I said this:

Mr. President, we have said that there would be no more rollcall votes tonight. If there is a motion to reconsider, if someone wants to make it now, the vote will go over until tomorrow, because we have stated this would be the last vote.

So I said, Mr. President, the vote would go over until tomorrow, that means today, even though the motion to reconsider was made last night. "If not, I ask unanimous consent," and I proceeded then to put the Senate into morning business, and that was all at that point.

Mr. President, a motion to reconsider this vote will be made at some point. We all know that. If not today it will be made Monday and Monday would be the last day it could be made because the Senate will not be in tomorrow, tomorrow being Saturday.

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

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, if we are going to have to vote on a motion to reconsider I wish we would go ahead and vote on it today. A few Senators had plans to be out of town. They have rearranged their plans to be here. And when they are here they should at least have an opportunity to vote on something.

We have had one vote which was sort of a pro forma thing because it was an amendment we would have accepted anyway. Senators are here to do business. We should be voting on important matters.

This was a close vote. If the Senator wants to move to reconsider or lay that motion on the table, as the case may be, we should be voting on that today and getting this behind us and going on to something else.

We have business to do, and I hope Senators will get their amendments in here and give us a chance to vote on them.

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

Last evening after the vote occurred I assured Mr. HELMS that there would be no action taken last night, that he would be fully protected last night, and that promise was carried out.

Mr. President, I ask unanimous consent that at 1:15 p.m. today Mr. MUSKIE be recognized to make a motion to reconsider; that time on the motion to reconsider be limited to 15 minutes to be equally divided between Mr. HELMS and Mr. MUSKIE; that there be a tabling motion at the conclusion of those 15 minutes, and I ask unanimous consent that I be recognized to make that motion to table or that Mr. LONG be recognized at that time to make the motion to table.

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

Mr. ROBERT C. BYRD. I thank all Senators, and I thank the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

UP AMENDMENT NO. 869

(Purpose: To terminate the windfall profit tax if the President discontinues decontrol of crude oil prices or reimposes price controls on crude oil)

Mr. ARMSTRONG. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 869.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 79, between lines 14 and 15, insert the following new section:

"SEC. 4994. TERMINATION OF TAX.

"If the President makes any adjustment by rule or order under the Emergency Petroleum Allocation Act which has the effect of significantly slowing the rate at which price controls on crude oil under that Act are being phased out with respect to any category of crude oil, or which imposes price controls on crude oil at a level equal to or lower than the prices for such crude oil in effect on the date of imposition, then the tax imposed by section 4986 shall not apply with respect to taxable crude oil removed from the premises after the date on which such rate was slowed or such controls were imposed.

On page 79, line 15, strike out "SEC. 4994." and insert in lieu thereof "SEC. 4995.".

On page 80, line 3, strike out "SEC. 4995." and insert in lieu thereof "SEC. 4996.".

On page 39, in the matter betweeen lines 9 and 10, strike out the last 2 items and insert in lieu thereof the following:

"Sec. 4994. Termination of tax.

"Sec. 4995. Records and information; regulations.

"Sec. 4996. Cross references.".

Mr. ARMSTRONG. I will undertake to explain the purpose of the amendment which, indeeed, is very simple.

As the distinguished chairman of the Finance Committee has pointed out, and as the ranking Republican member of the Finance Committee has pointed out, and as other Members are well aware, the essence of this bill is really to tax the additional revenues of oil companies which arise from the President's program of decontrolling gradually the price at which crude oil is being sold. As a matter of fact, it is instructive that in the report of the committee the first sentence sums up the bill in that way. It says "Here is a bill which will tax the windfall profits that arise from or are pursuant to the President's decontrol program."

So it seems to me to be important that since the Senate is legislating on the basis of a program of phased decontrol of crude oil prices that we nail down that phased decontrol will not be withdrawn or upset or in any way changed at the enactment of this windfall profit bill.

I want to make it plain that I have grave reservations about the bill itself, but certainly if we are going to enact this so-called windfall profit tax, we should not then permit a future President to abolish the decontrol or to place limits on the price of crude oil different from those which are in effect on the date under which we are legislating.

So all this amendment says is that if the President should act to significantly slow the rate at which price controls on crude oil are being phased out, then to that extent the windfall profit tax imposed by this bill shall no longer apply.

With that brief word of explanation, I would encourage my colleagues to support this amendment.

I am reminded by staff that I should point out that the term "significantly," which appears on line 6 of the amendment, is intended to accommodate any technical changes that might be made in the future by the administration.

If there was a technical change in some existing rule or order, that would not trigger the effect of this amendment on the windfall profit tax. This appears in the sentence, and I will read it just so the record is clear:

If the President makes any adjustment by rule or order under the Emergency Petroleum Act which has the effect of significantly slowing the rate at which price controls on crude oil under that Act are being phased out with respect to any category of crude oil, or which imposes price controls on crude oil at a level equal to or lower than the prices for such crude oil in effect on the date of the imposition, then the tax imposed by section 4986 shall not apply with respect to taxable crude oil removed from the premises after the date on which such rate was slowed or such controls were imposed.

The significance of the term I have just described on line 6, the word "significantly" is simply to make it clear we are not talking about minor technical changes in the rule which the President

might order at some future date. We are talking only about something which really has the effect of slowing down in a significant way the rate of decontrol now in effect.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. This amendment is one that I personally would expect to vote for. There may be other Senators, either on the Finance Committee or in the Senate as a whole, who would want to oppose the amendment, and I hope those listening in their offices may take note, or their assistants listening in offices may take note, of what I am saying.

The Senator's amendment is based on the theory that the windfall tax is justified because of the decontrol order, and is based on the theory that if the decontrol is not to go forward then the windfall tax should not go forward. Therefore, it would, in effect, terminate the tax or suspend the tax in the event the President slows down or terminates the progress of the decontrol of oil prices.

In my judgment, that is a fair proposition, and I expect to vote for it. It might have some technical problems but, if so, I think we could work them out in conference.

There may be some, perhaps some, who feel very strongly that we should not have decontrol at all. There may be some who would like to oppose the amendment. If Senators want to do that then they should come to the floor or call the cloakroom immediately and let it be known that they want to oppose it. I personally expect to vote for the windfall tax for the reason that it is a price we have to pay in order to move the Nation where it ought to be going, which is toward decontrol in oil prices.

To me that is implicit in the overall energy program. As I understand it, the Senator from Colorado has an amendment that is based on the philosophy that the reason we have the tax is because of decontrol, and without decontrol we would not have the tax.

To me that is the reason I am voting for the tax, that the tax is implicitly pointed toward decontrol. So I will at this point suggest the absence of a quorum, Mr. President, unless I hear a request from Senators for time, in which case I will call off the quorum and proceed to vote. Mr. President, I suggest the absence of a quorum.

Mr. DOLE. Mr. President, will the Senator withhold?

Mr. LONG. I withhold.

Mr. DOLE. Mr. President, the Senator from Kansas has reviewed the amendment. I share the views just expressed by the chairman of the committee. The purpose of the amendment is to insure that the decision to decontrol oil is adhered to. The purpose of the tax is to reduce the amount of revenues received due to decontrol. So it seems to me the amendment makes a great deal of sense. If we are going to reverse the decontrol order, then there should not be any tax.

I might point out that there are categories of oil, such as stripper oil, which are not affected by decontrol, but they would still be taxed; so it seems to me that this amendment should be supported. There may be opposition to the amendment, but I am sure everyone is on notice; Senators are listening in their offices and can come to the floor and express their opposition.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MOTION TO RECONSIDER VOTE ON AMENDMENT NO. 632

Under the previous order, the hour of 1:15 having arrived, the Senator from Maine (Mr. MUSKIE) is recognized to offer a motion to reconsider the vote whereby an amendment offered yesterday by the Senator from North Carolina (Mr. HELMS) was not agreed to.

The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I make that motion to reconsider the vote.

The PRESIDING OFFICER. The Senator is recognized to speak on the motion.

Mr. MUSKIE. Mr. President, I yield myself 3 minutes.

Early in this debate, Mr. President, I outlined for the Senate the budget implications of the pending bill, as it was reported out of the Committee on Finance. If Senators will recall the charts which I presented at that time, the implications of the bill, as reported, were that we would have a persistent and large deficit through the 1980's, contrary to the budget plan which we adopted in the spring of this year and reaffirmed only a couple of weeks ago.

Mr. President, that Finance Committee bill would have yielded $139 billion. We promptly reduced that by $10 billion to $129 billion. We have since added two increments of revenue to it: $22.5 billion as a result of the adoption of the Bradley-Chafee amendment, and $4.5 billion as a result of the adoption of the Moynihan-Wallop amendment. So we now stand at $155 billion.

Mr. President, the present amendment would cost us, over that decade, $34 billion. That would reduce the net yield of this bill, then, to $121 billion, $18 billion below the bill as it was reported out from the Finance Committee.

Under what pretext, Mr. President? Under the pretext that we would be restoring a tax benefit that we had taken from taxpayers a few years ago in the 1978 Revenue Act.

What are the facts, Mr. President? The fact is that the deductibility of State gasoline taxes was eliminated in the 1978 law in the name of simplifying tax returns. But the value of that tax deduction was restored in the same bill by reducing income taxes for low- and middle-income people, for whom this benefit was intended. So the taxpayers did not lose the tax value of the deductibility at that point; it was preserved, but in another form. Now we would return the tax value of that deductibility on top of the tax adjustment that was made to the 1978 bill, and at a cost to the budget in the next 10 years of $34 billion.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. MUSKIE. Mr. President, I yield myself 1 more minute.

We are here on the floor in the name of raising revenues for purposes, which Members consider in the public interest. And here we cannot resist the temptation, Mr. President, we cannot seem to resist the temptation to cut those very revenues out from under our ability to deal with the public needs of this country for the next 10 years.

This is the biggest cut offered yet and has had a very close vote; $34 billion. Mr. President, if we adopt this, we start back where we were when the bill came out of the Committee on Finance.

I urge my colleagues to reject this and other deficit-generating amendments.

Mr. HELMS. Mr. President, who is in charge of the time on the other side?

Mr. DOLE. I yield to the Senator.

Mr. HELMS. I thank the Senator from Kansas.

Mr. President, my friend from Maine knows of my respect and affection for him. But I fear that he has fallen into the syndrome that is prevalent among people in public office today, a syndrome which contends that all the money belongs to the Federal Government and that we, the masters in Washington, will decide how much we are going to let the people keep.

My friend used the words "this amendment will cost us." Then he indicated that this amendment is offered under "the pretext that we"—meaning Congress—"had taken away a tax deduction." It is not a pretext. It is an absolute fact. That is precisely what was done, and it was done under a parliamentary situation for which there was no remedy. Senators know that.

Then my friend from Maine said we should make no mistake about it, that this amendment will be approved "at a cost to the budget."

The position of the Senator from North Carolina in urging Senators to restore some equity to the taxpayers of this country—and I am talking about the middle-income taxpayers—is very simple. They deserve to have some relief, and this may be the only relief they are going to get.

On the other hand, the Senate and the House of Representatives vote pellmell to raise Federal spending. Look at the Federal debt today—in excess of $800 billion, and the forecast is that if the trend of Federal spending continues, by 1985 it will be $1.3 trillion; and the interest on that debt is going to cost the taxpayers more than $100 billion.

I think we should bear in mind that a gentleman named Lyndon Baines Johnson was President of the United States at the time the Federal budget exceeded $100 billion for the first time in history, and that was about 15 or 16 years ago.

So the moving finger writes. We know what we are doing. This amendment

simply pleads for a bit of equity for the middle-income taxpayer.

Mr. President, I made my remarks last night, but in order that they can be in context again, I ask unanimous consent that my statement on this amendment, as delivered on the floor last evening—page S. 17959—be printed in the RECORD at this point.

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

Mr. HELMS. Mr. President, this amendment would restore the itemized deduction for State and local nonbusiness gasoline and motor fuel taxes. This deduction was deleted from the Tax Code by the Revenue Act of 1978, which was enacted into law during the frenzy of the final hours of the 95th Congress. The language of my amendment is identical to that of S. 79 which was introduced at the beginning of this session. Cosponsors of S. 79 include Senators Dole, Hatch, Tower, Melcher, Riegle, Ford, Stevens, Schmitt, Garn, Humphrey, Stone, and Morgan.

We believe that Congress should restore the deduction for the following reasons:

First. The absence of this reduction will be felt most severely by middle-income taxpayers.

Second. Its elimination will help undermine the incentive for taxpayers to make use of itemized deductions.

Third. Its reenactment will have no perceptible effect on energy consumption.

Fourth. It was deleted without adequate deliberation by Congress.

Beginning this year, individuals who itemize will no longer be allowed to deduct State and local excise taxes imposed on gasoline, diesel, and other motor fuels which are not used for business purposes. If Congress fails to restore this deduction, the middle-income taxpayer will bear the greatest burden in additional taxes. According to U.S. Treasury Department figures, over 70 percent of the revenue raised from the repeal of this deduction will come from taxpayers making less than $30,000 a year. In 1983 alone, the elimination of this deduction will, according to the Treasury, take an additional $2.2 billion from the pockets of the American taxpayer who must also face spiraling prices.

Concern about the conservation of energy and the reduction of oil imports has been one argument advanced to support the deletion of the gasoline deduction. In our opinion, the elimination of this deduction will have little effect in assisting our Nation achieve its energy goals. Instead, it will create an unfair tax burden not just for taxpayers in western and rural States who must drive greater distances, but also for suburban commuters who must drive their automobiles to work. We promised our constituents a tax cut and then turned right around and deleted a meaningful deduction. We disguise our actions by claiming that it will somehow help cure our energy crisis. If this measure is designed to save fuel, how can Congress allow business to maintain its fuel deductions? Or will business be next?

When the elimination of this deduction was considered by the Finance Committee last fall, it was added to the tax bill during the final hours of markup. When the tax bill reached the floor of the Senate, an amendment to restore the deduction was ruled "out of order" because it would have lowered projected revenues below the legal limit set by the budget resolution. The Senate, as a whole, was not allowed to vote on the measure. Because of this parliamentary technicality, the Finance Committee's supposed "recommendation" became law without adequate review by the Senate.

In 1977, an amendment to delete this deduction was soundly defeated by a vote of 65 to 12. We believe the outcome last session would have been much the same—had the Senate been allowed to vote. H.R. 3919 presents a convenient opportunity to reinstate the deduction (to take effect in 1981), and I urge support for the amendment.

Mr. DOLE. Mr. President, I understand that the last vote was 82 to 1, which means 17 Members were not present on that vote. I assume that we could take last night's vote and take the number of absentees and figure out that probably the motion to table would be agreed to. However, I understand that the Senator from North Carolina has a number of other amendments, addressing the same problem, on which we will be voting next week.

Mr. HELMS. I think we should vote a number of times on this question because I feel that strongly about it, I say to the Senator.

Mr. DOLE. As the Senator said last night, most of the benefits go to the working people of this country, those who earn between $15,000 and $30,000 or $40,000. To get $34 billion must be stretching everything. I do not understand how we start out with the first-year cost of $1.2 billion and end up with $34 billion for the cost of this amendment, over a 10-year period.

It must be considering a lot of things that the Senator from Kansas is not aware of—that everybody will suddenly itemize their deductions, I suppose. If that were the case, maybe it could add up to $34 billion. I hope the motion to table will be defeated.

I yield the remainder of my time to the Senator from Alabama (Mr. HEFLIN).

Mr. HEFLIN. Mr. President, I want to put myself on record today as supporting the amendment offered by the Senator from North Carolina (Mr. HELMS) which would restore the tax deduction for State and local taxes on gasoline, diesel fuel, and other motor fuels.

Mr. President, the American public probably today is not even aware of the fact that the Congress acted last year to take this deduction away from them. This will be the first year that the average American taxpayer will not be able to deduct these State and local taxes and until the general public begins to fill out its tax returns after the first of the year, I am afraid most of them will not realize that the law has been changed. I think when the middle-income American taxpayer learns that Congress has in effect raised his taxes by disallowing this deduction, there will be a hue and cry throughout the country that will reverberate into these halls.

Mr. President, as I understand it, this deduction was deleted from the Tax Code by the Revenue Act of 1978. I was not a Member of this august body at that time; but had I been here, I would have done everything within my power to make sure that this deduction was not taken away from the American taxpayers. In my judgment, the deduction is well justified, and its removal by Congress was, in effect, a tax increase placed upon the American taxpayers in an indirect fashion.

Mr. President, the business community of this country is allowed to deduct almost every conceivable expense as an ordinary and necessary business expense; but the working man of this country, who is often forced to commute to and from work over long distances every day, is not allowed to deduct the expense of operating his automobile to commute back and forth. I think that perhaps we should consider putting the working man on a more even par with the business community in this situation so that our tax laws will be seen by the average working man and woman as being more fair and equitable. This amendment represents a step in the right direction, since it would at least allow the working man who must drive long distances to and from work every day the opportunity to deduct the gasoline taxes he is required to pay in order to earn his livelihood.

In my judgment, the restoration of this tax deduction will be neutral so far as fuel consumption is concerned. It merely places the law back like it was before the ill-advised action of Congress last year.

Mr. President, I have stated over and over on the floor of the Senate that the American taxpayers deserve a break. Americans have always believed in a fair and equitable tax system, and they do not mind paying reasonable taxes so long as they are called upon to only pay their fair share. What American taxpayers object to are paying taxes which are disproportionate and then seeing their tax dollars wasted by the government. I think this tax deduction is fair and equitable, and I urge the Members to support this amendment.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. BENTSEN. Mr. President, will the Senator yield me a minute and a half?

Mr. MUSKIE. I yield.

Mr. BENTSEN. Mr. President, I can understand the Senator from Alabama saying what he has said, but let me describe what happened and how we worked this out in the Finance Committee.

We did this by taking this in consideration as we increased the tax brackets, and we particularly did that with respect to middle-income people. We did it to try to bring about simplification in the tax law. We had our charts, our tables, to see just how much they were getting by itemization on the gasoline tax and the deduction for it. So we gave consideration for that and some other measures, as we widened the tax bracket to try to go at least part way in making them whole. There was simplification and trying to see that we gave equity, so that they do not pay more in taxes and do not spend as much time on those tax returns.

In addition, we had another problem, in that, obviously, many people were guessing as to how much mileage they had traveled. We finally had numbers coming together that had to be, in their totality, more than people could possibly have driven. That is the sort of thing we were catching in the tax returns.

So it was not taking something away from them. We balanced it off. This was

not taking a deduction away. We included that in the tax bracket.

Mr. MUSKIE. Mr. President, I yield the remainder of my time to the majority leader.

The PRESIDING OFFICER. The Senator from West Virginia, the majority leader, is recognized.

Mr. ROBERT C. BYRD. Mr. President, I will offer a motion to table, shortly. I hope the motion to table will be adopted.

This is a measure which should not be adopted in a precipitous fashion on a bill that is designed to deal with the phenomenon of excess oil company profits. The bill before us is part of comprehensive approach to this Nation's energy problems. It is not and should not become a Christmas tree or a general revenue bill. We must concentrate our efforts on devising a windfall profit tax bill that produces energy while using some of the unjustified profits that will accrue to the oil companies as a result of decontrol and skyrocketing oil prices for the greater public good. This is not the time or the place to serve special interests.

There has been much discussion in the past few days about energy conservation. Restoration of the itemized deduction for State and local gasoline taxes would only encourage people to drive more and to use more energy. It is becoming apparent that we may soon be required to consider a higher Federal tax on gasoline as a means of achieving the level of conservation that may be required of all our citizens. Who knows? This type of special tax advantage which would only encourage energy use is inappropriate in this climate.

The experts from the Finance Committee and the Budget Committee have indicated that adoption of the Helms amendment would cause a revenue loss of something like $34 billion over the next 10 years. While this amendment is not directly related to the windfall profit tax, we must remain cognizant of the urgent need to pass a fair and meaningful bill. The drain on revenues which would result from the Helms amendment cannot be justified as we work to achieve the proper balance on the windfall tax bill.

Mr. President, I move to table the motion—I withhold that.

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

Mr. ROBERT C. BYRD. Yes. I withhold.

Mr. HELMS. I do not have time remaining. May I ask unanimous consent for 1 additional minute to ask a question of the distinguished Senator from Maine?

Mr. ROBERT C. BYRD. Yes, with the understanding again that I be recognized to make a motion to table.

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

The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Senator from West Virginia and I thank the Chair.

I just ask the Senator from Maine if in the interest of time—I do not want him to answer this orally—but would he put in the RECORD how he arrived at the $34 billion figure?

Mr. MUSKIE. Yes. May I say, first of all, that the table was produced by the Finance Committee staff and the joint committee which makes these estimates and was reconfirmed by the Budget Committee. We shall be glad to put the analysis in the RECORD.

Mr. HELMS. I thank the Senator.

I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, of course, as I said, I cannot yield the floor to other Senators, but I intend to make a motion to table at this time. If there be no objection, I yield to Mr. BENTSEN to make that motion. I can make the motion and would be glad to, but I yield to him if there is no objection for that purpose. And I so ask unanimous consent.

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

Mr. BENTSEN. Mr. President, I move to table the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the amendment of the Senator from North Carolina was rejected.

Mr. HELMS. Mr. President, I call for the yeas and nays. .

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Maryland (Mr. MATHIAS), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN), and the Senator from Utah (Mr. HATCH), would each vote "nay."

The PRESIDING OFFICER. Does any other Senator desire to vote who has not done so?

The result was announced—yeas 44, nays 42, as follows:

[Rollcall Vote No. 463 Leg.]

YEAS—44

Bellmon	Burdick	Danforth
Bentsen	Byrd, Robert C.	Eagleton
Boren	Cannon	Exon
Bradley	Chafee	Glenn
Bumpers	Cohen	Hart
Huddleston	Moynihan	Riegle
Inouye	Muskie	Sarbanes
Jackson	Nelson	Stafford
Javits	Nunn	Stennis
Johnston	Pell	Stevenson
Leahy	Percy	Stewart
Levin	Proxmire	Tsongas
Long	Pryor	Weicker
Magnuson	Randolph	Williams
Matsunaga	Ribicoff	

NAYS—42

Armstrong	Hayakawa	Pressler
Baucus	Heflin	Roth
Boschwitz	Heinz	Sasser
Byrd, Harry F., Jr.	Helms	Schmitt
	Hollings	Schweiker
Chiles	Humphrey	Simpson
Cochran	Jepsen	Stone
Cranston	Kassebaum	Thurmond
DeConcini	Laxalt	Tower
Dole	Lugar	Wallop
Domenici	McClure	Warner
Durenberger	Melcher	Young
Durkin	Metzenbaum	Zorinsky
Ford	Morgan	
Hatfield	Packwood	

NOT VOTING—14

Baker	Garn	Mathias
Bayh	Goldwater	McGovern
Biden	Gravel	Stevens
Church	Hatch	Talmadge
Culver	Kennedy	

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. The motion is not in order.

The question recurs on agreeing to the amendment of the Senator from Colorado.

Mr. LONG. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 869) of the Senator from Colorado (Mr. ARMSTRONG). The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TIME IS RUNNING OUT

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of Senators? I do not want to be misunderstood in what I am about to say, in any of several respects.

The Senate has been debating this bill now for going on 4 weeks. The bill was first called up on November 15, which was a Thursday, 3 weeks ago yesterday. So the Senate is in its fourth week of debate on this measure.

Mr. President, this is a very difficult, complex bill. Any measure that deals with energy is going to be divisive, contentious, and complex. The Senate has been making progress on the bill. I am always most hesitant to file a cloture motion when the Senate has been making some progress. But time is running out. We have 2 weeks, Mr. President,

after this week, and that will put us up to Friday, the 21st of December.

In that period of time, we need to finish the action on this bill and we need to complete action, whatever the action may be, on the Chrysler legislation. I personally have not made any decision for or against that legislation, but I feel it incumbent upon me to say that I am going to have to make every effort to bring the bill up and get action by the Senate. Time is, as I understand it, of the essence in connection with the Chrysler legislation.

Now, we spent 1 day this week on an amendment that was offered by the distinguished Senator from Delaware (Mr. ROTH). That amendment, as I understand it, was not germane to the subject matter of this bill. On another day, we spent several hours on an amendment by Mr. ARMSTRONG. I am told that amendment was not germane to the bill.

So we have this problem of nongermane amendments which continue to come up, and some of those nongermane amendments—and I am certainly not reflecting upon the authors of the amendments when I say this—can create a lot of mischief with respect to this bill.

The bill came out of the Finance Committee with something like, I think, $138 billion or $139 billion in revenue over a period of 10 years. There was an amendment by Mr. BENTSEN that decreased that amount back to about $129 billion, or something like that. The amendment by Mr. BRADLEY and Mr. CHAFEE was agreed to, and that brings the figure back up to something like $155 billion or $156 billion.

The tax credit amendment adopted this morning—that was offered by Mr. HART, I believe—lopped off, what was it, Senator HART, $300 million or something like that?

Mr. HART. Over 6 years.

Mr. ROBERT C. BYRD. Over a period of 6 years, $300 million.

Many of these nongermane amendments have great appeal to Senators. They have a lot of appeal to me, and they have a lot of appeal to other Senators, but they can damage the bill. Cloture would stop nongermane amendments.

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

Mr. ROBERT C. BYRD. I will yield to the distinguished Senator, but may I finish my train of thought here?

Mr. TOWER. Of course.

Mr. ROBERT C. BYRD. And it is difficult, I know, to vote against some of those amendments. If they were offered to some other bill I might even vote for them. But we are attempting to pass a bill that is as fair and equitable to the oil companies—I have never been one to attack the oil companies—but we also want a bill that is fair and equitable to the American people, and it must be that in reality, and must be perceived in that way.

The bill still has to go to conference, of course, and there will be adjustments and modifications in conference.

Now, I have been told that there will be a filibuster on the Chrysler legislation.

So, I do not see any way to proceed, under these circumstances, other than by offering a cloture motion on the tax bill. I will offer that today before the day is over, which means we will have a vote on cloture on next Tuesday.

I have said what I have said without any criticism of anyone. The distinguished manager of the bill (Mr. LONG), the distinguished ranking manager (Mr. DOLE), and others on the Finance Committee have attempted to proceed as expeditiously as they could. They have their problems, also. What I am saying is not in criticism of anyone. It is simply the situation we now find ourselves in.

The second point I want to make is this: I support decontrol of oil prices. I supported decontrol of oil prices way back when, sometime early on in these discussions; months ago, and I did so on the advice that to decontrol would enhance production. But I supported decontrol with the understanding that we were also going to have a meaningful excess profits tax bill.

But I also favor a tax bill that will assist in producing energy—that is what we need to do, produce energy—at the same time, we are going to have to be fair with the American people and tax unwarranted profits.

I urged the President to decontrol. I am also going to urge the President, if the Congress does not pass a meaningful windfall profit tax bill, that he should put the controls back on. I am going to urge him to do that.

I think it is our obligation to pass a bill and to pass it after reasonable time for debate—one that is meaningful and kept within the balance that I have stated. Decontrols, yes. But also a windfall profit tax bill.

Mr. President, to repeat, I hope the President—if we do not get a meaningful excess profits tax bill out of Congress—will slap the controls back on. I think that is only reasonable and fair.

Third, let me say this—and I appreciate the indulgence of Senators in listening—if Congress completes action on this bill and on the Chrysler bill and on the conference report on the Chrysler bill by December 21, which is 2 weeks from today, it would be my desire, with the support and understanding of my colleagues, to go into a type of pro forma recess until January 22, which would be 1 month and 1 day—that would be a Tuesday—with this understanding: That it would be pro forma in nature. I will be here every day, the Lord willing. Other Senators would not have to be here unless the necessity arose.

I am not going, under any President, to leave this Senate in a situation, with an ongoing, very critical international crisis such as we have now, where any President is ever going to have to call this Senator back. We will call ourselves back. Because we have an international crisis, this Senate will be here when it is needed.

If the situation arises in which Senators are needed, the joint leadership will see to it that they are so informed and they can come back.

But, now let us take the other side of that coin. If the Senate does not complete action on this bill and on the Chrysler legislation, including the conference report on that legislation, by the 21st, it will be my intention to recess the Senate over, pro forma again, until January 3, which is the date set by law, unless Congress otherwise changes. In that case, we would be back in business on January 3, 1980.

Now, Mr. President, I think I have said all I need to say. I appreciate the patience of everyone. I know of no other way to proceed than the way I have indicated.

As I say, I am not criticizing anyone. Senators have been calling up amendments. But, at some point, we have to bring a halt to offering nongermane amendments and get on with action on this bill.

I realize that there are Senators on one side of the question who feel that we ought to get on with the minimum tax amendment. That amendment is being prepared and we can proceed in due time with that. But I urge Senators who are serious about calling up their amendments, and who have germane amendments, to be ready to call them up, because I should hope that cloture could be invoked on this bill on next Tuesday unless, in the meantime, we can work out a time agreement which would accomplish the same purpose.

We have not had a filibuster this year, and I do not call this a filibuster. I do not, in any sense, imply that.

But I should hope that we could work out a time agreement on this bill and also on the Chrysler legislation, so that the Senate can complete its work within the timeframe I have suggested.

Mr. MAGNUSON. Will the Senator yield?

Mr. ROBERT C. BYRD. I promised the acting Republican leader (Mr. TOWER) first to yield to him, and then I will yield to the able Senator from Washington (Mr. MAGNUSON).

Mr. TOWER. I thank the majority leader for giving me an opportunity to respond.

I first would note that were it not for the constitutional proscription on the Senate as to the introduction of revenue measures, we would never be confronted on a major tax bill with as many nongermane amendments as we are on this one and have been, indeed, on many other tax bills.

I do not think that the majority leader, or anyone else, should consider that the offering of nongermane amendments on this bill is simply an effort to delay it or to load it down in a mischievous way. But it is the opportunity that many Members seize on to initiate tax legislation that otherwise they would not be able to do. And we are not the body of original jurisdiction on tax measures.

I would say that most of the nongermane amendments that have been offered have not been offered in the spirit of mischief or in a desire to make this bill unpalatable or to delay it, but have been driven by genuine concerns that there are tax matters equally important with this that we should consider in the process of levying a heavy

tax on one segment of American industry to finance a new spending machine that we are creating at the same time.

As to offering cloture, I am aware that the invocation of cloture would shut off nongermane amendments, but I would hope that the Senator from West Virginia would withhold on offering that cloture motion until some effort has been made at least to see what kind of an agreement we can strike on Chrysler. I think that should he offer a cloture petition on the so-called windfall profit tax bill at this time, that might militate against our being able to get a controlled time agreement of some sort on Chrysler.

That may not be achievable anyway, I do not know, but it is a matter that certainly should be explored.

As to the matter of the merits of decontrol and taxation, I will not get into the substance of that, except simply to say that many of us regard decontrol as simply one step that can be, in effect, obviated by a tax, because the function of decontrol, as I understand it, is to create an incentive for more production and at the same time, through the price mechanism, perhaps result in some conservation. I think the tax bill militates against that particular objective. And, too, it has been clearly shown that the tax bill will be a disincentive to production to the extent of perhaps 450,000 barrels a day at some point. Therefore, many who oppose this bill oppose it simply on the grounds that they are afraid that it will impact adversely on our drive toward energy self-sufficiency.

But the merits of this bill are being debated by the hour and the day, and, therefore, there is no need to get into that.

As to the pro forma sessions mentioned by the Senator from West Virginia, I do not disagree with that procedure for the recess period. I think that we should be prepared to call ourselves back into session without awaiting the pleasure of the President on that point. It is quite conceivable to me that the President would prefer that we do recess and not be in the pro forma position that we might come back. I can conceive of that kind of circumstance, and I hope I will not be considered to be partisan when I make that statement.

But I think we should be the masters of our own fate in this instance and be prepared to call ourselves back. Whether the President wants us back or not, we may want ourselves back here. Therefore, we should be prepared to do it through pro forma sessions.

Let me simply conclude by saying that I see no disposition on this side of the aisle to delay final action on this bill. I think even the opponents have faced up to the inevitable that in the current political climate there is no way we are going to prevent this so-called windfall profit tax bill from passing. It is going to pass. Some of us do have concerns about certain amendments, and once they are disposed of I believe that it will be probably relatively easy to get a controlled time agreement as to the final disposition of the bill. I believe that if the distinguished Senator from West Virginia could withhold the filing of his cloture petition until, say, Monday, it will give us some time to see what is likely to happen on one or two key amendments, and also to see what we can do in the way of trying to work out some kind of accommodation for Chrysler.

Mr. ROBERT C. BYRD. Mr. President, let me respond. I think that is a reasonable suggestion. I would like to pursue that. I want to go as far as I can go down the road toward an amenable solution to any problem here. So I will withhold offering the cloture motion until Monday, hoping that a time agreement can be worked out meanwhile on the Chrysler matter, and perhaps an agreement on this bill, as well.

If I may say one other thing while I have the floor, I think it should be stated that conferences are already meeting on the energy bills passed weeks ago by the Senate.

Mr. McCLURE. The Senator is correct. There is a meeting at 2 o'clock I am supposed to be attending right now, but I wanted to see what would be resolved here. And there is another meeting at 4 o'clock.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for mentioning that he is a conferee. There is some impression abroad that this Congress is just going to fold up and go home for a month and forget about the energy conferences. The energy conferences are being conducted now. Mr. JACKSON, the chairman of the Energy Committee, has conferences going with the House on the Energy Mobilization Board bill. Mr. Long is here and I do not presume to speak for him as he can speak for himself in a moment. He and I have discussed the matter of a conference on this tax bill. He has indicated to me that he does not think a conference will take long with the House.

It is Senator LONG's intention to move expeditiously to proceed with the conference on this bill once it is passed. I say that for the record so that the public will know that the Senate, while debating this windfall profit tax bill on this floor right now, is also working in conference with the House on other energy legislation already passed.

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, I do not believe we need a limitation on each Senator of 1 hour as in the cloture rule as we need a germaneness agreement. Sometimes we have to vote for cloture just to get germaneness. I have been sitting here begging and pleading with Senators not to offer amendments not germane to this bill. Sometimes I have been successful and sometimes not. We on the Finance Committee met yesterday with the consent of the Senate, while the Senate was in session, and we voted on measures, all of which have been the subject of hearings. In some cases we said we would vote and if anybody wanted to change their vote they could change their vote. We agreed to more than 20 revenue measures which will be added to the House-passed bills and we will report them.

We on the Finance Committee, the tax-writing committee, will take our chances of passing those three bills on which those 20 amendments will be offered. We would urge other Senators to take the same chance that we are going to take, to put their amendments on these bills. I will urge the leader to help see that those bills are considered, that we try to get them up for consideration. I understand it is late in the session and that with any single thing that really rubs someone very much the wrong way, that makes them think it is very much against the public interest, a single Senator may be able to defeat it at this late stage in the session. But the same thing is true of the bill.

If Senators are willing to limit themselves to germaneness, we have three other revenue bills that we will call up. If we cannot pass them in this session, we will pass what we can and get back on it in January.

Mr. President, I ask unanimous consent—and I am sure the majority leader would have no objection and I hope the minority leader would have no objection—that further amendments to this bill be germane.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, I nevertheless plead with Senators to please try to limit themselves to germane amendments. I am willing to accommodate any Senator in trying to have his proposal considered and to have a vote on his proposition if it is a revenue measure, but to try to put it all on this bill really makes it very, very difficult to move the bill. Of course, that is one reason that some of us may find ourselves, in the end, being forced to vote for cloture because that is the only way we can get germaneness.

I do not think anybody has filibustered the bill, Mr. President. The problem is that we are being confronted with so many nongermane amendments that we just lose day after day and week after week considering matters that are not germane at all.

If the public wants to know why the bill has not passed, in my judgment, it is the nongermane amendments. Obviously, we have had some real heated fights about the amount of tax, but that is necessarily a part of passing this bill.

All these nongermane things could be offered on some other bill and can be offered between now and the time we get through. For example, as strongly as one might feel about, let us say, that gasoline tax we just voted on, that would not have taken effect for a whole solid year. They have a year to offer it on some other bill. But at this time, when we are led to believe that it is very important to get this matter settled, we have spent this time talking about an amendment with a tax that would not have taken effect until 1981 and I guess it would be in someone's tax return in 1982. That is 2½ years from now before anybody would really feel the benefit of that deduction.

I plead with Senators to recognize that there is a need to reach a decision here so we can get on with other vital na-

tional matters and to please withhold offering any further nongermane amendments.

Mr. DOLE. Mr. President, I objected to that request, not that I particularly oppose the proposition, but it seems to me we have two matters that are holding up this bill. One is the minimum tax that the administration wants to shove down our throat, and the minimum tax amendment can be offered right now. That is a germane amendment.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. The amendment that should be before the Senate right now is the plowback amendment by Mr. DOLE under the authorization. We have been temporarily setting it aside.

Mr. DOLE. I may want to work out a deal on the minimum tax in my plowback amendment. There is another amendment called the Danforth amendment which has something to do with State royalties. I do not understand that; we do not have that in Kansas. That would set off a hornet's nest in this Chamber.

But let us not get the idea that there is somehow a filibuster taking place in the Chamber or that we are bogged down on nongermane amendments. We are bogged down because we are not quite certain of the vote count on the minimum tax and we are not quite certain of the vote count on the Danforth amendment.

If the administration thought we could be rolled on the minimum tax and the chairman thought we could be rolled on the Danforth amendment, we would be moving right down the street. Some of us are concerned about how are we going to vote on the Danforth amendment, because we do not want the minimum tax. If we are going to tax the industry $85 billion, they are going to have to find some other money someplace else. We are up to 75 percent right now.

First, we exempt categories in the committee, then we trot it out on the floor and say let us put a tax on the exempt categories. The categories were exempted in the first place so we might have some incentive for production. But we want to take away that production incentive on the Senate floor.

Christmas is coming, whether we pass this bill or not. We are not going to be able to change that, I believe, by amendment. In any event, I suggest to those who want to move this bill, let us call up the minimum tax amendment. I would be glad to set the Dole amendment aside.

Frankly, on the plowback provision, we are trying to save time by working out an agreement with Senator STEVENS, who cannot be here, and Senator MCCLURE, and this Senator, the Senator from Kansas, because we all have plowback amendments. We are ready to bring up the Danforth amendment, wherever Senator DANFORTH is, or the minimum tax amendment and, maybe, dispose of both of them this afternoon.

The PRESIDING OFFICER. The Chair wishes to call to the Senator's attention that the Senator from Missouri is in the Chamber.

Mr. DOLE. Yes, I noted that.

Mr. DANFORTH. Will the Senator yield?

Mr. DOLE. I am glad to yield.

Mr. DANFORTH. I just say to the Senator from Kansas that, several days ago, when there was an effort to put together a series of amendments which would come up in sequence, at that point, I offered to bring up an amendment with a time agreement and we could not work out an agreement.

I have one basic proposition. I think it will probably amount to two amendments rather than one. But I do not think there would be any problem working out an agreement on those two amendments.

I assume that both sides would want sufficient time to debate it thoroughly, but I have absolutely no intention, on either of my amendments, of stretching it out for extended periods of time.

Mr. DOLE. I think that is an indication that would meet with approval by the majority leader. We are not prepared to give any agreement on the minimum tax, because we do not want a minimum tax. But at least, if it were brought up, we might be able to table it and then move on to some other amendments.

As I indicated to the majority leader this morning, we are in the process, on this side, of asking each Senator what amendments he has that he really believes ought to be called up. We hope to have that by 5 o'clock.

There is certainly no disposition on this side, I say very sincerely, to delay. I shall not take much time on my amendments. I do not have many.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. The distinguished Senator indicated earlier today that that process had been set in motion on his side of the aisle and we are doing it over here, to see what amendments there are, what Senators have amendments that they seriously will call up. I hope the Senators will refrain from calling up nongermane amendments.

I thank all Senators for this discussion and I assure the acting Republican leader that I shall not offer the cloture motion today. I hope we can work out agreements on the Chrysler measure and on this measure, if possible, by Monday. I shall not offer the motion today.

Mr. TOWER. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I had understood that Senator BUMPERS wanted to speak on the amendment. Senator BUMPERS is in the Chamber. I yield the floor.

Mr. DOMENICI. Mr. President, after the Bumpers statement, are we prepared to vote? Is there a pending matter that we are going to vote on or can we go to the conference?

Mr. ROBERT C. BYRD. There is an amendment by Mr. ARMSTRONG, I believe, pending.

Am I correct?

Mr. ARMSTRONG. That is correct.

Mr. DOMENICI. Is it the leader's impression that we shall vote soon?

Mr. ROBERT C. BYRD. I do not know how many Senators will want to speak or how long Mr. BUMPERS will want. Mr. BUMPERS is now by the microphone. He may want to respond to that.

Mr. DOMENICI. How long does the Senator intend to speak?

Mr. BUMPERS. Ten minutes.

Mr. DOMENICI. I thank the Senator.

UP AMENDMENT NO. 870

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself, Mr. ROBERT C. BYRD, and Mr. MUSKIE, proposes an unprinted amendment numbered 870 to the amendment of the Senator from Colorado (Mr. ARMSTRONG) numbered 869.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

In lieu of the language to be inserted by the amendment of the Senator from Colorado insert the following:

"Thirty days before the President makes any adjustment by rule or order under the Emergency Petroleum Allocation Act which has the effect of significantly slowing the rate at which price controls on crude oil under that Act are being phased out with respect to any category of crude oil, or which imposes price controls on crude oil at a level equal to or lower than the prices for such crude oil in effect on the date of imposition, the President shall give notice to the Congress of his intent to make such adjustment."

Mr. BUMPERS. Mr. President, I have offered a substitute amendment to the Armstrong amendment. I am opposed to the Armstrong amendment because it is an unnecessarily stringent approach. The amendment provides that if the President ever considers changing the decontrol rate he will lose the windfall profit tax. However, I am not trying to vitiate the total effect of the Armstrong amendment. Perhaps it has some merit.

My substitute amendment requires the President to give 30 days notice to Congress if he decides to alter the decontrol process. Congress can then take such action as it deems necessary, depending upon whatever circumstances may exist at that time.

This is a violent world, and these are very violent times. It often becomes necessary for the President to act in a certain way because of things we cannot possibly foresee as we stand on the floor today. Nobody could have known that the Iranian situation was going to arise, and certainly nobody could have known it was going to arise in the way it did. Nobody here knows how it is going to be terminated.

Mr. President, we should bear in mind that if there were no decontrol, there would be no tax. Unhappily, the effect of the Armstrong amendment is that the President may not alter decontrol without losing all of the windfall profit tax. Under the Armstrong amendment, if the President

tinkers with decontrol by changing the rate of decontrol from 1.5 percent per month to 1 percent per month, then there is no windfall profit and, therefore, no windfall profit tax.

The President might conceivably have very good grounds for altering the present rate of decontrol. I think it would be most unfortunate if the Senate sought to tie his hands in such a way as to prohibit him from taking any action on decontrol. After all, he has already made his decision.

The President is literally pleading with this body to keep what he considers Congress part of the bargain. I was in the White House with him the morning he first discussed decontrolling oil prices. I made my feelings known to him. I disagreed with him. Having disagreed with him on the whole concept of decontrol, I pleaded with him not to decontrol until the windfall profit tax was in place. I thought he should keep a stick handy. Well, everybody within earshot of my voice knows that I did not persuade the President to my viewpoint.

So the hornets are out of the nest, and we cannot get them back in.

The President has been pleading with Congress to alleviate the economic disaster that decontrol would cause without a windfall profit tax, and we sit here now, ready to go into the 4th week of debate, so far, confessing to the world that we in the U.S. Senate are not prepared to pass a strong windfall profits tax.

We are saying to our constituents back home that the President took the action that apparently a large part of the U.S. Senate—perhaps a majority of the Senate—wanted to take, but the Senate has not yet voted to recapture a significant part of the windfall on behalf of the American people.

I think it would be unfortunate to adopt an amendment as broad as the Armstrong amendment and say that if the President decides to alter the decontrol order by one-quarter percent, one-half percent, or one-tenth percent, there will be no windfall profit tax. That would wreak even more havoc than is already being wreaked on the American people.

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

Mr. BUMPERS. I yield.

Mr. ROBERT C. BYRD. I compliment the Senator on his amendment. I ask whether he has any objection to adding my name as a cosponsor.

Mr. BUMPERS. I would be delighted to have the majority leader as a cosponsor, and I thank him very much.

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

I make that request.

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

Mr. ARMSTRONG. Mr. President, I trust that the Senate will turn down the Bumpers amendment. The effect of this amendment, of course, despite the representations of the Senator and despite his discussion, to vitiate completely the purpose of the amendment I have presented.

So, clearly, a vote for the Bumpers amendment is a vote against the idea that we should have a joining of the issue of windfalls and decontrol of crude oil.

The idea that the two are closely related and, indeed, that there is a cause and effect relationship between the enactment of windfall profits legislation and the decontrol of crude oil is not an idea which originated with the Senator from Colorado. In fact, I direct the attention of Senators to page 1 of the report of the Committee on Finance, explaining this bill. I will read just one sentence that sums it up well:

> The Finance Committee substitute for H.R. 3919, the "Crude Oil Windfall Profit Tax Act of 1979," imposes a windfall profit tax on domestic oil producers and royalty owners to supplement the decontrol of oil prices announced by the Administration.

We have before us a very, very complex piece of legislation, a piece of legislation which represents a series of delicately balanced compromises, compromises of which I do not fully approve but which have been worked out based on estimates of the present program of decontrol of crude oil.

This is an enormously complex subject, and the Senate is enacting a gigantic tax program on assumptions which have been built up from the present program for decontrol of crude oil, not from some faster or from some slower program for decontrol.

I favor a different kind of program for decontrolling crude oil, natural gas, and so forth. That is not the issue. The issue is that we have, as a matter of policy, established by the President, pursuant to existing law, a schedule under which crude oil will be decontrolled.

With that in mind, with that as the predicate, the Senate has fashioned a bill to impose windfall profit taxes on the oil companies. If the underlying decontrol schedule and all that implies is changed, clearly the legislation we are enacting today is not appropriate. The tax rates may be too low. The tax rates may be too high. They may be applied to the wrong classifications of oil.

All I am saying is that the ballgame will be different; and if the rules are to be changed, the Senate should be brought back into the picture and given a chance to look at the whole issue of what the windfall profit tax should be, what level of tax should be imposed, if any.

I have some real reservations, some deeply seated, strongly held reservations, about whether any one man should be given the broad powers which are granted to the President of the United States under existing law to regulate the prices of crude oil. The power to raise and lower the prices of this basic commodity is literally the power of life or death over many industries, over many regions of the country, over many communities. It is the power to decide which workers have jobs and which do not. It is the power to decide which communities thrive and prosper and which wither on the vine.

It is the power to determine whether or not a nation's energy companies make a profit, whether they have the resources necessary to reinvest in order to produce more energy for the Nation's future. It is the power to reward or punish various regions of the country.

This is more power, in my view, than the President of the United States or any other person should have.

I believe that if we are going to have a program for price controls, it should be established by law, just as we make most other decisions of this kind by law. We do not ordinarily delegate such sweeping power to any one man.

In its wisdom, however, Congress has seen fit to make that delegation of power to the President of the United States. We have conveyed to him enormous power to make discretionary decisions. The President has made his decision. He has announced what his program for decontrolling crude oil will be. It is not my program. It is not the Senate's program. It is not the program of the Congress of the United States. It is the President's program.

On the basis of that, on the basis of the administration proposal, the Senate is now fashioning a windfall profit tax bill. It seems to me very farfetched to suggest that this is the right bill if the underlying assumptions about the price of crude oil and the rate of decontrol are changed.

So I hope that the Senator from Arkansas will perhaps think again about this amendment and withdraw it. In its very essence he is not even asking that the President submit for the approval of the Senate any changes he may wish to make in decontrol. He is just saying the President shall notify us. It does not even require, as I read it, any formal submission.

Mr. President, there is another way to get at this, and depending on the outcome of this amendment, I may or may not offer an amendment in a slightly different form. The original formulation which I had in mind for my amendment was quite different. It simply read as follows:

> The President may not adjust, amend, or terminate any rule or order in effect on December 3, 1979 which is part of a plan to phase out price controls on crude oil under the Emergency Petroleum Allocation Act or change the application of any such rule or order to any class or category of crude oil after that date.

That amendment would have merely implemented the belief, which many of us have, that we should have a statutory basis for this decontrol program. When we are talking about setting the price of a commodity which is nearly the critical essence of the Nation's economic future, that should not be set by one man. It should be set by Congress. I think a good case can be made for an amendment of that type.

However, in consultation with others who are concerned, knowledgeable, and wiser perhaps than I, I was persuaded that it would be a more effective approach to the problem not to tie the President's hands, that having made a decision there was no reason to suppose that he would change his mind or change the rate of decontrol schedule which has now been promulgated by rule; therefore, it would be unnecessary for us to

take up an amendment such as I have just mentioned which would legally restrict his authority to change the decontrol schedule, particularly in light of the fact that the administration has evidently expressed its concern about the amendment which I did offer which merely conditions the windfall profit tax on maintenance of the present schedule on maintaining the President's program for decontrol.

I am beginning to think that perhaps the amendment would have been better off to simply restrict the administration's power to make these adjustments. That is a very great power and perhaps, as I said earlier, one that no President should have.

Under the circumstances, Mr. President, it is my hope and recommendation to Senators that they defeat the Bumpers amendment and then proceed to pass the Armstrong amendment. For those who may have arrived late I will simply point out that the effect of doing so will be to condition the legislation enacted here today on continuation of the present schedule for decontrol. If the decontrol program goes forward as scheduled, as is the basic representation which has been made to the Finance Committee and to the Senate, then there will be no change in the windfall profit legislation.

If, on the other hand, the President sees a need to change the decontrol schedule, then in doing so, he will trigger the termination of the windfall profit tax which will put the matter squarely back in the lap of Congress which, in that event, is where it should be.

Mr. BUMPERS. Mr. President, I shall only take a couple of minutes.

First, I ask unanimous consent that the Senator from Maine (Mr. MUSKIE) be added as a cosponsor.

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

Mr. BUMPERS. Mr. President, the power the President has now is power Congress gave him. We gave him the power to control. We gave him the power to decontrol. Now he is in the process of exercising that power in a way that up until now, at least, has been very acceptable to the oil industry and a number of Senators.

The only reason we are here now is that he chose to exercise that power in a very acceptable way to those people.

But under the Armstrong amendment, if he should exercise that power in a way unacceptable to the oil companies, he loses everything and they gain everything. If the President should slow the decontrol rate by one-quarter of a percent, we will have decontrol but no tax. I do not think even the Senator from Colorado wants that.

Under my amendment, the Senate is going to be notified and the House of Representatives is going to be notified 30 days prior to implementing any alteration or change in the decontrol order, no matter how minimal or insignificant the change may be.

That is adequate time for Congress to act. If we had a filibuster and it took 60 days to act, we would have ample time. What else do we want? Why tie the President's hands unnecessarily?

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

Mr. BUMPERS. I am happy to yield.

Mr. ARMSTRONG. I want to be sure I understand clearly how the Senator's amendment would operate in practice. If the President sent us a notice of his intent to do something 30 days in advance of the date that he did it, am I correct in assuming that the way the Senate and House of Representatives would express their will would be through a joint resolution; that is, enactment of a statute if it were our desire to overturn the President's decision in any way or change the windfall tax?

Mr. BUMPERS. In the Emergency Petroleum Allocation Act, the President was given this power, and if we choose to take it away from him we can do that. If the majority of the Members of the Senate and House of Representatives elect today, tomorrow, or any other time to take it away from him, that is our prerogative.

Mr. ARMSTRONG. But am I correct in understanding that to do so under the Senator's amendment would require the passage of a joint resolution in both Houses of Congress and the signature of the President? In other words, let me make a hypothetical case. If in fact the President adjusted the crude oil price decontrol schedule in a way which prompted a majority of Congress to wish to change the windfall profit tax, am I correct that in order to do so it would require passage by a majority vote in both Houses of Congress and the signature of the President? My point is that without the approval of the President, which would be unlikely since we would be overruling his action in effect, it would require a two-thirds majority vote to override?

Mr. BUMPERS. That is the way it is with every bill we pass here.

The President has the right to veto it, which places a greater burden on Congress to overcome, of course.

Mr. ARMSTRONG. As a practical matter, and then I will be seated because I do not mean to interrupt the Senator's statement, as a practical matter——

Mr. BUMPERS. From a technical standpoint then the statement I made about a simple majority may or may not be the case.

Mr. ARMSTRONG. I want to clarify that because it is evident that to overrule the President or to change the windfall profit tax under those circumstances would be a very lengthy, difficult process and might take several months. It might take a year. It might never be possible. But certainly it would not be something that could be accomplished within a 30-day period.

Mr. BUMPERS. The substance of my argument is that under the President's decontrol proposal, he is saying to the oil companies, "We are going to let OPEC set the price of your product in the future," and a majority of Senators seem to be happy with that decision. Under the Armstrong amendment, if the President decides to slow that down and only decontrol over a period of 3 years instead of 2, then there will be no windfall profit tax, but the oil companies still price their product according to OPEC prices.

That is the old story of "What's mine is mine and what's yours is negotiable."

I do not think that is fair to the people of the country. I do not think it is fair to the President. That is the reason I have offered my substitute amendment.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Is the Senator from Colorado's amendment divisible?

The PRESIDING OFFICER. The Senator from Colorado's amendment is divisible.

Mr. BUMPERS. And the Bumpers amendment is an amendment to the first part of the amendment of the Senator from Colorado; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Is it permissible then to ask for a division with a vote only on the first portion which my amendment affects?

The PRESIDING OFFICER. It is. The Senator is correct.

Mr. BUMPERS. Then the Chair will consider that as my request, and I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment is so divided. The yeas and nays have been requested. Is there a sufficient second?

Mr. ARMSTRONG. Mr. President, may I inquire, are we asking for the yeas and nays on the Bumpers amendment?

The PRESIDING OFFICER. The Senator from Colorado is correct.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado. The rollcall has not been commenced.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum so that I may discuss one matter.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. 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. ARMSTRONG. Mr. President, before summing up the issue at policy level, let me just share with my colleagues a brief discussion I have had with the Senator from Arkansas. I wanted to clarify for my own benefit, and I will clarify for the benefit of other Senators, the effect of his request to divide my amendment.

My amendment has been divided at a point where the substantive part will now be before us, along with his proposed substitute for the meat of my amend-

ment, leaving dangling some technical and conforming changes, and there is nothing more to it than that.

In the event the Senator from Arkansas should prevail, it will be his intention to ask whatever technical changes are necessary be made by the clerk and I, of course, will agree to that. There is nothing deeper or more meaningful at the policy level to his request for a division of the amendment than just what I have stated, and I believe the Senator will agree.

Mr. BUMPERS. The Senator is correct.

Mr. ARMSTRONG. I would like to discuss briefly the remaining policy issues, and I ask the Senator from Arkansas this question so that we can illuminate the issue.

Is it the position of the Senator from Arkansas that the decontrol program of the President as it now exists is a desirable one? Did I understand him to say he did not favor the President's program?

Mr. BUMPERS. The Senator is correct. I never favored the President's decision to decontrol. One morning a group of us met with the President and urged him not to decontrol unless the order was coupled with a windfall profit tax.

Mr. ARMSTRONG. Unless he coupled it with a windfall profit tax?

Mr. BUMPERS. That is correct.

Mr. ARMSTRONG. I am wondering, at least at one level I share his feelings that the two issues go together, that windfall profits are logical only if there is decontrol, and I wonder if the Senator would be interested in the amendment which I discussed earlier, not the amendment I offered but the one which I considered offering and may offer later in the day, which simply says that the President may not further adjust the decontrol program, and which would have the effect of enacting into the same statute with the windfall profit tax the decontrol.

It seems to me that to separate those and to leave one discretionary with the President while fixing the other into a statutory enactment creates a very awkward and potentially very unfortunate situation.

Would the Senator be interested in an amendment that would simply wrap it all up together so that it is all before the Senate now, and then if it has to be changed later the Senate and House would have a chance to vote on the whole thing?

Mr. BUMPERS. I would have to look at the Senator's amendment.

Mr. ARMSTRONG. I would be happy to suggest the absence of a quorum.

Mr. BUMPERS. I would like to talk to the Senator about it.

Mr. ARMSTRONG. I would be glad to yield for other speakers or to suggest the absence of a quorum so that the Senator can look at it because that is really the gut issue involved here.

Mr. BUMPERS. Will the Senator state the text of his amendment again?

Mr. ARMSTRONG. I have not yet offered it, but I would be willing to offer it. It simply says:

The President may not adjust, amend, or terminate any rule or order in effect on December 3, 1979, which is part of a plan to phase out price controls on crude oil under the Emergency Petroleum Allocation Act, or change the application of any such rule or order to any class or category of crude oil after that date.

The effect of such amendment would simply be that having enacted a huge tax bill on the basis of the present decontrol schedule that that decontrol schedule may not be changed without further action by the Congress.

Mr. BUMPERS. That would be after a windfall profit tax would be put in place?

Mr. ARMSTRONG. If we adopted this amendment it would be part of a windfall profit tax bill. In other words, this amendment, if it were to be offered, would be put right into this act.

Mr. BUMPERS. Is the Senator saying that once the tax becomes law with the President's signature on it there would be a provision in it that said if the President altered the decontrol mechanism in any way the windfall profit tax would fall?

Mr. ARMSTRONG. No. The President's authority to alter the decontrol schedule would be terminated and the schedule would be part of the law.

Mr. BUMPERS. I am sorry I could not agree with that because the substitute amendment I have offered is adequate protection for the Congress if the President ever chooses to alter the decontrol order in any way. None of us have enough vision to know whether the President should not be allowed to tamper with the decontrol process. I would be reluctant to tie the President's hands to that extent.

We are just looking ahead a year and a half, and I think the President is going to keep his word. I do not think he is going to tamper with the decontrol order.

If I were the President, I would be saying to this body that I am prepared to reimpose controls right now. I think he made the decision to decontrol oil prices in good faith. He made that decision with the understanding that Congress would pass a good windfall profit tax—one that is fair to the American people.

In my opinion, we have been on this 3 weeks, and we are stalemated. You can call it by any other name, but that is the substance of it. We are on high center, and I do not know whether we are going to get off or not.

But if I were the President, I would do as I did as Governor, call the legislators down to the office and "'splain" the bill to them, as we say in Arkansas. That is the technique we often used to get bills passed. If I were the President I would be "'splaining" this bill to some folks.

If I had decontrolled oil prices in utmost good faith, believing decontrol, coupled with a good windfall profit tax to be in the best interest of the country, and then found a majority of Senators and all the oil companies trying to thwart the tax, then I would reimpose controls. Otherwise, it is a one-way street. It reminds me of the little boy who dropped his lunch money on the way to school. He could not find it and he was desperate, so he got down on his knees and started to pray to find his money. While he was praying, he saw it. He looked up and said, "Never mind, God, I just found it."

That is what is going on here. We are saying "Thank you, Mr. President. Now that we have got what we wanted from you we may or may not give you what you asked in exchange."

Everybody knows how I feel about this matter. I am not going to go through all my philosophical and economic arguments again, but I do not think we are keeping faith with the President, I do not care whether you are a Republican or a Democrat.

(Mr. DECONCINI assumed the Chair.)

Mr. ARMSTRONG. Mr. President, it is no wonder to me that the Senator from Arkansas is thought to be one of the most skillful orators in this body, because he has really made the very best argument——

Mr. BUMPERS. That is all right, Senator; you do not have to pay any tribute to me.

Mr. ARMSTRONG. Well, the Senator's skill is evident from his description here today. But the logic of his proposition seems to me to be no tribute to any Senator.

What he seems to be saying is that Congress and the Senate shall be bound, that we shall enact our decision into a statute, and then leave it to the President to change his part of the bargain—and this is a bargain. That is what the report of the Finance Committee said it was, and that is what the Senator from Arkansas said. The Senator from Arkansas said the President said he is not going to change the schedule for decontrol of crude oil, and so be it. I am just saying that after we have enacted the legislation, we should not leave it open to this President or to subsequent Presidents to make a change in the schedule now in effect. I see no reason to question the good faith of the President of the United States. If he says this is his schedule for crude oil, I believe it. I have no doubt that he has acted in good faith.

But I have never heard the President promise that he would not change the decontrol schedule after the enactment of the windfall profit tax. Second, there is going to be an election; someone else might be in the White House a year from now. I do not say that to criticize the President or the administration; not in the slightest. I am just saying that it is a bad system, a system which binds Congress, when Congress makes a tax policy—and this is an important tax, not some trivial excise or some minor code modification; we are talking about a huge tax on what may very well be the most important commodity in our Nation's economy—and we base that tax policy on schedules and representations by the President and the White House, and then leave it to them to change those underlying considerations afterward. That seems to me to be very poor policy.

Mr. BUMPERS. Mr. President, will the Senator yield for a moment?

Mr. ARMSTRONG. Of course.

Mr. BUMPERS. Let me talk about the politics of this whole matter for a mo-

ment. When the President announced his decision to decontrol oil prices he was the lowest in the polls of any President in the history of this country, including Richard Milhous Nixon—lower in the polls than any President of the United States had ever been.

At that very moment he announced to the world that he was going to decontrol the price of oil, in the certain knowledge that the American people would be separated from between $1 trillion and $3 trillion over the next 10 years in exchange for, in my opinion, very little except to satisfy somebody's convoluted notion of the burdens and perplexities of control and regulation.

He, thereafter, got a memo from one of his chief staff members and advisers that it was the worst thing he had ever done politically. He said, "I knew it was going to be, but I did it because I thought it was right."

When a President of the United States, who is not above politics, as you and I are not, makes a decision which he knew at the time would be politically devastating to him, but makes it in good faith, and then says to Congress, "I am now expecting you to fulfill your share of the bargain"—then he has acted in good faith with Congress. So far there has been no reciprocity on the part of Congress; and the oil companies, who wanted controls taken off worse than they wanted to go to heaven, have lobbied this body as intensely as it has ever been lobbied to kill any semblance of a decent windfall profit tax.

People keep calling me about the Shah, and asking, "What do you think about what Senator KENNEDY said about the Shah?" and, "Do you think the Shah should have been allowed to come here?" I do not want to comment on every controversial statement made by a Presidential candidate. But I want to say this: Decontrol was a very courageous decision on the President's part. It may have been the wrong one, but he made it.

Now, what the amendment of the Senator from Colorado would do is say, as we used to in the Marine Corps, "Pull up the ladder, Jack, I am on board," and I do not think it is fair.

Mr. ARMSTRONG. Mr. President, I wonder if we should lay aside the pending business in order to consider the language of the suggestion of the Senator from Arkansas that the President is a man of political courage. I would like to vote for that proposition; I think he is.

What I am saying is that whenever a decision of this kind gets logged into a statute, we should not leave the other part of the decision subject to any kind of future decision by one man. I would feel just the same about it if the shoe was on the other foot. I think it is just as wrong for the Congress of the United States to enact into law the price decontrol schedule and leave it to the President of the United States to adjust the windfall tax rate, as a matter of one-branch discretion. That may seem like a farfetched possibility, but that is exactly the correct analogy, because what we are talking about is how much revenue will be raised and how much new oil, how much tier 2 oil, and how much heavy oil will be produced. If we leave the President with the discretion, without action by Congress, unilaterally to make those adjustments, the effect will be to permit him to adjust the consequences of the tax act which we will pass.

I think we have identified the differences of opinion between the Senator from Arkansas and the Senator from Colorado on that point. I want to make only one other observation, which relates to the Senator's earlier comments, and then I am prepared to let the matter come to a vote, unless other Senators wish to speak. Maybe after that we can vote on my other amendment, or not, as seems necessary at that point.

The Senator from Arkansas says we have been here for 3 weeks, and have been really stalemated, wrapped around the axle. I do not know whether I agree with that, but the amendment says that the President, in the event he intends to change the schedule, will give Congress 30 days' notice. The implication is that we will be able to get the matter through the House Committee on Ways and Means, through the Rules Committee of the House, through the Senate Finance Committee, obtain action by both Houses of Congress, go to conference, get the conference report enacted, and get the legislation to the President for his signature within a 30-day period.

It seems to me that is a very unlikely scenario, and that a vote for the Bumpers amendment is really just a vote to say that the President ought to have discretion to change his mind about crude oil decontrol after the passage of the windfall profit tax legislation.

So I ask that the Bumpers amendment be defeated. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ARMSTRONG. Are we dealing here with a substitute amendment, Mr. President?

The PRESIDING OFFICER. This is a substitute for the amendment of the Senator from Colorado.

Mr. ARMSTRONG. I think the issue is clear. I urge my colleagues to vote no on the amendment of the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 870) of the Senator from Arkansas (Mr. BUMPERS). 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 Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from MARYLAND (Mr. MATHIAS), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN) and the Senator from Utah (Mr. HATCH) would each vote "nay."

The PRESIDING OFFICER. Is there anyone in the Chamber who has not voted?

The result was announced—yeas 42, nays 40, as follows:

[Rollcall Vote No. 464 Leg.]

YEAS—42

Baucus	Inouye	Pell
Bumpers	Jackson	Proxmire
Burdick	Javits	Pryor
Byrd, Robert C.	Leahy	Randolph
Cannon	Levin	Ribicoff
Chiles	Magnuson	Riegle
Cranston	Matsunaga	Sarbanes
DeConcini	Melcher	Sasser
Durkin	Metzenbaum	Stennis
Eagleton	Morgan	Stevenson
Exon	Moynihan	Stewart
Glenn	Muskie	Stone
Hart	Nelson	Tsongas
Hollings	Nunn	Williams

NAYS—40

Armstrong	Hatfield	Pressler
Bellmon	Heflin	Roth
Bentsen	Heinz	Schmitt
Boren	Helms	Schweiker
Boschwitz	Humphrey	Simpson
Byrd,	Jepsen	Stafford
Harry F., Jr.	Johnston	Thurmond
Chafee	Kassebaum	Tower
Cochran	Laxalt	Wallop
Cohen	Long	Warner
Danforth	Lugar	Weicker
Dole	McClure	Young
Domenici	Packwood	Zorinsky
Durenberger	Percy	

NOT VOTING—18

Baker	Ford	Huddleston
Bayh	Garn	Kennedy
Biden	Goldwater	Mathias
Bradley	Gravel	McGovern
Church	Hatch	Stevens
Culver	Hayakawa	Talmadge

So Mr. BUMPERS' amendment (UP No. 870) was agreed to.

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

Mr. BUMPERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. Until the Armstrong amendment, as amended, is disposed of, any further amendment would be out of order.

Mr. NELSON. Mr. President, I did not hear the Chair.

Mr. ARMSTRONG. Mr. President, may we have order?

The PRESIDING OFFICER. Until the Armstrong amendment, as amended, is disposed of, any further amendment would be out of order.

The question is on division 1, as amended, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ARMSTRONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ARMSTRONG. Will the Chair restate the question?

The PRESIDING OFFICER. The question is on division 1 of the Armstrong amendment, as amended.

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

Mr. BUMPERS. Will the Senator withhold that request for a moment?

Mr. ARMSTRONG. Yes.

Mr. BUMPERS. The Armstrong amendment was in four parts. The substance of the first division was just voted upon. The other three parts are simply follow-on perfecting amendments so that the rest of the bill would conform to the first part. Is that not correct?

Mr. ARMSTRONG. Mr. President, I think the Senator has accurately stated the issue. I see no reason for a rollcall vote at this time. That is why I suggested a quorum. I should like to check with some of my other colleagues. Unless there is a reason to have a rollcall on this issue, I would suggest that we proceed.

It is my intention, Mr. President, to raise the issue again in a slightly different way, in view of the large number of absentees and the very close vote that we have had. In looking at the absentee list, it does appear that there is a strong likelihood that the amendment would be adopted the first of the week. So in a slightly different version, perhaps along the lines I discussed earlier, I may raise the issue again. But I see no reason to take the time of the Senate to have a rollcall vote at this point on the Bumpers amendment. I ask if other Senators feel the same.

Mr. MATSUNAGA. Will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. MATSUNAGA. Would it be acceptable to the Senator from Colorado to set aside his amendment temporarily so that Senator NELSON may offer his amendment?

Mr. ROBERT C. BYRD. Mr. President, let us have a voice vote——

Mr. BUMPERS. Mr. President, would it be in order to ask unanimous consent that the balance of the Armstrong amendment be withdrawn? They are simple perfecting amendments.

The PRESIDING OFFICER. That would be in order.

Mr. BUMPERS. That would be in order?

The PRESIDING OFFICER. That would be in order.

Mr. BUMPERS. Would it be in order for anybody except the Senator from Colorado to make that request?

The PRESIDING OFFICER. It would take unanimous consent.

Mr. ARMSTRONG. Mr. President, I make that request then, just to make things easier. I understand that it does not prejudice in any way our right to raise the issue again in a different way when 18 more of our colleagues are present next week.

The PRESIDING OFFICER. The Senator is correct.

Mr. ARMSTRONG. I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Division 2 is withdrawn.

Division 2 was withdrawn.

Mr. ARMSTRONG. I ask the Senator from Arkansas if he will vitiate the yeas and nays.

Mr. BUMPERS. Mr. President, if the unanimous-consent request did not vitiate the yeas and nays, I ask unanimous consent that the yeas and nays be vitiated.

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

The question is on agreeing to division 1 of the amendment.

Division 1 was agreed to.

Mr. DOLE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 871

(Purpose: To allow a production tax credit for qualifying processed wood fuel)

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

The PRESIDING OFFICER. Without objection, the clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) for himself, Mr. TALMADGE, and Mr. MATSUNAGA proposes an unprinted amendment numbered 871.

Mr. NELSON. 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 147, beginning with line 11, strike out all through page 148, line 21, and insert in lieu thereof the following: "barrel over such fraction bears to a barrel.

"(f) TERMINATION DATE.—This section shall not apply to taxable years beginning after December 31, 2000.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Production of fuels from nonconventional sources.".

(2) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels produced after December 31, 1979, in facilities placed in service, or from wells drilled, after September 30, 1979, and before January 1, 1990.

(2) EXCEPTIONS.—

(A) QUALIFYING PROCESSED WOOD FUELS.—In the case of qualifying processed wood fuels (within the meaning of section 44D(d)(2) of the Internal Revenue Code of 1954, as added by subsection (a)), the provisions of section 44D(c)(1) of such Code, as so added, shall not apply, and the amendments made by this section shall apply to fuels sold after September 30, 1980, and before October 1, 1983 and produced in facilities placed in service after April 20, 1977, and before October 1, 1980. In the case of facilities placed in service after September 30, 1980, and before January 1, 1982, such credit shall apply to fuels sold for three calendar years following the date such facility was placed in service.

(B) BIOMASS STEAM.—In the case of steam produced from solid agricultural byproducts, the amendments made by this section shall apply to steam sold after December 31, 1979, and before January 1, 1985, and produced in facilities placed in service after September 30, 1978.

Mr. NELSON. Mr. President, the Finance Committee substitute provides a tax credit for the domestic production of energy from certain alternative sources, including "qualifying processed wood fuel." The credit is equal to $3 per barrel of oil equivalent. A barrel of oil is equivalent to 5.8 million Btu's of energy.

The amount of the credit would phase out as the price of imported crude oil rises from $23.50 to $29.50 per barrel. This amendment provides that the full $3 tax credit would be available to qualifying processed solid wood fuels for a period of 3 years from the date the production facility is placed in service.

Under the amendment, the credit would not phase out in the case of qualified wood fuels as the price of imported crude rises to $29.50.

Under this amendment the full $3 production tax credit would be available as of October 1, 1980, for production facilities placed in service before that date. For these facilities the credit would be available through September 30, 1983. For production facilities placed in service after September 30, 1980, and before January 1, 1982, the full $3 credit would be available for 3 calendar years following the date the facility is actually placed in service. Since the credit does not become available until October 1, 1980, this amendment will have no revenue impact on the fiscal 1980 budget.

QUALIFYING WOOD FUEL

"Qualified processed solid wood fuel" is a pelletized biomass.

These pellets can be burned in their solid state in conventional coal or wood-fired equipment, or can be converted into a combustible, stable gas in a gas generator to facilitate utilization in gas or oil-fired furnaces. Proven in numerous installations, 1 ton of pellets generates approximately 17 million Btu's, burns with no sulfur emissions, meets EPA particulate emission standards with less than 3 percent ash, handles easily, and can be made available for industrial and residential use today.

The pellets are made from biomass fiber, essentially any organic fibrous waste. To date, the majority of the pellets produced have been made using forest and lumber mill waste products. However, other fibers which have been successfully pelletized include bagasse (sugar cane residue), peat, rye grass straw, copra and rice hulls, hardwood bark, ipril and luan wood, and primary and secondary sewer sludge. Other possible raw material sources include grass, vines, leaves, or cellulose fiber vegetation in the form of fast growing high Btu trees, planted as a crop for that purpose.

Unlike other proposed synfuel technologies, the wood pellet manufacturing process is basically simple, utilizing off-the-shelf machinery and technology

available today from the agricultural industry. In producing the pellets, the raw material is pulverized, dried to approximately 20-percent moisture, and then compressed at extremely high pressures (30,000 psi) and temperature (300 degrees F). The heat and pressure not only decrease the volume and increase the density of the raw material, but also further reduce the moisture content and rearrange the fiber structure to increase the amount of carbon readily available for burning in the finished product.

ENERGY PRODUCTION

Each wood pellet plant module produces 100,000 tons of pellets per year, the equivalent of 1.7 trillion Btu's or almost 300,000 barrels of oil per year. If 1,000 plants each produced 300 tons of pellets per day, they would produce the energy equivalent to 300 million barrels of oil per year. At $20 per barrel for imported oil, our Nation's balance of payments would be improved by over $6 billion annually.

ECONOMIC CONSIDERATIONS

The wood pellet concept consists of small efficient plants uniformly distributed throughout a geographic area. In this way, the plants operate in the most efficient manner, decreasing freight costs and providing a more properly balanced employment distribution.

Because of the size and efficiency of the plants, pellets can be produced for approximately $30 a ton and transported to the user within a 75-mile radius for an additional $4 a ton. The total cost of production is; therefore, around $2 a million Btu's. To be equivalent to this cost, coal would have to sell at a delivered cost of $50 a ton, No. 6 fuel oil at a delivered cost of 30 cents a gallon ($13 a barrel), and natural gas at $2/Mcf. It should be noted, however, that the wood pellet figures are production costs, returns on investment incentives are required for the manufacturer to construct and operate plants and for the user to change fuel sources. If modifications are required to the user's equipment he will require a fuel cost savings to justify his capital expenditure.

Other economic advantages are realized by wood pellet production. A thousand plants would employ 20,000 people directly and create an additional 5,000 jobs for transporation and handling of the fuel. These new jobs would generate almost $400 million annually in taxable income for the U.S. Treasury.

The construction of 1,000 plants would not only generate additional taxable income but also revenues on machinery and related equipment for the plants. One thousand plants would generate expenditures of over $3 billion by pellet manufacturers.

These are a few of the desirable effects of manufacturing fuels from our own natural resources. In addition to helping solve our Nation's energy problems, these plants rechannel money that is going out of the community back into the community by creating new jobs and additional revenues.

THE NEED FOR A PRODUCTION TAX CREDIT

The growth of the processed biomass industry will depend upon the return corporations can realize on their plant investments. A tax credit based on millions of Btu's produced would allow corporations to realize quicker returns, thereby allowing them to increase their capital commitments for plant construction. It is estimated that the suggested tax credit on Btu production would allow a corporation to increase its commitments by a factor of 5. With the credit, a corporation could construct 100 plants in 5 years; without the credit, 20 plants could be constructed.

The committee bill provides a $3 production tax credit. However, the credit would terminate if the world price of crude oil rises to $29.50 per barrel.

The current OPEC price is approximately $23.50 per barrel. Moreover, on the spot market, some oil has been trading at $45 a barrel. And OPEC is expected to raise the $23.50 base price to over $30 a barrel within the next few weeks.

Therefore, the $3 production tax credit will probably never be available for the development of alternative energy sources.

This amendment will provide a measure of assurance to those who would risk investment capital for the construction of wood pellet plants. It provides that the tax credit will be available for 3 years regardless of the world price of crude oil. Without this assurance, the plants may not be constructed and the precious energy they would produce will be lost. We cannot afford to take this risk. Industry must be assured that the credit will be available.

This amendment places a moratorium on the phaseout of the credit. The Joint Tax Committee estimates the revenue impact of the proposal would be $286 million between now and 1985, when the credit would terminate.

Mr. President, this amendment was narrowly confined to one phase of fuel production. I understand that the distinguished Senator from Hawaii has a substitute that broadens the base of this amendment to extend this same credit to other qualifying processes, which the original bill permits to be covered by a credit now. So, Mr. President, I yield the floor to the Senator from Hawaii who, I think, wishes to amend my amendment.

UP AMENDMENT NO. 872

(Purpose: To provide that the credit for the production of fuels from nonconventional sources will be allowed without regard to the phaseout for the first 3 years of production)

Mr. MATSUNAGA. Mr. President, I send a substitute amendment to the Nelson amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA), for himself, Mr. NELSON, Mr. TALMADGE, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. DURKIN, proposes an unprinted amendment numbered 872 to the Nelson amendment numbered 871.

Mr. MATSUNAGA. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

In lieu of the matter to be inserted by the Nelson amendment, insert the following:

"barrel over such fraction bears to a barrel.

"(7) LIMITATION ON APPLICATION OF PHASEOUT.—Beginning with taxable years beginning after September 30, 1980, the provisions of subsection (c)(1) (relating to phaseout of credit) shall not apply with respect to the first 3 taxable years of production of qualified fuels by a facility or property (within the meaning of section 613(a)) with regard to periods after September 30, 1980.

"(8) WOOD FUEL PRODUCTION UTILIZED BY TAXPAYER.—Qualifying processed wood fuel (as defined in subsection (d)(3)) which is produced by the taxpayer and which is used by the taxpayer in his trade or business to produce steam shall be treated as having been sold if the taxpayer establishes and maintains adequate records to reasonably satisfy the Secretary as to the barrel-of-oil equivalent of the qualifying processed wood fuel produced by the taxpayer which is used during the taxable year. The amount of production which is treated as having been sold by the taxpayer shall be reduced by the amount of fuel that is directly used by the taxpayer in producing the qualifying processed wood fuel.

"(f) TERMINATION DATE.—This section shall not apply to taxable years beginning after December 31, 2000.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Production of fuels from nonconventional sources.".

(2) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels produced after December 31, 1979, in facilities placed in service, or from wells drilled, after September 30, 1979, and before January 1, 1990.

(2) EXCEPTIONS.—

(A) QUALIFYING PROCESSED WOOD FUELS.—In the case of qualifying processed wood fuels (within the meaning of section 44D(d)(2) of the Internal Revenue Code of 1954, as added by subsection (a)), the provisions of section "SEC. 44D. Production of fuels from non- not apply, and the amendments made by this section shall apply to fuels sold after September 30, 1980, and before October 1, 1983 and produced in facilities placed in service after April 20, 1977, and before October 1, 1980. In the case of facilities placed in service after September 30, 1980, and before January 1, 1982, such credit shall apply to fuels sold for three calendar years following the date such facility was placed in service.

(B) BIOMASS STEAM.—In the case of steam produced from solid agricultural byproducts, the amendments made by this section shall apply to steam sold after December 31, 1979, and before January 1, 1985, and produced in facilities placed in service after September 30, 1978. Where the facility is placed in service on or prior to September 30, 1978, the amendments made by this section shall apply to steam sold after September 30, 1980, and before January 1, 1985, only to the extent, additional or replacement facilities placed in service after September 30, 1978, increases the production capacity and actual production is increased.

Mr. MATSUNAGA. Mr. President, the amendment I am proposing guarantees the $3 tax credit per barrel of oil equivalent, for the production of alternative energy for a period of 3 years for qualified facilities. This amendment imple-

ments the production credit provision already in the committee bill.

The committee bill, however, has a phaseout provision; under the phaseout, once oil reaches the price of $29.50 a barrel, the $3 credit would not be allowed.

Already, the price of a barrel of oil is approaching $29.50. If we were not to accept this amendment to disregard the phaseout for at least 3 years, those exploring the feasibility of producing synthetic oil and energy from alternative sources, would lack the incentive to do so. This amendment is in full keeping with the intent of the bill itself; that is, to encourage entrepreneurs to risk the production of alternative sources of energy.

Of course, as we well know, the President proposed the windfall profit tax for the purpose of raising money to finance the production of energy from alternative sources; development of domestic alternative energy resources would reduce and eventually eliminate the importation of foreign oil from uncertain sources.

Mr. President, it is my understanding that the manager of the bill is prepared to accept this amendment. It is my understanding that the minority side has no objection to this.

Mr. DOLE. The minority side has not been consulted on it. I am not certain we will accept it.

Mr. RIBICOFF. May I say there may be opposition on this side to this proposal. This is a proposal that will cost some $3 billion over the next 10 years. The credit was intended to provide a price incentive for the producton of specified forms of energy. After the credit phases out, this amendment would contine to subsidize production for at least 3 years without regard to the price for which competing forms of energy or oil sells. This credit was originally provided when the price of oil was down at about $23 or $24. Now it is coming up to $30 and it is going to rise further. There are enough incentives with the normal market price to warrant the alternate sources of energy without giving a special break to these alternative sources of energy.

So the committee proposal was a fair one, and there is no justification at the present time, because the price of oil has gone up, to give this special break to the amendment of the distinguished Senator. I have to oppose it.

Mr. MATSUNAGA. Mr. President, I believe I still have the floor. I have not given up the floor.

In response to the Senator from Connecticut, I must emphasize again that the alternative energy program in the windfall profit tax bill seeks to eliminate the importation of foreign oil. How do we eliminate the importation of foreign oil? By developing alternative sources of domestic energy; by offering this $3 credit, we will encourage the development of alternative domestic energy.

The Senator from Connecticut will recall that the committee did accept and approve the Talmadge amendment, establishing the $3 credit; at that time we had no idea the OPEC nations would raise the price of oil to the extent they have.

The cost of developing alternative sources of energy—for plant, equipment, and labor—has increased with rising oil prices. Unless we provide an incentive, the industry will have no encouragement to undertake the risk and develop alternative sources of energy.

Let us keep in mind the objective of this bill, and let us not forget that this amendment implements the original provision the committee bill; we are not extending the credit to any other sources not covered by the bill. We are merely assuring that the credit originally intended, will continue for at least 3 years.

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

Mr. MATSUNAGA. I yield to the Senator from Wisconsin.

Mr. NELSON. I point out that the cost is no greater than we anticipated the cost would be when we adopted the amendment in the Finance Committee. The cost is the same. What we did not anticipate was that the price of oil would rise as rapidly as it has.

Therefore, the proposition before us is the same as the proposition that was before us in the Finance Committee, and the need and the desirability of inducing various alternative sources of energy so we will not import so much oil remain the same.

There are forests all over New England and in other parts of the country. I am interested in a pelletized wood process. We have plenty of resources in my State and, as I said, all over New England. Pellets for this process can be made from biomass fiber, essentially any organic fibers. Pellets have been produced from forest and lumber mill waste products.

However, other fibers which have been pelletized successfully include sugar cane residue, peat, rye grass, straw, copra, rice hulls, hardwood bark, primary and secondary sewer sludge. All these have been pelletized and used as a source of energy.

I think it is important that we let this credit go at least for 3 years and not have the trigger point for a cutoff of the subsidy occur at a certain dollar value, because that is unrelated to the problem we are seeking to solve.

In the Finance Committee, we could just as well have selected a figure of $35 a barrel, and then any company or anyone in this country would have been eligible. We arbitrarily took a figure, expecting that it would be high enough so that industries which wanted to get into this kind of alternate source would have an inducement to do so. We guessed wrong as to how fast the price of a barrel of oil would go up. That would not bar us from proceeding with what we thought in the Finance Committee, after careful consideration, was a sound and good proposal.

Mr. President, I do not know whether the Senator from Hawaii has yielded the floor or just yielded to me.

Mr. MATSUNAGA. Mr. President, I regret the earlier confusion. I was under the mistaken impression that the staff had worked out the matter and agreement had been reached. However, I find the situation to be otherwise; the Senators had not been informed about this.

Mr. President, I point out, in addition to what the Senator from Wisconsin has said, that this credit would apply to items already in the committee provision—that is, oil from shale; oil from tar sands; natural gas from geopressurized brine, coal seams, or Devonian shale; liquid, gaseous, or solid synthetic fuel, other than alcohol, from coal liquefaction or gasification facilities: gas from biomass; steam from agricultural byproducts; and qualifying processed solid wood fuels.

In addition the credit is cost effective. It applies only if the facilities create alternative energy. If the energy is not produced, the credit does not apply. In other words, only in the event a barrel of imported oil is replaced or displaced by an equivalent of that barrel of oil, by the production of domestic alternative sources of energy, will the $3 credit apply. So it is cost effective. It is not a case of a giveaway.

I think the figures of the committee staff indicate that this will cost $3 billion. The committee provision originally was intended to cost that much. But the provision may never be implemented, because the phaseout provision will apply prematurely. This amendment corrects that situation; the amendment does not deviate from the intent of the original committee bill. The amendment carries out the original intention of the committee; it gives a tax incentive for undertaking the present-day uncertainties and developing alternative sources of energy. If the energy is produced, the developers will get the credit. If they do not produce, they do not get the credit. That is how simple it is.

I cannot see why the Senator from Connecticut would object to this. I do not believe he is representing the view of the committee.

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

Mr. MATSUNAGA. I yield the floor.

Mr. RIBICOFF. Mr. President, I do not know whether I represent the view of the committee or not, but as a Senator, I represent the view of myself and, I believe, of many other Senators.

I was a member of the committee when this credit was voted on. At that time, oil was $21 a barrel, and it was estimated that the alternate sources of nonconventional energy would be expensive and that, therefore, they were entitled to a break of $3 a barrel, which would take it up to $24.50, to make them whole. But now oil is at $30 a barrel. So this extra $3 credit would be a new windfall.

With oil going up at a rapid rate and OPEC meeting soon, undoubtedly we will be paying $30, $40, or $50 for a barrel of oil, and the $3 certainly will be absorbed easily in the cost of production. Consequently, it is no longer necessary to give an incentive to the nonconventional producers of energy, because they will more than be able to amortize their additional costs and make a substantial profit.

It is one thing to give a $3 break to someone producing oil at $21 a barrel in the marketplace, but it is another thing to give it to someone who is getting $30,

$35, or $40 a barrel. Not only would it cost the fund $3 billion, but also, it would give an unnecessary break to a group in our society to which it is not necessary. Therefore, I oppose the amendment.

Mr. DOLE. Mr. President, the Senator from Kansas dislikes opposing any amendment, but I might say in this instance I know the staff had a conversation but it was not brought to the attention of the Senator from Kansas until it was introduced a few moments ago.

I guess we could all suggest the best way to increase production, and there have been a number of votes in this Chamber. Some of us offered proposals we thought at least would not hinder production by loading up increased taxes on oil producers, and we have been not very successful in that effort. But in any event until the Senator from Kansas has a chance to fully understand the amendment, until the staff has had a chance to fully explain it to this Senator, I must either oppose the amendment or hope that we have another chance to look at it before it is finally put to a vote.

Does the Senator from Hawaii want to withhold action on the amendment now and try to work it out? I do not want to foreclose favorable consideration.

Mr. NELSON. I thought both sides worked on it.

Mr. MATSUNAGA. Mr. President, I have just discussed with the Senator from Wisconsin the situation before us. Under the circumstances we are willing to lay aside the amendment temporarily. I ask unanimous consent that the Nelson amendment and the substitute which I offered be laid aside temporarily.

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

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The order is to consider plowback amendments offered by either the Senator from Kansas (Mr. DOLE) or the Senator from Washington (Mr. JACKSON).

Mr. DOLE. But other amendments are in order?

The PRESIDING OFFICER. By unanimous consent.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, a parliamentary question.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is it in order to make statements?

The PRESIDING OFFICER. Yes.

LET'S SET THE RECORD STRAIGHT ON TAXFLATION

Mr. DOLE. Mr. President, yesterday the Senate voted to automatically increase taxes every year without needing to vote the increases. That is the practical effect of the Senate vote on the Dole-Armstrong amendment to the windfall profits tax. The amendment would have ended the inflation tax penalty by precluding the automatic tax increases that occur when inflated income pushes people into higher tax brackets.

Perhaps the Senate is not ready for such a significant, simple, and essential tax reform. But the American people are ready for it, and the Senator from Kansas is gratified that the Senate is moving closer to ending taxflation. When this issue was last voted on the floor of the Senate, there were 37 votes for indexing the income tax, and 53 votes against. That was in October 1978. Now, little more than a year later, 42 votes were cast in favor of indexing, and only 46 votes were cast in opposition. If anyone doubted that support for indexing is growing, they should doubt no longer.

Mr. President, the Senator from Kansas would like to express his deep appreciation to those of his colleagues who spoke in behalf of the Dole-Armstrong amendment, and to those who cosponsored the proposal. I particularly want to thank the distinguished Senator from Colorado, Mr. ARMSTRONG, for his fine effort in behalf of this amendment.

Mr. President, the inflation taxing penalty has become a bipartisan issue, as yesterday's vote clearly shows. I believe the Senators on our side of the aisle should be unanimous in support of tax indexing, and I hope that that will be the case next time around. But the bipartisan nature of the support for indexing convinces me that we will win next time the question is brought up. For that reason, there is cause to be gratified by yesterday's action.

I was disappointed, however, by the quality of the arguments raised in opposition to the Dole-Armstrong amendment. We have heard them all before, and they have been definitively rebutted before. Just so there can be no further doubts, let me address some of the objections raised by the distinguished Senator from New York (Mr. MOYNIHAN) and by the distinguished chairman of the Finance Committee (Mr. LONG).

Mr. President, Senator MOYNIHAN stated that the Dole-Armstrong amendment would cost the Treasury $17 billion in 1981, and $92 billion by 1984. These figures are wrong, and I do not know how the Senator arrived at them. I suspect that he misunderstood how the Dole-Armstrong amendment would work, so I will take this opportunity to explain it to him.

The Dole-Armstrong amendment, like the Tax Equalization Act, S. 12, would require that the tax brackets, zero bracket amount, and personal exemption be adjusted each year according to the rise in the Consumer Price Index for the most recent year. This needs to be done so that withholding tables for the coming tax year will reflect the inflation adjustments.

For calendar year 1981, the adjustments would reflect the inflation during fiscal 1980. According to the Joint Committee on Taxation, inflation will increase income taxes by $9.7 billion in fiscal 1980 (assuming 10.6 percent inflation in calendar year 1980). That $9.7 billion is the amount that the Dole-Armstrong amendment would restore to taxpayers for calendar year 1981. Again according to the joint committee, inflation would raise taxes by another $9.6 billion in fiscal 1981. This amount would be restored to taxpayers in calendar year 1982. The figure for fiscal 1982 (calendar 1983) is $9.9 billion; for fiscal 1983 (calendar 1984) it is $10.1 billion. The inflation assumptions are 9.3 percent for 1981, 8.6 percent for 1982, and 7.8 percent for 1983.

Mr. President, these figures are not nearly so terrifying as those suggested by Senator MOYNIHAN. Admittedly, the figures are much higher if you consider the cumulative effect of inflation on taxes. Once people are pushed into higher tax brackets, they stay there; and the inflation tax increase for 1 year is taxed again the next year. But even if that factor is taken into account, the Joint Committee on Taxation estimates that in 1984 the cumulative revenue effect on indexing under Dole-Armstrong would be $66.7 billion, not $92 billion as stated by Senator MOYNIHAN.

But whatever figures you accept, the argument that tax indexing would increase the deficit is false and misleading. That argument was made yesterday by both Senator LONG and Senator MOYNIHAN. It is false because Congress can find ways to cut spending, or it can vote to increase taxes to raise revenues. I suspect the Senators fear having to face such a vote. The argument is misleading because the Senators who raise the specter of a rising deficit claim, at the same time, that periodic tax cuts are adequate to compensate for the effect of inflation on taxes.

In other words, the Senators expect to vote for tax cuts that would eliminate the taxflation revenues anyway. What they want is to preserve their ability to take credit for tax cuts that do nothing more than maintain the status quo. Either that, or they must concede that inflation does automatically increase the tax burden, and the size of Government, over time. They cannot have it both ways, as they are accustomed to do.

Mr. President, these threadbare arguments against tax indexing prove that the time is near when tax equalization will be enacted. The case against it has been demolished, and there are no new arguments to be made. I urge my colleagues to continue to work for this legislation, and to continue to educate the public concerning inflation and taxes. Equity, honesty, and sound economic policy have always been on our side. Now we have the momentum as well.

Mr. President, I understand the Senator from Washington (Mr. JACKSON) and the Senator from Kansas have plowback amendments pending. Is the Senator from Washington ready to proceed? The Senator from Kansas is not.

Mr. JACKSON. No. Monday.

Mr. DOLE. I indicate in due time those amendments will be presented.

The Senator from Kansas wishes to have the opportunity to call up an amendment sponsored by the Senator from Kansas, the two Senators from New Hampshire, and the distinguished Senator from Maine (Mr. COHEN). The

amendment is one of those nongermane amendments. But I might add that it does directly involve energy and the energy crisis and the need for urgent action. It is a matter where there is a great deal of interest in this particular amendment by the Senator from New Hampshire (Mr. DURKIN) and the Senator from New Hampshire (Mr. HUMPHREY).

All it does is increase the statutory ceiling on SBA guaranteed loans to fuel oil dealers at prime interest rate with a 90-percent guarantee from $500,000 to $1 million; and increase the statutory ceiling on economic dislocation loans to fuel oil dealers at 8¼-percent interest from $100,000 to $500,000.

Mr. President, the Senator from Kansas would just indicate that we are in the winter season now, and while I understand the reluctance to accept nongermane amendments, I also understand that Mother Nature is not going to wait until Congress goes through the hearing process next year and until we have an appropriate vehicle from an appropriate committee.

I hope that before the day is out we can offer this amendment and have it accepted or voted on by the Senate. There is no cost involved in the amendment. It is not an amendment that costs any money. I think it will be very helpful to those fuel oil dealers, medium-sized and small fuel oil dealers, who are paying increased costs for heating oil.

Mr. LONG. Mr. President, we have an agreement that we are going to vote on some amendments that are germane to the bill, and I would be willing to agree to set aside those germane amendments to vote on something that is germane to the bill. But I would have to object to setting aside amendments that are germane to the bill to take up amendments that are not germane to the bill. We will just never get this bill to a vote if we are going to continue to debate and consider amendments here that are not germane to the bill. We will be here until Christmas.

For example, the Finance Committee met on yesterday and considered 30 amendments that it recommended involving revenue bills, and all of them have merit. It even declined to act on some that have merit because the Treasury opposed them. Every one of those amendments, perhaps 30 in number, could all be offered here on this bill, and all the time we spend debating those just delays the action on this bill.

Now, in a plea to the distinguished ranking Member on the other side of the aisle, I would appeal to him to withhold these nongermane amendments for the time being and let us vote on the things that are germane to the bill. He has an amendment. If it is germane I would plead with him to bring it up and let us vote on it. But please spare us these nongermane amendments until we have had an opportunity to act on the amendments that must be disposed of, that are germane and, perhaps, essential to this bill.

We have these other bills coming up behind this bill and the amendments could be offered to one of those. Would he please limit himself for the time being to germane amendments so that we can make progress on something that is germane to the bill.

Mr. DOLE. The Senator from Kansas prefaced his remarks that this amendment was not germane and he would not pursue it at this time if there were germane amendments to act on. If there were not, I do not know why we could not act on an amendment that does not cost anything, an amendment that would accommodate some Members of this body and accommodate some fuel oil dealers who are having trouble in some areas that are cold.

Mr. LONG. Mr. President, every time we act on one nongermane amendment, we open the door to other nongermane amendments. There have been several Senators who have come to me for the purpose of offering amendments that are not germane. I plead with them not to offer them but to come forward with amendments that are germane. Their plea is, "Well, there are nongermane amendments in the bill already," one that was reported and proposed by the Senator from Kansas, which is a good amendment, but we decided that this was one we wanted to send down to the President on a bill he very much wanted to sign. We thought about it and thought about it, and that it might amount to a confrontation, and we decided to do that and made up our minds to do that.

But I know this amendment is not quite that sort. If we start getting into more and more of these type things, it just postpones indefinitely the time that we can get around to others. People who have amendments that are here—and we have had a whole sheet of amendments around here, most of which are germane to the bill—I would urge that we consider those rather than talking here this afternoon and adding more and more nongermane amendments. By the time we get to Monday people will clean out their desk drawers on nongermane amendments, and we will have more from those with imagination.

Every time we add one that sets the stage, and if we must invoke cloture in order to get a germaneness rule, that then sets the stage, for people to offer amendments to those amendments which leaves us even further afield and takes more time before we can get through.

I yield to the Senator from Arizona.

Mr. DECONCINI. Mr. President, what is the pending order, the plowback amendments of Senator DOLE or Senator JACKSON?

The PRESIDING OFFICER. There is an order pending providing for the consideration of an amendment of the Senator from Kansas and an amendment of the Senator from Washington.

Mr. DECONCINI. A further parliamentary inquiry. To vary from that order would take unanimous consent; is the Senator from Arizona correct?

The PRESIDING OFFICER. That is correct.

Mr. DECONCINI. I thank the Chair.

Mr. DOLE. If that is the case, I understand the Senator from California has a little bombshell he wants to drop here, a little technical amendment, that wipes out the Danforth amendment, so I will object to anything he wants to offer if it takes unanimous consent, and we can stop right now.

Mr. ROBERT C. BYRD. Mr. President, we do not have to stop right now. Under the order Mr. DOLE can call up his amendment, I believe, or we can ask unanimous consent, as we have been doing, continuing to set that aside and to proceed with any other amendments.

I am prepared at this time to either withdraw my amendment to the House bill—I do not need any consent to do that—or I can ask unanimous consent to temporarily lay it aside and let somebody offer an amendment to the House bill.

Mr. DOLE. I would certainly be willing to not object if the Senator from Arizona has a germane amendment he wants to offer. I might say to the majority leader that the Senator from Kansas agreed to a time limitation of 1 hour, and then two of those amendments were set over until Monday, and we were hoping on this side that we could merge them.

Mr. DECONCINI. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. Yes, I would be happy to yield.

Mr. DECONCINI. The Senator from Arizona's amendment is nongermane. It does not affect revenues. I have waited for over a week and tried to work with the committee majority and minority to try to get the amendment up. I am willing to enter into a time agreement. It is not a highly controversial amendment. It deals with a slight repeal of the 1976 tax bill, and yet I have waited and accommodated myself for over a week to get a single amendment up. I do not mind waiting a day or 2 days, but I think it is unreasonable around here to stand and wait and let everybody else bring up amendments because they happen to be "germane," and I happen to have an amendment that does not apply to revenues.

Mr. ROBERT C. BYRD. Mr. President, we just started only today, may I say to my friend from Arizona, urging that amendments be germane. There have been days this week and days last week—and I can see where I have been on my knees, I can see the spot where I was on my knees on the carpet, pleading for Members to come over and call up their amendments, and I did not ask whether they were germane or not germane.

Mr. DECONCINI. I was not here when the Senator was on his knees asking for that. But I have had folks tell me when I asked if I could bring up the amendment to "Please put it off. We are working on a time agreement, and we would appreciate it if you would not bring up any amendment at this time," and I have continuously accommodated them.

Mr. DOLE. Mr. President, the Senator from Kansas has no objection to the Senator from Arizona—I do not know what the amendment is, but it sounds like a good one—bringing up his amendment; but I would have some objection to the Cranston amendment, unless we understand what it is. I would be willing

to agree that the Senator from Arizona might bring up his nongermane amendment if following that the Senator from Kansas still has the floor.

Mr. CRANSTON. Mr. President, I would like to say that my amendment does not wipe out the Danforth amendment. It does not mention the Danforth amendment.

Mr. DOLE. Well, the Senator from Kansas is aware of what is happening here. Once we take care of the chairman and his problems, cloture will be invoked, and the rest of us can go fishing.

We all have to protect our interests in this Chamber, and I am going to do the best I can to protect my own and that of other Senators who do not want a minimum tax unloaded on categories that are exempt.

If we can take the sting out of the Danforth amendment, cloture can be invoked; but until that is done I do not believe any cloture will be invoked around here, as I understand the feelings of the membership. But if we could take care of the Danforth matter, we could wrap up this other package. We were very nearly in agreement a few days ago, within a few dollars. I do not know about the amendment of the Senator from California, but if we could have some time to discuss his amendment with members of the staff on this side—we have not seen it, and we have not been a part of the discussion. That is not a requirement, but it is a courtesy that is sometimes extended.

Mr. CRANSTON. My amendment, in specific terms, was approved by the Finance Committee. It is no bombshell, no surprise.

Mr. DOLE. Does it do anything?

Mr. CRANSTON. It is an amendment to the House-passed bill that asserts the right of States to decide what to do with their revenues. Why should the Federal Government tell the States how to use their money if they use it for public purposes?

Mr. DOLE. I am sympathetic with the Senator from California's subject matter, but I have to protect the rights of the Senator from Missouri, who is on his way, I hope. He better hurry.

In any event, I would like to vote with the Senator from Louisiana, but any little leverage we have on this side we do not want to have consumed by agreeing to some procedure that will, in effect, make it much easier to impose a minimum tax on certain exempted categories of oil. This Senator has a strong feeling that that would happen.

Is yours an amendment to the House bill?

Mr. CRANSTON. Yes.

Mr. DOLE. As I understand, that is not open to amendment.

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

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I would be willing to lay my amendment aside, on behalf of myself and Mr. BRADLEY, to allow Senator CRANSTON to offer his amendment to the House bill.

Mr. DOLE. Well, I remember the other day the distinguished majority leader—I said, "We forgot to withdraw that amendment from the House-passed bill." He said, "No, we did not forget that at all. It is there for a good purpose. We plugged that avenue. We are going to stay on this Finance Committee bill and act on it."

I said, "That is a good idea; I wish I had thought of it."

But I understand the flexibility here, particularly on the part of the leadership. I do not want the leadership amendment on this bill, but this would permit a test vote on the Danforth amendment, without it having any impact. Maybe that is the place to put the minimum tax.

If we could work out some agreement to put the minimum tax on the House-passed bill, maybe we could work out a package. But we have alerted the Senator from Missouri, and I trust that he is on his way.

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

Mr. DOLE. Be happy to.

Mr. NELSON. I understood the Senator to say that this would be a test vote on the Danforth amendment. I am not sure of that. I do not think it would be. I might be for the Danforth amendment, but also for the Cranston amendment, because, as I understand, the House allowed the States to control their revenue, but earmarked it for education, which simply allows the Governor of the State to use it for education purposes on the State level. I do not even think we should have a rollcall on the Cranston amendment.

Mr. DOLE. The Senator may be correct, but I would like to have the Senator from Missouri present. His feeling is that we are legislating here for the benefit of four States, and it will be a big drain on the so-called frost belt States. They will get $33 billion in taxes; I do not know how many billions of dollars in California; Alaska is not exactly sun belt, but—that is their theory. It may not be mine.

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

Mr. DOLE. I am happy to yield to the Senator from California.

Mr. CRANSTON. I would like to say there are many more than four States that would benefit from the legislation.

Mr. DOLE. Well, 83 percent would go to four States.

Mr. CRANSTON. Let me tell you exactly what the amendment is, so we can talk about it intelligently.

Mr. DOLE. That would be helpful.

Mr. CRANSTON. The House language reads:

> Under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to public education.

It is a limit that revenues can only be used for public education. My amendment would simply insert the words "or other public purpose."

Why should we tell States they can use money from their own resources only for public education, if they have some other higher, demonstrable need in their own wisdom, like energy development, like transportation, or like other public purposes?

Mr. DOLE. As I understand, that is essentially what happened in the Senate Finance Committee.

Mr. CRANSTON. Right.

Mr. DOLE. And I think I voted that way in the Senate Finance Committee.

Mr. CRANSTON. Yes.

Mr. DOLE. So I do not want to be misunderstood. I do not believe I am going to be misunderstood. That is the thing that Senator DANFORTH would not agree with.

Mr. CRANSTON. Where is Senator DANFORTH?

Mr. DOLE. He is on his way. I do not know whether he is coming from Washington or Missouri, but he will be here. He has been notified.

Maybe we can work it out, if it is only going to be a little change on the House bill.

But it does seem to me that the only way the Senator has—I may not disagree with that amendment, but I disagree with the procedure. I can see the fuse getting a little shorter on any amendments others may have, because once this is adopted, I assume there will be a motion for cloture. Maybe the Senator from California opposes the minimum tax on the heavy oil they have in California. I would hope that would be the case.

Mr. CRANSTON. That is correct.

Mr. DOLE. So we can count on that.

Mr. CRANSTON. I happen to agree with the Senator on that.

Mr. DOLE. There may be others around who would oppose the minimum tax on that, and I hope the Senator from California will remember that. But that is the question the Senator from Kansas is pondering while the Senator from Missouri is traveling to the floor. If we could somehow avoid the minimum tax, then I believe a majority of the Senate could accommodate what the Senator from California has in mind. But in the meantime, it would seem to me that there are those Senators with legitimate nongermane amendments which can be adopted without much discussion, and I would hope that at the appropriate time some of those that are noncontroversial can be accepted or adopted by the Senate.

I might also suggest that we should have within the next hour a list of all the amendments on this side, whether or not they are germane, and whether or not the sponsors of those amendments would be willing to enter into a time agreement on their amendments. We have found thus far that most were willing to do that. Also, I guess we have discussed nongermane amendments, but I would hope we could accommodate the leadership in that way.

I would say to the Senator from Missouri, who has just entered the Chamber, that the Senator from California has an amendment that might be of some interest to the Senator from Missouri. I wonder if, without my losing my right to the floor, the Senator from California would repeat the substance of his amendment to the Senator from Missouri.

Mr. CRANSTON. Certainly.

Mr. DOLE. I ask him to do that.

Mr. CRANSTON. Certainly. It is an amendment to the House bill. Where the House bill states: "Under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to public education." My amendment would add four words to that provision, simply stating: "or other public purpose."

The objective would be to permit the States to do what is certainly appropriate under the doctrine of States' rights and under our Federal system: to use their own resources and their own revenues from those resources for the purposes that they deem are most suitable.

In my view, proposing to tax State-owned oil revenues—and that has been proposed—makes as little sense as levying a Federal surtax on revenues collected by State tax collection agencies.

The States should be allowed to use their resources for what they would like to use their resources for. If they would like to use them for education, fine. If they would like to use them to develop means of energy or modes of transporting energy, or modes of transporting people through transportation facilities, they should have that right. Whatever the public needs that is paramount, it seems to me that a State should be allowed to use their resources for that purpose.

The Sohio pipeline, which I think is of interest to the State of Missouri, was defeated for various reasons, primarily, perhaps, because the Sohio Co. decided to put corporate interests ahead of national interests.

The State of California is now considering developing the Sohio pipeline, using substantial State funds for that purpose. That would be—I would like to have the attention of the Senator from Missouri, if I may.

One purpose that the State of California is giving serious thought to in regard to using State resources is to develop the Sohio pipeline, which would be of great benefit to the people of Missouri and to other States.

The Sohio pipeline was not built, mainly because Sohio put corporate interests ahead of the national interests. The State of California is now exploring the feasibility of using revenues available to the States, and some other resources, to develop that pipeline on its own. Obviously, that could not occur if the State was robbed by the Federal Government of substantial resources presently available to the State. I believe that would be a disservice, not only to the people of California, but to the people of Missouri and the people of other States.

Mr. DOLE. Mr. President, have the yeas and nays been ordered to the Byrd amendment to the House bill?

The PRESIDING OFFICER. They have not been ordered.

Mr. DOLE. Mr. President, I would ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

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

Mr. DOLE. Mr. President, I will yield to the Senator without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, maybe I can help the Senator with the yeas and nays a little later, if we could let the colloquy go on. I understand Mr. DANFORTH was about to speak. Am I correct?

Mr. DOLE. Is the majority leader suggesting that I yield the floor to the Senator from Missouri?

Mr. ROBERT C. BYRD. If you wish to.

Mr. DOLE. I yield to the Senator from Missouri (Mr. DANFORTH).

Mr. DANFORTH. I thank the Senator from Kansas for his usual skill and care in protecting the interests of other Members on this side of the aisle, and particularly other members of the Finance Committee.

I am sure that the Senator from Kansas has some questions about the nature of the amendment which I plan to offer at some time. I do not know how he intends to vote on it. But it is characteristic of him and of the kind of leadership that he has shown on the Republican side in the Finance Committee, that regardless of what position he intends to take on the Danforth amendment, or amendments, whenever they are called up, that he would protect my interests at this time.

Mr. President, as I understand the parliamentary situation, we have a unanimous-consent agreement that no amendments are in order at this time to the Senate bill, unless such amendments are related to the question of plowback. I ask the Chair if that is the parliamentary situation at this time?

The PRESIDING OFFICER (Mr. PRYOR). The order is either for the Senator from Kansas (Mr. DOLE) or for the Senator from Washington (Mr. JACKSON) to offer a plowback amendment to the bill.

Mr. DANFORTH. So it would take unanimous consent for me to offer an amendment at this time to the Senate bill, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DANFORTH. Mr. President, I ask unanimous consent that it may be in order at this time for me to offer an amendment to the Senate bill.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, I have no objection, if the Senator wants to offer the amendment he has been talking about.

Mr. DANFORTH. Well, it may be a different amendment; it may be the same amendment.

Mr. LONG. Well, a Senator usually sends his amendment to the desk so all Senators can see what the amendment is.

The PRESIDING OFFICER. Does the Senator from Missouri desire to send the amendment to the desk?

Mr. DANFORTH. Mr. President, I might, at some time in the foreseeable future. I want to consider that. I am, more or less, thinking on my feet, since I did not anticipate this course of events to occur this afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, I am not willing to give unanimous consent, without knowing what I am giving unanimous consent to. I would have to object, under those circumstances. If the Senator would like to send his amendment up, I would be glad to give consent, if he is offering the amendment he has been talking about here. But if it is something else, then I do not know whether I would want to consent or not. I would like to see what the amendment is.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I must object, Mr. President, to a request to offer some amendment without specifying what the amendment is.

I believe the Senator has the amendment printed. If it is the amendment that I believe he has in mind, I would be glad to consent. But I would like to know what it is I am being asked to consent to.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Has the Senator objected yet?

Mr. LONG. I objected, because the Senator has not told us what amendment he had in mind. If it is amendment No. 707, then I would not object.

Mr. DANFORTH. Mr. President, I am not aware of any precedent for a Senator identifying in advance what amendment he is sending to the desk. I simply have asked unanimous consent that it may be in order for me at this time to offer an amendment to the Senate bill.

Mr. LONG. Mr. President, when one Senator asks unanimous consent, another Senator can object to it for any reason whatever. The point that concerns me is if I am giving consent for someone to offer an amendment, I want to know what I am giving consent to. So far, there has been objection to an amendment to be offered by Senator CRANSTON, and he specified what he had in mind. If it is the Senator's amendment No. 707, I would be glad to give consent. For all I know, if he has other amendments he wants consent for, I might be glad to give consent for them. But I want to know what I am consenting to.

Mr. DOLE. Will the Senator yield for a parliamentary inquiry?

Mr. DANFORTH. Yes.

Mr. DOLE. Can the Senator from Kansas send an amendment to the desk?

The PRESIDING OFFICER. The Senator from Kansas may send a plowback amendment to the desk.

Mr. DOLE. If I can send a plowback amendment to the desk, then he can amend my amendment?

The PRESIDING OFFICER. The amendment would be amendable.

Mr. DOLE. I thank the Senator for yielding.

The Senator from Missouri has the floor.

Mr. DANFORTH. Mr. President, I would just like to speak at this point about the nature of the amendment offered by the Senator from California. As I understand it, in the House of Representatives at the 11th hour, I believe, as the consideration of the windfall profit tax was beginning to wind down, a Representative from Texas, I think Representative PICKLE, offered an amendment to the tax to the effect that States should be exempt from the appli-

cation of the windfall tax provided the revenues they received from royalties are dedicated to educational purposes. Without any particular consideration or thought about what that means, that amendment was accepted by the House of Representatives. I am not sure that there was ever really a rollcall vote on that particular proposition.

When the matter was brought up in the Senate Finance Committee, the point was made that the fact that funds are dedicated to an educational purpose really is not much of a limitation at all. It is not much of a limitation because of the fact that money is fungible. The money which is used for education is cash. Money which the State uses to operate their highway patrol or to build highways or to hire State employees is simply cash.

Therefore, if you have a fund available and you spend it for education, that simply frees up funds which would be available otherwise, which would be used otherwise, for educational purposes and makes those funds available for other purposes of the State.

It is my understanding that what the Senator from California is doing here is to add some words which probably in reality will not have all that much effect.

The State of California, even without the additional words that Senator CRANSTON would add to the bill, is going to be doing exceedingly well as a result of the decontrol of the price of oil. But I think, Mr. President, that this is one of the matters that we have lost sight of in our consideration of the windfall profit tax. We have addressed our attention as a Senate almost exclusively to how much money is going to be left in the hands of the oil producers and how much money is going to be taken from the oil producers and turned over to Government. This has been a matter on which the Senate has gone on at very great length.

I think the distinguished majority leader mentioned earlier this afternoon we have already taken something like 3 or 4 weeks on the windfall bill. The majority leader is contemplating filing a cloture petition because he feels that we should get on to other matters.

Mr. President, I am sure we should get on to other matters in the foreseeable future. However, we have failed to pay attention to an economic consideration which, in the opinion of the Senator from Missouri, is at least as important as the question of how much in the way of funds is saved to the oil producers and how much goes to Government.

Mr. CRANSTON. Will the Senator yield?

Mr. DANFORTH. Of course.

Mr. CRANSTON. The Senator stated a while ago that the amendment was offered in the House perhaps without very much thought. It was offered after very careful thought by a Texas Congressman because Texas allocates all of its revenues to education. As a consequence, I understand, it has a very fine educational system.

I would like to ask the Senator what rationality there is for devoting funds produced by this oil only to education, why not other purposes, like transportation, like other public needs? Why only education?

Mr. DANFORTH. I am not sure what the history was in the House.

Mr. CRANSTON. But just in the Senator's own mind.

Mr. DANFORTH. My answer to that question very frankly would be what public needs are we talking about. I think if we are talking about public needs which are peculiar, say, to the State of California, then as far as a citizen of Missouri is concerned, or anywhere else in the country, it really does not make very much difference.

Mr. CRANSTON. We would be talking about what is publicly determined under a State's constitution, under State law, by action of the legislature, by action of the legislative branch to meet, under the theory of States rights, what needs seem to be appropriate to be met. In this case it so happens that the State of California is considering investing a lot of time, effort, and money in exploring the feasibility of using a substantial portion of these revenues to build what was once called the Sohio pipeline. The State of California would like to build that. It would like to see it built. It would like to share its excess energy with people elsewhere, including the people in the State of Missouri. Here is a public program that the State of California envisages which would help the people of the Senator's State and other States.

Mr. DANFORTH. Let me ask whether any public purpose would include, for example, using the proceeds from royalties to acquire more oil-producing properties.

Mr. CRANSTON. It could. It would be whatever the State determines is appropriate use. The purpose of acquiring more State oil-producing properties would be to achieve funds, to earn funds to meet public purposes and thereby, to hold taxes down or reduce taxes. Is the Senator against reducing taxes where that is possible?

Mr. DANFORTH. Am I what?

Mr. CRANSTON. Is the Senator against reducing taxes where that is possible?

The objective here is to find ways to hold down the taxes of local taxpayers.

Mr. DANFORTH. I can only say to the Senator from California, for whom I have the greatest possible respect, that I really believe that our perspectives are somewhat different with respect to this bill and with respect to the entire energy situation and the situation with respect to decontrol.

My view is that we have a national energy crisis. My view is that the entire country is threatened by a national energy crisis; that this is something that is not peculiar to the State of California, it is not peculiar to the State of Texas or to the State of Louisiana or to the State of Alaska; that the energy crisis that America is facing today is one that hits every citizen of our country—not just a fraction of the citizens, every single one.

The issue, therefore, before the Senate as we debate the windfall-profit tax should be, how does the revenue relate to the national purpose? How does the revenue relate to the economic good and the energy security of the United States of America as a whole? Therefore, if the question is, Do I object to the possibility of having a situation arise where a few States—and I am talking about four States in number—receive such an additional economic benefit for their own people, for the service of their own people, that it does mischief to the rest of the country, yes, I am concerned about that. That is precisely what the issue is.

Mr. LONG. Will the Senator yield at that point?

Mr. DANFORTH. Of course.

Mr. LONG. I think I understand the point. This Senator is very concerned about taking the property of a State, and minerals are property. Mineral rights are real property rights. The Senator from Missouri would like to use the Federal power to tax away the property of a State. The Senator would ask to permit the State to keep some of its own property, he would ask, "How does this serve a national purpose?" I would ask, "How does it serve a State purpose?"

Minerals from State-owned lands are property of the States to begin with. I would ask him, How did it serve a State purpose for the Federal Government to take away from the State something that does not belong to the Federal Government? How would it serve a Federal purpose, for example, for the Federal Government to tax away a State's own revenue that the State taxes from its citizens? How would that serve a Federal purpose?

That is what comes next. What the Senator is proposing would tax a State just as though it were a corporation. If the Senator could do what he proposes to do here, it would make just as much sense to say a State should file a Form 1040, just like a corporation, and pay taxes on its income, just as though the State capitol building were corporate property, and pay a tax on that. Under both Federal and State laws, mineral rights are real property rights just as the State capitol building and the land on which it sits is real property. Legally, the minerals are part and parcel of the land itself.

When the Senator seeks to deny a State its income or deny a State its property, he asks, how does that serve a Federal purpose? My question to him is this: How does it serve a State purpose? The property, I say, to the Senator, belongs to the State itself. Would the Senator mind explaining how this serves a State purpose?

Mr. DANFORTH. I think it is very clear. The four States that are involved are going to be doing very well under any circumstance.

Mr. LONG. There are a lot of States involved. I would be glad to provide for the RECORD a list of States that have oil production on State lands. They are: Alabama, Alaska, Arkansas, California, Colorado, Florida, Illinois, Indiana, Louisiana, Michigan, Mississippi Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Tennessee, Texas, Utah, Wyoming, and South Dakota.

A further question. Basically the Sen-

ator is making the argument that we should redistribute the resources so that the States who have those resources would have less benefit out of them. The Senator says this tax should apply to all royalty interests, especially that which comes from under State lands. Why not redistribute the royalties from under Federal lands? If this is a windfall for the States to receive the royalty income on the increased price on oil from their State lands, is it not equally a windfall for any State to receive that 37.5 percent that they get out of the oil that comes from under Federal lands located within their States? Is that not equally a windfall?

Mr. DANFORTH. I say to the Senator from Louisiana that, quite frankly, I have not considered that matter. What I have considered is simply the advisability of deleting a special exemption which is provided in this bill. A special exemption has been provided in this bill for royalties received by State and local governments.

Mr. LONG. If we are going to tax at all, does it not make better sense, and does the Senator not have a more equitable right to tax from the States the windfall they get from under the Federal lands than he does the income they get from under their own lands?

Mr. DANFORTH. I am not making that argument one way or another. Maybe the Senator from Louisiana would care to offer such an amendment to that effect.

Mr. LONG. If the Senator succeeds in what he is trying to do, I would be compelled to offer such an amendment, just on the basis that misery loves company. If the Federal Government is going to redistribute the resources and they are going to redistribute what little resources we have in Louisiana, which has less than the national average per capita income, I guess I would have to share the pleasure of making a redistribution of someone else's resources.

I do not have invidious eyes toward Alaska. I voted for Alaska's statehood. I voted for Alaska to have land. Back at that time, people said Alaska could not financially support statehood. But Senator Bob Kerr of Oklahoma said, "Oh, yes, they can. They will find a lot of oil up there." And they found a lot of oil. They are better off because of it.

I am not seeking to redistribute Alaska's resources. If the Senator from Missouri succeeds in taxing Louisiana, if I can find a way to do it, I shall surely tax Missouri. I just do not see the point.

One point I would like to make, Mr. President, is that it is very ungracious of a Senator from Missouri to try to do such a thing to the State of Louisiana in view of the debt which Missouri owes Louisiana which can never be repaid. Perhaps the Senator does not recall it; he might not have read this in his history. But there was a time when the United States sent commissioners to France to see if they could buy the State of Louisiana, that beautiful territory with all those lovely black-haired women and gorgeous Creole people.

During negotiations, Napoleon said—

I don't want to make a deal and just sell that beautiful area of Louisiana, the garden spot of America. If I am to separate myself from that gorgeous land, you are going to have to take this whole acreage up here that I don't want.

The United States did not want to have anything to do with that proposition, but they said, "I guess, to get Louisiana, we will have to take all that." That is how Missouri became a part of the United States; they had to take you in order to get us.

It is very ungracious of a Senator from Missouri to try to tax Louisiana's resources after all that Missouri owes Louisiana. The people of Louisiana do not appreciate it.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. DANFORTH. I am happy to yield.

Mr. CHAFEE. It seems to me that the concern, as I see it, is that we have a real problem on the point the Senator's amendment touches on; namely, that for some peculiar reasons, the holdings of a State and the production from State lands are exempt. Of course, that has nothing to do with producing more windfall profit tax revenue—which the Senator from California and the others on that side are so interested in, this $185 billion—and it really has nothing to do with producing more oil. But it does satisfy the States that have the income.

It seems to me the more serious problem is what is going to happen with the tremendous revenues that these four States are going to receive from their severance tax on the windfall total price—in other words, when oil goes to the world price.

I do not know what Louisiana's severance tax is. Is it 17 percent?

Mr. LONG. Twelve-and-a-half percent.

Mr. CHAFEE. If you are getting 12½ percent on $13 and there is no competition—there is no free marketplace here—some people sitting in Vienna or Tunis, or wherever it is, under the color of OPEC, set the price at $24, $26, $30, whatever it is, the 12½ percent follows right along with that.

Research has indicated that in the next 10 years, between now and 1990, $128 billion additional revenue—these are billions, not millions—$128 billion of additional revenue is going to those States that have oil production, and 83 percent of that is going to four States. Eighty three percent of the $128 billion goes to four States.

Alaska comes in for $37 billion; Texas, $33 billion; California, $22 billion, and Louisiana, $14 billion.

What does that permit? Think of this. Texas, a State that is running a surplus currently, with no personal income tax, as I understand it, is going to have $3.3 billion a year in the next 10 years. That will permit Texas to offer untold advantages, privileges, inducements to anybody who will come down there and relocate.

A further exasperating and exacerbating factor is that the revenue sharing, which is very limited—it is set; it gets no bigger—that the distribution of the revenue sharing among the various States is based upon the tax efforts of the various States. So a State such as Louisiana—listen to this—which has not done anything different from what they have been doing, because of deregulation, has its 12½ percent on the oil that is produced there go up double, when you go from $13 a barrel to $26.

Their tax revenues are doubled, and that is viewed as a doubling of their tax effort. So not only do they get the $13 billion over 10 years, but also, if you can believe it, they get a bigger slice of the revenue sharing pie. I cannot believe that that is what we want to see happen.

Mr. DANFORTH. If I may respond to the question so well put by the Senator from Rhode Island, which I appreciate, I think the Senator from Rhode Island has stated the case very well, and that is to say that what is really involved here, and the matter that has received little attention, has to do with the flow of economic power in the United States of America. That is the big issue. It is not some parade of horribles: "Why, if you tax this, the next thing you know, you'll be taxing apples in Missouri." That is not the issue at all.

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

Mr. DANFORTH. I should like to proceed for a short time, and then I will be happy to yield for any question the Senator from California may care to ask.

The basic issue here is the flow of economic power within the United States. That is the question. The question, on one hand, is the economic interests of four States.

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

Mr. DANFORTH. If I may proceed for a short time——

Mr. TOWER. I just want to ask where the major concentration of economic power is today in the United States.

Mr. DANFORTH. The question involves the flow of economic power in this country. I think a well documented case has been made that, increasingly, the flow of economic power has been away from the Northeast, away from the north central part of this country.

What we are dealing with here is an economic situation in which four States are going to receive a total increase in State revenues, State and local governmental revenues, of $128 billion over a 10-year period.

The problem is not that we do not want to do something nice for Texas, Louisiana, or California. That is not the issue at all. I would be delighted to do something nice for California, Louisiana, and Texas, if it did not hurt the rest of the country. What is at issue here is the health of the whole country.

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

Mr. DANFORTH. If I may proceed, I will be happy to entertain any questions the Senator has.

At issue here is the economic health of the United States of America.

These four States—Alaska, Texas, California, and Louisiana—will receive 83

percent of the increased revenues of State governments over this period of time. Eighty-three percent of the $128 billion increased revenue will go to four States.

The State of Alaska, between now and 1990 will have $37.3 billion of additional State revenue. The State of Texas will have $33.2 billion of additional revenue. The State of California will have $21.8 billion of additional revenue. The State of Louisiana will have $13.8 billion of additional revenue.

If I were a Senator from Texas or Louisiana or California, I might feel the same way. This is a tremendous bonanza for these four States. It is not just that I do not want them to get a bonanza, but the problem is this: These four States now comprise 50 percent of the aggregate surplus in State budgets.

It is well known that there is a deficit in the Federal budget and that there is a surplus in the aggregate in State budgets. These four States constitute half of the aggregate surplus of all State budgets. Now, in addition to that large surplus of these States which are doing very well economically, we are adding an additional $128 billion of revenue between now and 1990.

The point simply is this: What are they going to do with the money? The State of Texas has no income tax. The State of Texas has no corporate tax. What are they going to do with this much money?

I submit to the Senate that there is only one thing they will do. They will conduct the most effective economic warfare against the rest of the country ever dreamed of, and they will begin packaging tax programs. They will build factories at nominal rentals, make loans at nominal interest. They will do this in order to make a very appealing package of economic incentives for business and industry to move into these States.

If the people from Chrysler States—and I happen to be one of them—think we are having problems now, just wait until one plant after another is picked off all over the rest of the country and this Mecca is created in just four States.

That is the big problem. We are not talking here about some minor, little, fine point. We are not talking here about some minor, little situation of "Why not? What's the difference, for a few billion dollars here and a few billion dollars there?"

We are talking about the economic health of the whole country. We are talking about the future of America. We are talking about jobs.

I say to the truly great chairman of the Finance Committee—he is a great man, and I admire him greatly—that what he is asking Senators to do is to vote against the economic interests not just of their own States but of the country as a whole.

That is the issue that is before the Senate.

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

Mr. DANFORTH. Of course, to answer questions.

Mr. TOWER. Is the Senator aware of where the current economic power of the United States is located? The greatest concentration of economic power is east of the Mississippi River, not west of it.

I submit, if the kind of mentality expressed here by the Senator from Missouri had been expressed and manifested by legislation in this body 175 years ago, no one would have ever settled in Missouri. There would never have been a westward movement in this country.

What the Senator proposes is to go to the foundations of the immunization of State institutions and State revenues from Federal taxation. This is not just a Texas-Louisiana-Alaska-California issue. Just wait. If this precedent is set, maybe municipal and State revenue bonds will be next because that is the kind of step the Senator is taking.

What is ignored here is the fact that controls have denied us revenue. We will just be catching up the revenue we have lost because of controls imposed on industries in our States on natural gas and on crude oil. And then what? These are capital assets that we are taxing that are not replaceable. Once that oil is gone it is gone. And that source of revenue is no longer available to the States that produce it.

So, perhaps if the Senator would make a provision that the Federal Government will make up for lost revenues once the natural resources are exhausted, ad infinitum, perhaps we could consider that there was something equitable about the amendment that he offers.

In my State no money is going into industrial development. It is going into education. I am not affected like the Senator from California because we use it entirely for educational purposes in my State.

But I think the Senator from California has made a valid point and I will support him on it.

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

Mr. DANFORTH. I yield for a question.

Mr. CRANSTON. I thank the Senator from Texas for his forceful and very sound statement.

The Senator from Missouri spoke of economic warfare. The State of California is not proposing any form of economic warfare against any other State or against the Union.

What the Senator from Missouri is proposing is a brandnew form of economic warfare, the Federal Government against the States.

The State of California and other States have various sources of revenue. The Senator is proposing and is raising what seems to me to be a totally new concept of relations among the States, namely, the idea that a State is a taxable entity like a corporation, a business, and an individual. And that is a very novel, totally new concept. My State is not Exxon.

The redistributor of wealth in our country and the machinery for that is the income tax system under our federal system. That is quite different from taking or taxing the property of a State.

Would the Senator propose that we tax the State of California because we have attractions that bring people here? Would he tax the State of New York because they have a tourist industry that is perhaps more successful than other States? Would he tax the State of Colorado or the State of Arizona because they have the Grand Canyon and many people go there for their scenery?

Once we start down this line of taking or taxing the property, revenue-producing assets owned by the people of our various States, we have a totally new approach to income levying and distribution of revenues and meeting the needs of our Federal Government. It is contrary to the sound federal system with which we have had very long experience.

I think it is a very radical idea that the Members of this Senate would not approve if they thought it through because they would feel they would be next.

Incidentally, even on this matter we are not talking only about California, Louisiana, Texas, and Alaska. We are talking about oil producing States like Montana, New Mexico, Oklahoma, Colorado—and there may be a lot more produced in that State shortly—Wyoming, which is similar, Mississippi, and other States.

But the basic principle goes beyond the matter of oil. Once we start saying that we can tax something that produces revenue in a State owned by that State that is the beginning of a long and dangerous trend in our country.

Mr. DANFORTH. Mr. President, I only respond to that in words far more eloquent than I could ever muster. They are the words that Justice Frankfurter uttered in delivering the opinion of the Supreme Court of the United States in the case of New York against United States, which is the leading case on this subject.

He was faced with the same kind of argument, exactly the same kind of argument the Senator from California is now making, and that is that the basic way to argue this kind of situation is to dream up a parade of horribles, dream up a parade of horribles about what if this and what if that and what if the other thing. And Justice Frankfurter in a decision closely on point answered that kind of argument as follows:

> To press a juristic principle designed for the practical affairs of government to abstract extremes is neither sound logic nor good sense. The process of constitutional adjudication does not thrive on conjuring up horrible possibilities that never happen in the real world and divising doctrines sufficiently comprehensive and detailed to cover the remotest contingency.

That is the statement of Justice Frankfurter and I think that it is as equally applicable today. We are not dealing with the normal situation.

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

Mr. DANFORTH. We are dealing with a situation in which by the stroke of a governmental pen price controls, that were imposed by the Federal Government on the States and everyone else, controls on the price of oil, imposed by the Federal Government on the States, restricting what the States and every other producer could get from their oil,

which were not challenged to my knowledge for constitutionality, that the Federal Government had on the States were suddenly lifted.

Mr. CRANSTON. Before we get too far will the Senator yield?

Mr. DANFORTH. As a result of lifting those controls, these four States will have revenue increases that go through the roof with or without my amendment.

If my amendment succeeds, these four States, the States in general, will have revenue increases of $117.2 billion.

Mr. CRANSTON. Will the Senator yield?

Mr. DANFORTH. If my amendment prevails these States will have income increases of $117 billion. If my amendment is defeated, they will have $127.5 billion, $128 billion.

So what is involved is $10.5 billion. The State of California, the State of Texas, the State of Louisiana, and the State of Alaska are going to be rolling in additional resources with or without my amendment. All I am trying to do is to somehow do something to retard this economic wave of the future and to protect the rest of the country, my own constituents and people throughout the country, from this problem.

This is a unique situation. This has not happened in the past where we have had controls suddenly lifted, prices and revenues suddenly going through the roof. This has not happened in the past. The energy crisis in America is unique. The energy crisis in America is desperate.

The resources, the funds, that are going to go into the treasuries of the States with or without my amendment are astronomical, and I really think it is stretching matters to say, "Well, if we deal with this unique situation, if we try to address this sudden wrenching of the economy of the country as a whole, then suddenly this parade of horribles that Justice Frankfurter so eloquently debunked in his opinion in New York versus United States is going to occur."

Mr. CRANSTON. On the Frankfurter decision, I believe it is not relevant in the sense that the Senator has cited it because it related to a business to make money run by the State of New York, which was in the soda water business. That is quite different. The Government was proposing to tax the soda-water business and that is quite different from proposing to tax a resource owned by the State.

The Frankfurter decision is relevant in that it did suggest the exact parade of horrors that the Senator is now proposing to start by his proposed amendment.

I would like to have the attention of the Senator for one moment in order to ask him a question.

Mr. DOLE. Mr. President, I wondered—

Mr. CRANSTON. I would like to ask this question. The Senator said that perhaps his amendment can prevail. Why do we not ask—and I am prepared to stand or fall on a vote of the Senate, and I presume the Senator from Missouri is prepared to stand or fall on a vote of the Senate—that we should go on with the tax bill and then get on to the Chrysler measure, which is important to the people in his State?

The longer we talk about this matter, the longer we delay talking about the Chrysler matter, which is exceedingly important, as the Senator knows.

I would like to suggest that we enable Senator BYRD to withdraw his amendment, then I will offer my amendment, and the Senator from Missouri can offer his amendment on top of mine, we can debate it, and then have a vote on his amendment. Will the Senator be prepared to do that? We have talked about this for quite a while, and Senators have had an opportunity to learn about the merits or demerits.

Mr. DANFORTH. The answer to that is I stood on the floor of the Senate a few days ago and tried to reach some sort of an agreement with the floor manager of the bill and was turned down flat. Now, the strategy, which is a very neat strategy, is to try to take the play away from my amendment which I want to raise on my own time and not be blindsided at this time.

Mr. President, I ask for the yeas and nays on two different amendments, for amendment No. 728 and amendment No. 729.

Mr. LONG. Mr. President, I object, and I object for a very simple reason. Reserving the right to object, Mr. President——

The PRESIDING OFFICER (Mr. BAUCUS). The Chair informs the Senator that the only amendment on which the yeas and nays can be ordered at this time, except by unanimous consent, is amendment No. 729.

Mr. DANFORTH. I ask unanimous consent for the yeas and nays——

Mr. LONG. Reserving the right to object, Mr. President, I am not going to give unanimous consent——

Mr. DOLE. Does that require unanimous consent?

Mr. LONG. To various and sundry things that I do not know what I am consenting to.

If somebody wants to explain to me what those amendments are the Senator is talking about so that I will know what I am being asked to consent to, maybe I will agree. But I must object until I know what the amendments are.

Mr. DANFORTH. I ask for the yeas and nays on amendment No. 729.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LONG. I must object.

The PRESIDING OFFICER. The Chair informs the Senator that unanimous consent is not required for the yeas and nays on 729. It is required for other amendments.

Mr. LONG. Is that the pending amendment?

AMENDMENT NO. 729

The PRESIDING OFFICER. Amendment 729 is considered the pending amendment.

Mr. LONG. I object.

Mr. DECONCINI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DECONCINI. What is amendment 729?

The PRESIDING OFFICER. Amendment 729 is the amendment offered by the Senator from West Virginia (Mr. ROBERT C. BYRD) and by others to the amendment by the Senator from——

Mr. LONG. Mr. President, how many people does it take to second that?

The PRESIDING OFFICER. It takes 11 Senators raising their hands to grant a sufficient second.

Mr. DOLE. Mr. President, how many seconds are there?

The PRESIDING OFFICER. Is there a sufficient second to the request of the Senator from Missouri? There is not a sufficient second.

Mr. DOLE. Mr. President, will the Senator from Missouri yield? I think the RECORD should show 11 Senators, and 4 cannot raise their arms.

It would seem to me if there is going to be the procedure around here where you cannot get the yeas and nays on your amendment or ask for the yeas and nays and have the cooperation of your colleagues, then this is going to be a long, long cold winter.

I would hope that we would give—I think there is also some right to have a vote on an amendment, and I hope the Senator from Missouri will continue to renew his request for the yeas and nays and we will try to round up 11 Republicans who can raise their hands.

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

Mr. DANFORTH. I object.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. Does the Senator withhold the suggestion of the absence of a quorum? Does the Senator from Missouri yield for the purpose of suggesting the absence of a quorum?

Mr. DANFORTH. No; I do not.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Is the amendment in question, 729, the amendment offered by the Senator from Missouri or offered by another Senator?

The PRESIDING OFFICER. Amendment 729 is an amendment offered by another Senator.

Mr. HART. Then I think, in response to the Senator from Kansas, this is not a situation where a Senator cannot get the yeas and nays on his own amendment. He is seeking the yeas and nays on an amendment of a Senator not present on the floor, so I think that changes the situation considerably.

Mr. DOLE. Not very much.

Mr. LONG. Mr. President, if the Senator——

Mr. DANFORTH. The Senator from Missouri still has the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. Mr. President, when the Senator asks unanimous consent and then the Senator asks for the yeas and nays, am I to be advised that at no point along that line does he lose the floor so that somebody else can be recognized?

The PRESIDING OFFICER. The Senator does not lose the floor in either case.

Mr. LONG. So no one can be recognized even to object?

The PRESIDING OFFICER. One need not be recognized to object.

Mr. LONG. Well, Mr. President, if one asks unanimous consent and one cannot be recognized to object, how is he going to object? [Laughter].

The PRESIDING OFFICER. One does not need the floor to object. One needs only to object.

The Senator from Missouri.

Mr. DANFORTH. Mr. President, my amendment, when I do call it up—and, as I say, I would like the privilege at least of calling it up on my own time, and I do not think that is too much to ask for, rather than late on Friday afternoon to have the play being taken from me like this. But when my amendment is called up, I think it raises a very important question. It would delete from the windfall profits tax the exemption for oil production by State and local governments.

As reported from the Senate Finance Committee, the windfall profits tax contains an exemption for oil interests owned by State and local governments if the proceeds are used for public purposes.

The Senator from California wants to amend the House bill, which really does not accomplish anything for what we are doing, but he wants to put this public purposes language in the House bill as well, expanding it. Currently, oil-producing States and their political subdivisions receive substantial revenues from oil produced within their boundaries. This revenue comes from two sources: taxes on oil production and oil producers, and royalties from oil produced on public lands.

As there is also decontrol these revenues will be increased by approximately $128 billion between 1980 and 1990; $95 billion of this amount will come from taxes, severance taxes, and other taxes on the production of oil; $33 billion will come from royalties.

If these royalties were subject to the windfall tax, State and local governments would be allowed to retain $117.5 billion instead of the full $128 billion. If these royalties were not subject to the windfall tax, they would keep $128 billion.

Mr. President, these figures, $117.5 billion and $128 billion, are computed on the assumption that oil prices will go up over a base of $30 by 20 percent over the rate of inflation during the next decade.

There are many who believe that this is a wholly unrealistic assumption, that the notion of oil prices going up but 2 percent over the rate of inflation is a very, very conservative assumption which has no basis at all in reality, and that what in fact is going to happen is that oil prices will go up at a much greater rate than that.

If they do go up at a much greater rate, the result of that will be that these States will not have $128 billion of additional revenue, but they will have quantum amounts beyond that. So the modest assumption, the most projection, the conservative projection is an increase in State revenues by $128 billion, but it will probably be much more than that, and all my amendment would do would be to reduce that by a small fraction: if it is $128 billion, to reduce it down to $117.5 billion, putting the States on the same basis as every other producer.

The legal question has been raised that when a State goes into business—and oil production is a business, let us face it—when a State competes with everyone else, it should be taxed like everybody else.

This is no new idea. Excise taxes have long been levied on State governments when they operate like everybody else in a business, and the windfall tax is an excise tax.

So, in any event, we are going to find this very marked increase in revenues, and 83 percent of it will go to four States. Alaska will have $37 billion of increased State revenues. Imagine that: $37 billion, in fact more than $37 billion, in increased revenue for the State of Alaska. Texas, $33 billion, when they already have a surplus. That is the situation.

An exemption for oil owned by State and local governments does not meet the test imposed by the Finance Committee in justifying other exemptions from the windfall tax. Over and over again, it was argued in the Finance Committee, as it has been argued on the floor of the Senate with respect to one proposal after another, that such treatment for one type of crude oil or another is justified because it would be repaid by increased production. It has been argued that if we forego the revenue from taxing a certain type of oil, newly discovered, incremental, tertiary, heavy oil, stripper production, independent production, the argument has been that if we forego the tax on that, we, the people—Americans as a whole—will be repaid; that we are not just trying to benefit the producers; that we are not just trying to give more money to the producers of oil. What we are trying to do instead is benefit all the people of America, and we benefit all the people of America, it is argued—argued by those who have supported one exemption after another, including many members of the Senate Finance Committee; many people who are on the floor right now have argued this—that all the people will benefit because production will go up.

Well, this argument for the exemptions that are in the bill just does not apply to the exemption for State royalties.

We agreed, in the case of newly discovered oil, tertiary recovery, and the like, that the test of increased production could be met. The revenues lost as a result of the exemption would be repaid by increased production, to the benefit of all Americans. The exempted sources of oil were believed to be price sensitive, and therefore deserving of special treatment under the act.

The exemption for State and local governments cannot meet this test. The revenue lost by this exemption would do nothing whatever to help us meet our national energy needs. That is the question before us, the national interest, not just the interest of four States. This exemption for royalties received by State and local governments will not produce one additional barrel of oil. It will not finance one additional synthetic fuel plant. It will not result in any additional energy conservation. This exemption simply accelerates the transfer of wealth from the country as a whole to a few States which are lucky enough to hold royalty interests or oil produced from State lands. It is a special treatment solely for the sake of special treatment.

The pretext for this exemption is that a tax on oil produced on State lands would be unconstitutional. That argument, however, is contrary to the holdings of the U.S. Supreme Court, and contrary to the legal opinion of the Treasury Department and the Congressional Research Service. It is their opinion that the courts would hold such a tax to be constitutional.

Concern for the Constitution, then, is not the real reason for providing a special exemption for State and local governments. The real reason for the exemption is regionalism. It rests on the pursuit of narrow self-interests of individual States, and it reflects the traditionally parochial approach to new legislation which too often characterizes us.

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

Mr. DANFORTH. We ask, "What is in it for my State?"

Mr. CRANSTON. Will the Senator yield?

Mr. DANFORTH. For a question, yes.

Mr. CRANSTON. I would like to ask the Senator, where in the Constitution does he find the notion or any authority for the concept that he is suggesting now, that the resources of State governments can be taken away from them by the Federal Government? I would like to suggest that the Senator can find nothing in the Constitution, the Senator can find nothing in the writings of the federalist papers, which suggests that the Federal Government, the central power in our society, can tax the revenues of individual States. Where does he find any basis for that approach?

Mr. DANFORTH. As I understand the position of the Senator from California, this is a tax on the revenues of the State.

Mr. CRANSTON. It is a tax on the possessions of the State, in effect.

Mr. DANFORTH. The answer is that this is a matter that is not covered in the Constitution. It is a matter on which the Constitution is silent, and therefore it is a matter which has been construed over the years by a series of court cases.

Mr. CRANSTON. I think the Senator has conceded my point.

Mr. DANFORTH. It is also true, I would say to the assistant majority leader, that there is nothing whatever in the Constitution to exempt or compel the exemption of this property from the windfall profits tax, and therefore it is subject to the tax, and this is why the Treasury Department has written a legal opinion and the Congressional Research Service has written a legal opinion on this subject. It is also why the U.S. Supreme Court, in the closest case on point, New York against the United States, has held this to be constitutional.

Mr. CRANSTON. The 10th amendment to the Constitution expressly states:

The powers not delegated to the United States by the Constitution, nor prohibited

by it to the States, are reserved to the States respectively, or to the people.

Mr. DANFORTH. Mr. President, I am absolutely delighted to have the Senator from California rely on the 10th amendment. It has been so neglected over the years, so forgotten, so swept under the carpet in legal actions in America, that the 10th amendment has gone virtually unnoticed. Now it has arisen on the floor of the Senate, and I am delighted to hear it, although I would only say that the 10th amendment is not a basis for this exemption, and that the legal opinions of the Treasury Department and the Congressional Research Service have found no constitutional basis for the exemption.

Mr. CRANSTON. The Senator from California has sided in accordance with his understanding of the 10th amendment on many occasions. For example, the Criminal Code bill, which I voted against because I felt it intruded upon the rights of the States.

Mr. DANFORTH. Mr. President, the broad issue that is raised for our consideration and will be raised by my amendment is not the constitutional question. The broad issue is national good versus regional interests.

In offering this amendment, when I do offer it, it will be my intention to pose the most important question of all in our deliberation on energy: Are we going to take a truly national approach to fashioning an energy policy? Or will we indulge ourselves in a grab-bag exercise, grasping for energy prizes for our individual States?

A perfect illustration of parochialism which has thwarted the creation of an effective energy policy occurred during a debate over energy assistance to low-income households. At that time, one proposal after another, one computer printout after another, was presented to Senators. And we considered them not on the basis of whether they made sense in helping people who were in need, but what is in it for my State?

At least half a dozen formulas were distributed on the floor of the Senate, not because they measured comparative need, but because they might be used to forge a winning political coalition.

Although it was finally discarded, a population factor was used in some computer runs, even though most people believed that that criterion really did not serve as the proper basis for helping people who were in need.

The energy crisis, Mr. President, is not a regional crisis. It is a threat to all Americans, no matter where they live. Vulnerability to interruptions of supply imperils the security not of a few States or communities, but of the entire Nation.

Regardless of where we live, whether in States which produce large quantities of oil, or in those which produce none at all, we are faced with a common problem which we must approach, not as Texans or Alaskans or Missourians or New Englanders, but as Americans. That is why the carrying out of a special exemption for the benefit of certain States or communities is inherently defective.

Mr. President, I ask the yeas and nays on amendment 729.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on amendment No. 728, as well.

Mr. TOWER. A point of order, Mr. President. Is it in order to——

The PRESIDING OFFICER. It takes unanimous consent to order the yeas and nays on amendment No. 728, while another amendment is pending.

Mr. CRANSTON. Will the Senator yield?

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Of course, I will yield for a question from the Senator from California.

Mr. CRANSTON. Mr. President, I will say that I totally agree with the Senator's estimate of the seriousness of the energy difficulties, problems, indeed, crisis that confronts us. But the position of the Senator from California is that we need not resolve that crisis at the expense of undermining the federal system.

We are undermining the federal system when the Federal Government moves in and takes the resources of the State. If it starts with oil, it is not going to end with oil. It is going to go on and on and on and on. And those who understand the importance of States' rights in this body had better heed this point.

Mr. LONG addressed the Chair.

Mr. DANFORTH. Mr. President, I still have the floor, I believe.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. DANFORTH. Mr. President, as I was saying before yielding to the Senator from California, the carrying out of a special exemption for the benefit of certain States or communities is inherently defective. And it is inherently defective because——

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order.

The Senate is not in order.

The Senator may proceed.

Mr. DANFORTH. I thank the Chair.

Mr. President, I direct the attention of the Senate to last summer's gasoline shortage. Its effects were felt across the entire country. In California, people camped out in their cars all night in order to fill their gas tanks. Riots broke out in Pennsylvania, resulting in a hundred injuries and 70 arrests. In North Carolina, 900 National Guard troops were mobilized to avert a blockade of fuel deliveries. And truckers surrounding a diesel fuel stop in Michigan, halted operation and deliveries for more than 48 hours.

The impact was not confined to service stations and drivers. Our faltering economy was further weakened. Florida citrus growers suffered $50 million in losses due to shipping delays; Midwest meat packers laid off workers; California grocers plowed under crops that they could not transport to the East Coast markets.

Also last summer, participants in the "Boston Gas Party" tossed oil cans into Boston Harbor. OPEC countries continued to raise their prices. And, if our patience was not sufficiently tried by early fall, the Nation's nervous system was stilted by a radical Libyan leader who was rumored to be considering oil cutbacks.

To be in a position where mere rumor sends the American stockmarket and world currency markets into tailspins is absolutely untenable. It is unacceptable in terms of national security, the domestic economy, and American pride. If the OPEC countries decide to bring this country to its knees, they will not target certain States in doing so. We will all go to our knees together.

Certainly, by now we have learned not to attempt predictions in the Middle East. But each new development in that part of the world will continue to raise America's energy anxieties until we act to solve America's energy needs. Our bondage to foreign oil is national—only by a national effort can we break out of it.

The principle behind the amendment I offer is a simple one—and I will repeat again, Mr. President, that with respect to this amendment and perhaps another amendment that I will offer, I am perfectly willing to enter into a time agreement. I am perfectly willing to bring it up at a time certain. I believe it is an important subject which deserves our debate and careful attention. I do not believe that the time period should be so short as to not give it its due debate. But we can certainly enter into a time agreement on this amendment and on the other one that I plan to offer to this bill to address the same question.

The principle behind the amendment that I will offer is a simple one: That is, in a time of national crisis, America must pull together. In the Revolutionary War, two world wars, and other times of emergency, the citizens of this country have stood together in unified response. If we fail to do that now, we cannot cut our dependence on foreign oil and boost our own production to necessary levels.

Americans all over this country have angrily muttered about how ridiculous it is for the most powerful country on earth to be strangled by a few Arab sheiks. Well, America did not get to be the most powerful country by depending on others—we did it by self-reliance, hard work, and pulling together.

That has been the source of our strength in the past, and will be the source of our growth in the future.

But future growth will depend on a unified, concerted effort now. We have come to take plentiful energy supplies for granted, and have been spoiled by generations of such plenty. We are used to the luxury of unlimited auto travel and unlimited air-conditioning. The notion of cutting back is an affront to the American lifestyle.

Cutting back, however, is now mandatory, as is greater production from our own energy sources. Neither process will just happen—they will both take work and sacrifice. I believe that most Americans are ready to accept those tasks, but only if they believe that they are equally imposed on all Americans. Equal imposition will happen only if our energy policy transcends local interests and represents national ones.

I fully recognize the obligations that

we each owe our constituents. We must exercise responsible representation of their interests and their views. But I believe that we have an additional duty as Members of the U.S. Senate, which is a national policymaking body. In addition to representing individual States, we also represent the Nation. If we ignore this fact in examining national issues, we are abdicating a large part of our responsibility.

So often, we receive appeals made on the basis of purely local interests. It is commonplace to receive a Dear Colleague letter that amounts to little more than an account of how each particular State will fare under one proposal or another. In revenue sharing, welfare reform, and even national defense, State interests are often paramount in our minds. Where should a ship be built or a pilot be trained? Which State will get how much under which formula? These are typical of our concerns, and as a result, our work frequently resembles a frantic scramble of one coalition of States against another.

This is the way it is, and the way it always has been. Yet there are issues that transcend purely regional concerns—questions of national security, of war and peace, of American pride and honor. These are matters that should bind us together, not drive us apart.

If the choice between State and national interests which confronts the Senate is a dilemma, it is certainly not a new one. Those who have served here before us faced issues just as complex as energy, with just as many conflicting regional aspects. And there have always been individuals who dared to raise their sights to solutions that would benefit all States, not just their own. Had our predecessors heeded only regional concerns, America's history would have certainly been different than it is.

In his book, "Profiles in Courage," John F. Kennedy focused on the conflict which a Senator sometimes experiences between the interests of the Nation as a whole and interests peculiar to his own State. President Kennedy's years in the Senate gave him firsthand knowledge of the choices that involve great risk of personal unpopularity and defeat. And he recognized the Senators who took those risks to promote the national good.

Kennedy writes, for example, of a predecessor from Massachusetts, John Quincy Adams. In 1807, the British were seizing American ships, stealing their cargo and forcing their seamen into service for the British navy. President Thomas Jefferson had urged that the United States enact an embargo that would effectively shut off all further international trade—a measure that would be ruinous to the leading commercial State in the Nation, Massachusetts. Yet it was John Quincy Adams who rose on the Senate floor and called for referral of the message to a select committee; who was appointed chairman of the committee; and who reported both the embargo bill and a bill of his own preventing British vessels from entering American waters.

"This measure will cost you and me our seats," Adams remarked to a colleague, "but private interests must not be put in opposition to public good."

Some 40 years later, another Senator subordinated his State's views on fugitive slaves to the preservation of the Union itself. Knowing that it would cost him his last chance for his life's goal, the Presidency, Daniel Webster made a speech on the Senate floor calling for adoption of the Clay compromise. "Mr. President," he began, "I wish to speak today, not as a Massachusetts man, nor as a Northern man, but as an American and a Member of the Senate of the United States * * * I speak today for the preservation of the Union. Hear me for my cause."

That cause has bound this Nation together through generations of statesmen. Early in this century, it was the focus of Theodore Roosevelt's "New Nationalism," which he defined as putting "national need before sectional advantage." In explaining his philosophy to a Kansas audience, Roosevelt said, "I do not ask for over-centralization, but I do ask that we work in a spirit of broad and far-reaching nationalism when we work for what concerns our people as a whole. We are all Americans. Our common interests are as broad as the continent. I speak to you here in Kansas exactly as I would speak in New York or Georgia, for the most vital problems are those which affect us all alike."

No issue affects all States more than energy, yet no issue has created such regional polarization as the struggle to create an energy policy. It has separated the sun belt from the snow belt, producing State from consuming State, east from west. These differences have us stalemated, and we have failed to fashion an effective national policy as a result. We have bickered and compromised and even filibustered our way into inaction. And we have watched America's energy situation deteriorate each day.

Our energy crisis is a question of national security and of national pride. And the issue now is whether we can unite behind a national policy to meet this crisis or whether we will continue to heed the old, feeble cry, "What's in it for my region?"

Will we endorse narrow self-interests at the expense of national interests? In the face of energy shortages that will affect all parts of this country, will we insist on exempting a handful of States that happen to have oil within their borders?

If we do, then the windfall tax will be a sham as it pertains to "national" energy policy. If we do, there will be little reason for all Americans to commit themselves to the sacrifices that improved energy supplies will require. And if we do, we give Americans even less reason to believe that on issues of overriding national interest, this body can raise its sights above 50 separate points of view to 1 consensus of the general good.

As elected Representatives, we hold a public trust. As national Representatives, that trust is defined not only by the borders of our own States, but by the borders of the United States. If we cannot establish an energy policy that is truly national in spirit and in fact, we will have violated that trust.

Mr. President, that is the issue that is before the Senate of the United States. It is a very big issue indeed. It is not an issue of whether oil-producing States get $128 billion or only $117.5 billion. That is not the question. The question is whether we can or cannot look at the good of the entire country.

I have no objection to conferring benefits on the State of Louisiana or Texas or anywhere else. So often, Members of the Senate appeal to one another to please help pass some bill which is of importance to their own State. The question before us is more than one State or a handful of States. The question is whether we have a national energy policy or whether this regionalization, this factionalism, will continue to divide us. It is whether we can focus on the national energy crisis as a truly national crisis, or whether we look for what is in it for one particular region or another, for one particular State or another.

My concern is very simple indeed. My concern is that, by placing such a large, increased amount of revenue in a few States in a very short period of time, we do not create serious economic consequences for the rest of the country. That is a matter that worries me very, very deeply.

The economy of America now is not in very good shape at all. The economy of the United States is now in a state where automobile plants are laying off workers. One of the three major manufacturers has its entire future at stake. Steel mills are shutting down. I think we have to reach this as a national problem and not just a fund for States in what will be a raiding party on the rest of the country.

Mr. CHAFEE. I wonder if the Senator will yield for a question?

Mr. DANFORTH. Certainly.

Mr. CHAFEE. Mr. President, I share the deep concern of the Senator from Missouri on the national economic situation as it appears to be in the forthcoming, at least foreseeable, future. As he mentioned, we have the crisis of the 10th largest corporation in the Nation verging on bankruptcy and coming to the Senate and the Congress for substantial assistance. We have the other two major automobile manufacturers in the Nation both suffering actual losses in the third quarter on their domestic production and but for their foreign sales, would have recorded a deficit.

We have one of the great institutions of our Nation, which we always looked upon as inviolate, as rich, as eternal really—that is, the United States Steel Corp.—laying off thousands of workers, closing some 30 plants, and reviewing their operations in their other plants as they look toward the gloomy future and what they are going to do to reorganize that company into a profitable one once again.

It seems to me that the subject we are discussing here today is, namely, $138 billion going to a very limited number of States and, indeed, 82 percent of it, as the distinguished Senator from Missouri has pointed out, going to some four States, with the entitlements that those

States are going to have. I heard the Senator from California state that they have no concern about luring away other industries. I find that refreshing, although perhaps inconceivable. There is not a State I know of in the Nation that is not searching from other States for industry, commerce, whatever it might be that will help the revenues within that State.

Mr. CRANSTON. Will my good friend from Rhode Island yield?

Mr. CHAFEE. I do not have control of the floor.

Mr. CRANSTON. I just want to say I made no such statement.

Mr. CHAFEE. I ascribe to the Senator more generous motives than perhaps the Senator has.

Mr. CRANSTON. I did not say that we do not want to have industry in California.

Mr. CHAFEE. No, he said California was not out to lure industries from other States to California.

Mr. CRANSTON. We do not have to lure them. They come because of our natural attractions, but we welcome them.

Mr. CHAFEE. I know California welcomes them and it will be in a better position to welcome them with the substantial bait that comes from this windfall profit tax. The revenue yielding to California alone, as I recall it, and I do recall it correctly, is some $22 billion in the course of the next 10 years. That amounts to $2 billion a year. California's budget, I suppose, annually is something like $9 or $10 billion. So we have 20 percent of that budget suddenly coming pouring in from unexpected sources.

I come from a section of the country that is very vulnerable to such inducements. We are in a high-energy area, it is cold. It is not the most modern area as far as manufacturing capacity goes. And unfortunately, sometimes, our industrialists do look with yearning to the sunny climes of California.

Florida is bad enough. They are all going to Florida, retiring there, moving their plants there.

I ask my distinguished colleague from Missouri if he does not see this not just as of deep concern to the Nation as a whole—that is, the other 46 States—but will it not probably be concentrated in the areas that are suffering most now, that have the highest unemployment, as he views the situation?

Mr. DANFORTH. Mr. President, in very short order, I intend to yield the floor. I am pleased to have had the opportunity this afternoon to begin debate on what I think is a really crucially important issue. I think that, regardless of what side we are on in this particular proposition, we all can agree, at least, on that. It is a matter which has received a lot of attention within the Senate, and I know that the feelings are very strong on both sides of it. I think it is an important question which has to be debated.

I will say to the chairman of the Committee on Finance—and I think he knows this—that I have the highest regard for him as a Senator and as a person and have really a great affection for him. He is a man who is a very big person in ways that I think go unmentioned and unnoticed, but I certainly have noticed it in his dealings with me. The one regret I have in this whole episode is that I know he feels very strongly about this, and I do not simply want to pick some quarrel with him. I am not that kind of person, and I know he is not that kind of person. It is a matter of principle to him, but I want him to know that it is a matter of principle to me. It is a matter about which I feel very deeply, from the standpoint of fashioning a national energy policy and from the standpoint of the economic future of the other 46 States in the Union. I really think they are threatened.

I do not believe this amendment is going to cure the problem at all. It is a minor part of it that is involved here—maybe $10.5 billion, maybe more, depending on the price of oil. It is certainly a fraction of the total problem.

However, I am very concerned about the future of the rest of the country, the future of the economy. It is not just to make some political points that I stand up in connection with the Roth amendment and in connection with my amendment and talk about it.

I think that we in the Senate became so involved in little details and little amendments that are before us that we miss the major problems, and the major problems have to do with demographics, with the economic flow in America, and with providing jobs and opportunities for people. That is why I feel so strongly about this.

I have a second amendment, which I have not offered yet, but which I will describe to the Senate very briefly, and then I intend to yield the floor.

If I could have the attention of the Senate, Mr. President, I would appreciate it.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DANFORTH. Mr. President, the second amendment I intend to offer would condition exemptions under the windfall bill on State governments not increasing their severance taxes on oil produced within their States. That is to say that right now, a barrel of oil is taxed at a certain amount, depending on the State. What concerns me is that even with or without a raising of rates by the States, the price of oil is going to go up; therefore, the State severance tax per barrel of oil also is going to go up. So the State's tax receipts, whether it will be $148 billion or $95 billion, are increased.

In committee and on the floor of the Senate, the debate has been as follows:

We, the U.S. Senate, should exempt from application of the windfall tax certain production of oil—newly discovered oil, tertiary recovery, heavy oil, stripper oil, the first thousand barrels produced by independent producers. In each case, the argument was made that these are price sensitive, that these are tax sensitive. We will increase the production of oil if the Federal Government relents, if the Federal Government exempts these types of oil from the tax.

Yet, at the time we are exempting those barrels of oil in these various categories from the Federal windfall profits tax, the State severance tax on the same barrels of oil will be going up.

So we are in a position in which we are exempting the oil and saying, "No, we are going to forego tax receipts," and at the same time, the State governments are increasing their receipts from exactly the same producers.

After all, a severance tax—a royalty, for that matter—is funds extracted from oil producers.

So it seems to be anomalous for us to say to the Federal Government that, in the name of production, we are going to forego the tax, while the State governments increase their revenues from the same barrel of oil.

My proposal, which I hope to call up and hope to resolve, is to condition the exemption from the Federal tax on State taxes not receiving absolutely nothing from a barrel of oil but on State taxes not increasing their revenues per barrel of oil in these exempted categories.

The effect of that would be either that the State continues to impose the tax, and then we would collect the tax from that barrel of oil, or, in the alternative, the State would say, "We are now collecting enough from these particular categories—newly discovered, tertiary, heavy oil, stripper, small producers—and we are going to go along in a common policy with the Federal Government and exempt the windfall part of it from our own tax."

I think that is a reasonable suggestion. It certainly avoids the various criticisms that the Senator from Louisiana has levied at the amendment which is the more publicized amendment, which I intend to call up. It really is a State's rights amendment, in that the State is perfectly free, under this proposal, to propose a severance tax at any rate, on any amount, on this oil; but that the Federal Government would at least take the position that if the State legislature does not feel that it is production sensitive, if the State legislature does not feel that the tax rates have an effect on oil production, they are in a better position than we in Washington to make that decision. Therefore, if they at least are not going to put a cap on the tax they receive for a barrel of oil, the exemption in our bill no longer will apply.

That is a second proposal. It is a separate proposal. I think it stands on its own feet, and it is one that I intend to present to the Senate at the appropriate time.

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

Mr. DANFORTH. I yield.

Mr. CHAFEE. As I understand the Senator's next proposal, it will be that the State severance tax would not apply to the so-called windfall part of the decontrol price.

Mr. DANFORTH. Yes.

Mr. CHAFEE. In other words, if an independent is exempt for the first thousand barrels and the base price is $13, the Senator has no objection to the State continuing its tax on the first $13 a barrel. But the Senator says that if the additional amount, the difference between the $13 and the world price, is to be exempt from Federal taxes, then it will be exempt from the State's severance tax.

Mr. DANFORTH. That is absolutely correct.

Mr. CHAFEE. I thank the Senator.

Mr. DANFORTH. Mr. President, I point out that this is a matter the States would be free to decide whatever way they wished. They would be free to impose the tax or not. They would be free to collect whatever revenue they wish from the barrel of oil. But they would make the decision as to price sensitivity, which we in Congress, perhaps, are not as prepared to make as they.

Mr. President, if no one else wishes to inquire at this point, I yield the floor.

Mr. LONG. Mr. President, it seems to me that the Senator very aptly referred to horrible possibilities in the course of his speech, because, in my judgment, that is the basis of his amendment. The Senator is assuming that if States which have oil beneath their lands should receive additional revenue, they would use that revenue in economic warfare on other States.

Mr. President, I recall an instance many years ago when it was my privilege to be a guest at a party in Arkansas with the former Democratic candidate for President, Adlai Stevenson. One of the people at that party was a gentleman named Reynolds, I believe, from North Carolina. He was associated with the family that owns a great deal of aluminum production and interests in other industrial concerns.

That gentleman made the point to me that what States like Louisiana which have large amounts of minerals should do is to use that mineral resource to build themselves an economic base.

Mr. President, I must admit that from the point of view of a big businessman or an industrialist it makes a lot of sense that States should do that. Louisiana did not do it. During that 20-year period since that man mentioned that to me, Louisiana has done nothing of that sort even though it has more oil and gas per acre than any other State in the Union.

The reason it did not do it is the same reason Texas did not do it and the same reason other States with minerals have not done that. It is simply that when State legislators look at the needs of their State, they think more in terms of the interests of their people than they do in terms of economic competition with other States.

For example, if you take a poll and ask the citizens of your State, "what do you think the main issue should be in the next Governor's race, or what do you think the principal problem will be confronting the State legislature?" Education might come in with about 67 percent, law and order might come in with 15 percent. If it comes in at all, regardless of how you ask the question, providing more jobs, attracting more industries, industrial expansion, put it however you want to put it on the poll, it will come in right down at the bottom of the list. Maybe about 4 percent of the people will indicate that is something they think would be an important thing that the legislature should consider.

So if you go before the State legislatures, as I have many times, and take the view, "You should to do more about trying to attract jobs and more payroll down here," do not be surprised if you are disappointed that they do nothing about it, just nothing. When you really get down to it that is not what the people out in the hustings are especially concerned about. You will find that there are some people from whom you might get a hand. You might find some interest if you are speaking to a Chamber of Commerce crowd. You might stir up a little excitement if you can find a group of people who are out of work.

But generally speaking the people who have a job are not excited about the issue of bringing new industries and new payrolls to the State.

Louisiana right now is doing rather well in terms of attracting new industry, not that we provide any subsidy or any advantage that others do not provide. It has been our great good fortune that other States would not permit certain petrochemical industries to locate in their State. So we got them because others would not have them.

A while back, I was at one of the dedications in Louisiana where we were celebrating the fact that we got this fine new industrial complex and payroll and it was going to create quite a few new jobs, a huge capital investment but only a few jobs, perhaps 100. It came out in the course of the discussion the reason the plant located in Louisiana was that all the Northern States would not have it. They were concerned about the atmosphere more than Louisiana. We were used to having some petrochemical plants and oil refineries. We were glad to have whatever we could get along that line. We were happy to have them. So they located in Louisiana because they could not go somewhere else.

And furthermore, even the big industrial construction that one might see in Louisiana these days is mainly because we have some resources there that someone wants to export and we have water transportation. So the logical point to separate the various elements within the oil and gas is near the point where it is produced, because when you break it up into several different components going different directions, the sooner you break it up into its components the easier it is to reduce the transportation costs to the particular market.

In terms of the number of jobs Louisiana is attracting, we are not doing nearly as well as Mississippi or Alabama or South Carolina, frankly, just because those States have provided more incentives. That does not mean they have oil and gas to provide it with. Alabama has very, very little. Mississippi has about 10 percent of what Louisiana has. South Carolina has none. But they are doing a tremendous job of bringing new industries and new payrolls into those States.

Not necessarily dollars of capital investment, but the number of jobs greatly exceeds what we have been attracting to Louisiana. The reason is that they feel they need those jobs. They have to compete for them harder. So they offer some tax incentives and advantages that we in Louisiana are not offering.

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

Mr. LONG. I yield to the Senator.

Mr. TOWER. The Senator mentioned a fact that a lot of States in the Northeast did not want to locate petrochemical plants and refineries and that sort of thing.

Is there any proposal in this bill to indemnify the producing States against the environmental damage, the industrial accidents, the property damage, that has come to be a fact of life for those of us in the producing States? Is there anything in this bill that indemnifies the producing States against this?

Mr. LONG. No, there is nothing in the bill along that line, but I particularly want to assure anyone worried about Louisiana or even Texas using our oil revenues to bring industry to our States, forget about it. If we were going to do that, we would have been doing it for the last 20 years.

Texas is not going to do it for the reason that Texas is doing very well indeed, thank you, without doing that. In Texas, if you visit around Dallas or you visit around Houston, you will see something of a labor shortage because they are working like beavers over there trying to produce energy, among other things. Texas is attractive to industry.

I know Texas is attractive to industry because we are geographically located next to them, and we have had a tough time competing with them. Let me tell the Senator the number one reason. It did not have anything to do with oil and gas. We have oil and gas; so do they. We have a lot of it; so do they.

What was the problem? Our biggest deficiency in competing with Texas was they had a right-to-work law and we did not. And industry after industry, especially those labor intensive, having the choice between the two, said, "Well, thank you just the same, Louisiana, we can go over to Texas and there we have a better labor climate." Louisiana recognizes this competitive disadvantage it suffered from and now has a right-to-work law on the books.

Mr. TOWER. Mr. President, will the Senator yield at that point for a comment?

Mr. LONG. Yes.

Mr. TOWER. In fact the demand, productivity, and return on labor dollar is higher in Texas than it is in any other State. And a lot of industrial States that the Senator from Missouri wants to try to protect with his great parochial and regional legislation are States that will refuse to do anything but create a more favorable labor-management climate and a higher productivity for their labor force.

Mr. LONG. Let me say, further, Mr. President, that about 70 percent of the revenue we are talking about in the Danforth amendment appears to involve the State of Alaska. I wonder if the Senator really trembles in his shoes, really trembles when he thinks of Alaska making all that money. Think of Chrysler Corp. moving up to Fairbanks or maybe even Nome and shipping their cars perhaps out by putting them on an icebreaker and sending them down to com-

pete with the Toyotas down in California and even in Missouri where the Senator is fortunate to have some plants that should be saved.

I really wonder if that is what the Senator is worried about, that perhaps they might put a big plant on top of some glaciers with all that money. That is not to say that Alaska will not do something. I am sure they will.

(Mr. TSONGAS assumed the chair.)

Mr. LONG. But as Alaska develops, the kind of things they would develop there more likely would be something that capitalized on the resources they have in that State, large in area, small in population, fine people though they be. You could expect them to have something like we have in Louisiana, some petrochemical plants, perhaps some oil refineries, something to make some of that lumber into paper. All that would benefit the whole economy.

They would compete with us in Louisiana, I would assume, because those are the kinds of plants we have, and it is not appropriate, Senator, that those particular plants be located in Missouri for one simple reason: In terms of transportation you are at a disadvantage. But you have a lot of other things to your advantage that would bring a lot of industry to your State if the people of Missouri showed the same interest in attracting them and persuading them to locate there and providing the same productivity as we hope to do in Louisiana.

I hope the Senator will take another look at his theory that because they have some revenues from oil and gas that Louisiana, Texas, Alaska, and California are going to use that revenue in some great drive to destroy all the rest of the States. All we really hope to do is to provide an opportunity for our people, and we are doing well indeed with that. We would like to do a little better, but as far as the kind of things the Senator had in mind that preempt the hopes of other States, forget about that. We do not have the people to take that many jobs, and we are not looking for that kind of population growth.

Florida had rapid growth, and Florida is actually affirmatively trying to keep people from coming to Florida. If you do not believe it, just send some friend to Florida looking for a job and see what he runs into. Florida is not trying to take jobs away from other States. They have a lot more than they can handle and they are trying to handle their population explosion. By the way, what Florida has in the way of oil and gas is very, very small.

Mr. President, the Senator stated that the big issue, as he sees it, is economic warfare. You talk about a hobgoblin, in my judgment, that issue is really a hobgoblin. The economic warfare he is worrying about should be States that do not have this much revenue, States that do not have enough jobs, and are finding they have some real problems, and that will just compete fiercely, make tremendous sacrifices to attract jobs, because they do have an economic plight.

Pennsylvania would be an example. Louisiana would not think to do for an industry what Pennsylvania did to attract Volkswagen into Pennsylvania. Louisiana would not think of it. We do not have to do that to attract jobs in Louisiana. Pennsylvania does, and more power to Pennsylvania. But that is not a reason why Pennsylvania should make war on Louisiana either or try to punish us because of the fact that we are doing fairly well. We are not in as good shape as Texas, perhaps not doing as well in terms of jobs and employment as some other States, but we are satisfied. We are content, and we pretty much love our neighbors and want to live and let live.

Let us look at what is the important question here. The important question is whether there is to be any sovereignty whatever left in State governments. I concede there is a good argument for the Federal Government having vast powers, and the Federal Government indeed has a lot. This Senate, and other Senates, while I have been here, are ready to give it a lot more. The Federal Government has preempted State revenues to the extent that the States had to come to Washington begging and pleading for us to pass a revenue bill to share some of the revenues the Federal Government had with the States so that the States could fulfill the proper functions of State and local governments.

If you believe, as I do, that the government that is most responsive to the will of the people is that government which is closest to those people, then you believe we should have local government. We should have State government, and that the problems which can be handled by those State and local governments should be handled there before the Great White Father in Washington takes charge and attempts to run everything for them.

I just have not seen anything, Mr. President, that the Federal Government can administer or do better here in Washington than the States can do at the local level, except one. There is one thing that the Federal Government can do more effectively than the States—tax. It can tax people more effectively than any local government or any State government for a good reason. You just cannot escape the Federal taxing power without going to some foreign country, which is not nearly as good as this one. So to escape the Federal Government's taxing power you have to cease to be a citizen of the United States and get beyond the reach of Uncle Sam's Internal Revenue Service.

In terms of taxing people, Uncle Sam is very, very effective. He has been so effective that he has preempted first one source and then another source of revenue for the States.

All right. Now, that gets us down to one pitiful little source of revenue left to the States. Uncle Sam has pretty well preempted the income tax. The States can tax you, but there is not much left after Uncle Sam gets through. The States are pleading for the Federal Government not to put on any more excise taxes than need be because they need their sales taxes. They are trying to give some relief from their property taxes because they are so heavy already.

Now, one little source of revenue that has always been permitted to the States has been the revenue that comes from land within those States. The original 13 States owned the land within those States. Either the State owned it or the citizens owned it. The Federal Government did not own any of it.

Subsequently, of course, the Federal Government might have bought some land for a military installation or bought some land for some Federal purpose. But in the beginning of this Union, the 13 States formed the United States and they owned all of their land. The revenue that came from those lands belonged to those States, and no one ever anticipated when those 13 States formed this Union that the Great White Father in Washington would be trying to tax away from those States their State lands or the revenues from their State lands. It was not discussed, and I challenge a Senator to present anywhere the concept that anybody even considered the idea that the Federal Government was going to support itself by taxing the lands away from the States or taxing away from the States the revenue that came from the lands that those States owned when they formed this Federal Government.

As new States were formed, this Federal Government sought to bring those States in on an equal footing, and when it brought Maine into the Union it permitted Maine to own the land in Maine; when it brought Tennessee into the Union it permitted Tennessee to own the land in Tennessee; when it brought Kentucky into the Union, it allowed Kentucky to own the land in its State, and so it went. When it brought Louisiana in, it permitted Louisiana to own the land in Louisiana.

As the great western area was developed, someone began to come up with the idea that the people of those Western States were so sparse in population that they might not be able to manage those lands, and so rather than permit them to have their lands as was done with Louisiana, with Missouri, with Tennessee, with Kentucky, with Mississippi, with Alabama, and with others, it was said that the Federal Government at Washington would best preserve that land, hold it, manage it for the benefit of the Federal Government and for the benefit of those people.

But down through the years the people of those Western States were well represented here in Congress. They pleaded with Congress to rectify an injustice which they felt had been inflicted upon them and where they had been discriminated against because they were entitled to treatment parallel to the original States. So laws were passed which caused the States to receive directly a share of the revenues. The last time I looked at it it was 37.5 percent, and it may be more now, but at least 37.5 percent was paid directly to the State governments, and the remainder of it, save some part that was paid out for administration, all went to a reclamation fund, and that was used to benefit those States and help to develop the water resources for the benefit of those States.

The fact that the Federal Govern-

ment, through the Department of Interior, managed those resources is one reason why Senators from Western States were all asking to serve on the Interior Committee when I first came here. They wanted to use their influence to help see to it that their States got what they thought would be their proper share of the funds available from that reclamation fund.

Now, that money was not used, Mr. President, be it the money from the oil, from the gas, from the coal, from the timber, to finance the Federal Government here at Washington. That money was used in terms of economic justice and fairness to try to see to it that those States would benefit from the money received from minerals produced from the land in those States, recognizing that the other States had been permitted to have all their land.

So the Federal land policy historically, for the last 200 years, has proceeded on the view that the money derived from minerals in those States would go to the benefit of those States.

It is passing strange, Mr. President, that a Senator would seek to redistribute the resources by his amendment, and seek to tax away from the States the revenues from the land owned by those States' governments, and completely ignore the revenue from the Federal lands located within those States. Should not that have been his starting point? If the Federal Government is going to redistribute the resources, redistribute the oil and gas, redistribute the coal, redistribute the land, redistribute the iron ore located in United States, spread it around, use it for the benefit of the general Government. If it is going to do that kind of thing, would it not be more logical to start out by taxing the land the Federal Government itself owns?

If the Senator is going to start his program of redistributing the resources, why does he not start out by redistributing the resources that Uncle Sam himself owns, to begin with? Why does not the Senator from Missouri make a starting point by saying, "Why not here? Missouri is not sharing in the economic wealth of those western coal States from all that Federal land out there. Missouri is not sharing in the wealth of the State of Alaska, from the resources being produced on Federal lands in Alaska. Missouri demands its share."

I must admit that to put the matter that way would be a little bit in conflict with the way the Senator put his argument, in saying that the national interest must come first; and it takes great courage to stand here as a Senator from a State that has very little oil and advocate taxing those that do.

But on the other hand, Mr. President, if the Senator wants to take the view that the national interest must prevail above all, and that there is great fear that the wealth produced from State lands might be used in a way that some other State might not approve—if that is his thesis, then would not the logical starting point be to start by redistributing the land owned by Uncle Sam only, the Federal Government only? There is no constitutional problem involved there. The Congress has every right to simply amend this bill to simply say that, "While you are taxing the oil on Federal lands, you tax oil from all lands, just do not make any exclusion," and if you ask, "What is the point of the Federal Government taxing oil from Federal land", the point is that you would take the money from the reclamation fund and put it in the Federal Treasury. You would remove the windfall from the Western States. That should be the Senator's starting point, it seems to me.

I interrogated the Senator about that point. He acted like he had never heard of it. He never heard of it. That should be the logical starting point, that you would tax the oil coming from Federal lands. We have a little bit of it in Louisiana, though not much. You would tax the oil from Federal land and redistribute that in such a way that no State could be found to be using that money to try to proceed with economic development.

Mr. President, Louisiana is not the only State that has some minerals under its State lands. At least 23 States have some oil production on State lands. A large portion of the revenue we are talking about here would involve the State of Alaska, for Alaska has a lot of State lands.

When we brought Alaska into the Union, it was well recognized that Alaska might not be able to sustain itself, that it might well be that the State could not succeed financially and could not shoulder the burdens of State government; and so Alaska was given a large amount of State land, well knowing that there might be oil under a lot of that land, and that Alaska might have a lot of oil revenues.

It turns out to be a great deal of oil. Now the Senator from Missouri comes in here urging us to play Indian giver. Mr. President, I am not in favor of taking back from Alaska what we gave that State; and so far as I am concerned, if that produces energy, that will benefit Louisiana and every State in the Nation. As far as I am concerned, I voted for that Statehood bill. I thought we were pretty generous at that point, and the fact that we were more generous than we realized does not cause this Senator to change his mind. But if we are going to do it, we ought to do it to benefit all States, not just a few, and if we are going to redistribute resources, it seems to me we ought to redistribute all the resources, not just oil and gas but all of them.

But, Mr. President, in terms of what the Senator would do, there is no way he could succeed in his effort to levy a tax directly on a State government which is not in the oil business but just leasing out its lands, without that tax being levied on the income from State and municipal bonds sooner or later. I have been around here for many years to see this fight. I can recall it even before I came to the Senate. When I was a student in law school, one of my professors had been educated up here in Washington, D.C., and he was a great advocate that the Federal Government ought to tax State and local bonds, that we ought to tax all income. We surely should not let that State and local bond money escape.

The courts have said you cannot do that, that it is unconstitutional, that the Federal Government has no right to tax a State, and that this puts a burden on the State government. But this law professor of mine contended that that is wrong, that the court can be made to reverse that, that all the Treasury has to do is get back into that court some day, and when they do, they will win that lawsuit, that that court will reverse its previous decisions. The Federal Government will then be able to tax those State and local bonds.

Mr. President, they have tried nobly at that effort. They have tried to do it indirectly. I can recall when the House sent us a bill to put a minimum tax on State and local bonds. That was the opening wedge. They did not succeed here in the Senate, and I am glad to say I played some part in defeating that effort.

The Senate action was received with tremendous joy, adulation, and enthusiasm by the bankers and business people of Louisiana. I do not know of anything, during those days, I liked better to discuss with business groups, or that had such complete enthusiasm and applause, as the fact that the Senate Finance Committee had overwhelmingly—I believe either unanimously or almost unanimously—voted to refuse the Federal Government the right to tax those State and local bonds.

One of the reasons that we did it, and a compelling reason, was that we were convinced it was not constitutional. It may be that we just relied on the old law. It may be that those fellows over on that court right now would reverse that, if they had the proposition before them; but they haven't had it before them.

The closest anyone has come to taxing State and municipal bond interest was to come up with the proposal to have a taxable bond option.

Under that option a State could issue a bond that would be taxable, and which would be subsidized by the Federal Government.

Some people view that as an entering wedge toward the Federal taxation of those State and local bonds. Some do not, I am sure. I do not know what the view of the Senator from Missouri is on that. He is a sponsor of such a proposal.

I do not know whether the Senator feels that this is a part of a process where he is going to lead Uncle Sam into taxing those State or local bonds or not. But I know that his proposal here would lead to it, because it would destroy the best argument against taxing the State and local bonds, and that is that you really do not have the right to do it under the Constitution.

Mr. DANFORTH. Will the Senator yield?

Mr. LONG. Yes.

Mr. DANFORTH. Mr. President, I have never suggested taxing State or municipal bonds. I do not support the taxation of State or municipal bonds. I never have; I never will.

I do not think that you could find two people in the U.S. Senate who would support the taxation of State and municipal bonds. This is an example of the kind of total red herring that is being used as a scare tactic on this amendment.

Mr. LONG. Mr. President——

Mr. DANFORTH. If I may continue. I will finish in about a minute.

I received a letter mailed to me 2 or 3 days ago from the American Bankers Association, asking me to vote against my own amendment with respect to State royalty incomes. They had been sold the position that somehow this was the opening wedge for the tax on State and municipal bonds. No one is proposing that.

As I pointed out in the colloquy with the Senator from California, this is the kind of parade of horrible arguments which has absolutely no basis in reality. The question before us is very simple. That is, Can this amount of additional revenue go to this small number of States without having serious economic consequences for the rest of the country? That is the simple question.

Nobody is proposing taxing State or municipal bonds. If that were done, it would have to be done by an act of Congress. We would all have to vote on it, the Finance Committee would have to vote on it, vote on it in Ways and Means, and it would have to be voted on on the floor of the Senate. You would not get enough votes on that to flag down a bread truck.

Mr. LONG. Mr. President, I might have made a misstatement. I said that the Senator has sponsored, while he has been here, a proposal under which the States would issue a bond which would be taxed by the Federal Government. Is that correct? The so-called taxable bond option?

Mr. DANFORTH. It would give the taxpayer the option to gross up the value of his interest and deduct it from Federal taxes. All that does is give the taxpayer a different kind of option that he can take as a taxpayer in taking the tax benefit, which some taxpayers, the more wealthy ones, now get tax-free municipal bonds.

I brought that up in the Senate Finance Committee and it was passed. It was voted on, as I remember, unanimously in the Finance Committee, Mr. Chairman.

And I stood on the floor of the Senate and said that anything pertaining to municipal bonds is bound to send such concern to the financial community that, on my own initiative, without anybody prodding it, I pulled it down. I offered an amendment to take it from the Finance Committee bill so that it could be further studied.

But it had nothing to do with subjecting municipal bond interest to Federal taxation. I have never suggested such a thing. I strongly oppose it and I would vigorously join with the Senator from Louisiana in opposing it if anyone else was silly enough to propose it.

Mr. LONG. Mr. President, my recollection is somewhat vague on the issue. But if I recall correctly, the Senator's proposal would permit the taxpayer the option of paying the tax on the interest from a State and local bond. Is that correct?

Mr. DANFORTH. No, the Senator is not correct. The bond is still a municipal bond, and it would still be exempt from tax. The taxpayer, for his own tax benefit, could waive the exemption, gross up the income, and deduct it. The effect of this is, as I recall—and I do not have the figures in front of me right now—taxpayers in the marginal tax bracket of 40 percent or over, it is mathematically attractive for them to invest in municipal bonds. For taxpayers at a lesser bracket, it is not attractive.

I was simply attempting to give them another option for treating it on their tax returns, so that municipal bonds would be attractive to taxpayers in the lower brackets. That would increase the marketability of municipal bonds. It would be very desirable from the standpoint of municipal governments and State governments.

But I have never proposed subjecting State or municipal bonds to taxation. It is a total red herring.

Mr. LONG. Mr. President, I did not say the Senator proposed it. I said he proposed an option, whereby a taxpayer would pay taxes, at his election, on interest income from State and municipal bonds. And my impression was that that proposal would give the taxpayer that election, if he found it to his advantage to pay taxes on State and municipal bonds.

Mr. DANFORTH. Mr. President, I think it is an unfair characterization of what I am proposing. I think what the Senator is trying to suggest is somehow I am engaging in some type of plot to subject everything under the Sun to taxation. It is not so.

Mr. LONG. Well, Mr. President, the proposal will speak for itself. I will be glad to take a look at it.

Mr. DANFORTH. The chairman supported it in the Finance Committee. It could not have been all that bad.

Mr. LONG. Well, the Senator, withdrew it, so it could not have been all that good, either.

But we will take another look at it, and we will see just exactly what it was.

But the point remains, the Senator says he is not in favor of taxing State and municipal bonds. It is my recollection that the people in Treasury who have been generating many of these proposals to tax State governments—and I am not talking about the Secretary of the Treasury, I am not talking about the Under Secretary, and I am not talking about the Assistant Secretary. I am talking about people over there who were there long before they came in. There have been people around who have been there for many, many years, who have agreed with my old law professor—he was not old then, but he is old now, because I am not so young myself—who felt that the income on State and municipal bonds ought to be taxed just like on all other income.

Mr. President, their feeling was that all they really needed was a chance to get back into Court. If they could just get back into that Supreme Court, the people who have been appointed since that time would go along with them with this great proposal, this magnificent proposal, tax reform to its ultimate, and tax those State and municipal bonds just like any other ordinary income from any other source.

Mr. President, the strongest reason that this Senator—and so far as I know, this Senate, the Senate Finance Committee and everybody else around here—have been unwilling to tax those State and municipal bonds is that we did not think it was constitutional. And you can read the decisions of the U.S. Supreme Court that say that.

Furthermore, Mr. President, the Supreme Court has said that a tax such as the Senator has proposed would also be constitutional.

Let me just read the Court's language on that subject, language which has never been countermanded, never been contradicted, and never been withdrawn by the Supreme Court. This is from an opinion written by Mr. Justice Stone, back in 1931 in the case of *Group No. 1 Oil Corporation* v. *Bass*, 283 United States Reports at 282:

Let me quote what he said:

> Property—and the property involved in the case was oil and gas—sold or otherwise disposed of by the Government, either State or national, in order to raise revenue for government purposes, is in a broad sense a government instrumentality, with respect to which neither the property itself before sale, nor its sale by one government, may be taxed by the other. But it does not follow that the same property in the hands of the buyer, or his use or enjoyment of it, or the income he derives from it, is also tax immune.

Admittedly, that language can be regarded as dicta. In that case an oil company took a lease from a State government, and the oil company contended that it should not be taxed because the government should not be taxed. The court said clearly, "Well, you cannot tax the State government, but you can tax that oil company because that oil company is not the State."

Nobody is arguing about that. We all recognize that as the law. The oil company is not a State.

But if that tax had been levied on the State, there is Mr. Justice Stone saying, "No, sir, you cannot tax that State. You can tax the oil company but you cannot tax the State." That statement has never been changed; it has never been reversed. That is the language for all history as far as the laws stand at this moment.

The Senator bases his argument that what he seeks to do is constitutional on a different set of facts. He relies upon a situation where the Federal Government passed an excise tax on bottled mineral water. The State of New York, seeking to restore the vigor of Saratoga Springs, thought the State had better go in there and restore the flow of water in those springs. So the State bought the wells and proceeded to bottle that water and sell it. The question was, did the State owe the excise tax on that Saratoga Springs water?

It was a divided opinion in the Supreme Court. Justice Douglas, for example, said he did not think so.

There were no five Judges together, but in the same opinion relied on by Senator DANFORTH for general philosophy, there was the following explanation of the real basis for the decision:

> On the basis of authority the case is quickly disposed of. States were denied immunity from Federal taxes on the liquor business, and we see no reason for putting soft drinks in a different constitutional category from hard drinks.

The State was, in effect, in business, competing with other commercial busi-

nesses. Accordingly the State was not exempt from this tax which was really an excise tax borne by the consumer.

Mr. President, this is not a tax on the consumer that we are talking about here. It is the intent of the President of the United States, Jimmy Carter, and his administration, the Secretary of the Treasury and everyone involved in this administration, to put this tax on the producer and the landowner. So the tax here falls clearly on the State governments. This is not an excise tax on the consumer. It is a tax on the producer.

This case is clearly distinguishable, Mr. President, from the case on which the Senator from Missouri relies involving the tax on soft drinks. The State of New York was engaging in a commercial operation in bottling and marketing the Saratoga water.

The States receiving oil royalties are not engaging in a commercial operation. They are not drilling for oil. They are not operating oil wells. They are not even employing seismograph crews to see whether oil might be there. What the State is doing is merely signing a lease so someone else can go out there and produce oil and gas.

In many instances, they have no real choice except to grant the lease. If there is someone on land right next to them that would drain the oil out from under the State property without the State getting anything out of it, the State is compelled to enter into a lease itself.

Mr. President, the amount of revenue involved in taxing State and municipal bonds dwarfs the amount of revenue the Senator is talking about being involved in his amendment. The Senator would like to put about $1 billion a year in taxes on State and local governments. That is what we are talking about. You can extend it over a 10-year period and it sounds like a much larger figure. We are talking about a tax of roughly $1 billion a year that the Senator would like to impose on State and local governments. That is a small figure, Mr. President, compared to what the burden on those State and local governments will be if they are denied the opportunity to issue tax exempt bonds.

Mr. DANFORTH. Will the Senator yield?

Mr. LONG. I yield.

Mr. DANFORTH. I wonder if the Senator from Louisiana would estimate for the Senate. If an amendment were offered on this bill to begin taxing State and municipal bonds, how many votes would there be in the Senate for such a proposition?

Mr. LONG. That is sort of beside the point. As long as you have a good constitutional argument, I do not think the Congress is going to vote to tax those State and municipal bonds. That is the reason I think there would be so few votes. I have read excerpts from another Supreme Court opinion that said it was unconstitutional to do the kind of thing the Senator is trying to do here. That being the case I do not think the Senator will get many votes.

But you just take to the courts the case that would go there if the Danforth amendment were agreed to, and assume that the Senator is successful and the court upholds the tax directly on the State government. In such a case how could an instrumentality of a State government be considered tax exempt if the State itself is not tax exempt?

I would say once the States have been stripped of their constitutional immunity, once that has been taken away from them and they stand there naked, unarmed, and defenseless, you would get a lot more votes than you would get today if you tried the same thing.

Mr. DANFORTH. Will the Senator yield?

Mr. LONG. I am not saying that the Senator did not have good intentions. Many times in law school I learned that the road to hell is paved with good intentions. I hope in due time the Senator will find this amendment is just as ill-considered as the one he said he withdrew which had to do with taxation of municipal bonds in some other respect. One can have very good intentions and those intentions can lead him into an area that he would not have entered if he had known as much about it as experience would teach him.

Mr. President, I have a memorandum which I think it appropriate to read into the RECORD on just this point. It is a memo that we prepared, and I believe it correct.

Will State Immunity from Federal Taxation be Continued?

Mr. DANFORTH. Mr. President, may I ask who prepared that memorandum and by whom it is reported?

Mr. LONG. I say to the Senator, it was prepared by me with the assistance of some individuals who in my judgment are able lawyers.

If the Danforth amendment is adopted and sustained, thus subjecting States to the windfall profit tax, an extremely damaging constitutional precedent will have been set. In particular, it will endanger the present tax exempt status of State and municipal bonds.

Unlike prior Federal taxes payable by the States, the Danforth amendment: Does not deal with a case where the State has gone into a commercial business, and does not deal with a case where the burden is passed on to others.

Instead, the Danforth amendment would impose a direct tax on the sale of nonrenewable State resources, the burden of which falls solely on the State itself. It does this in the context of a bill in which educational institutions and charitable hospitals, whose tax exemptions are traditional rather than constitutional, are exempt, as are independent commercial producers.

At present, the entire structure of State financing rests on the tax exemption of State and municipal bonds. That exemption is clearly supported by Supreme Court decisions holding that a tax on such interest would be unconstitutional.

For at least 40 years, however, the Treasury has been trying to raise the matter before the courts again, in the hope that present justices would reverse their predecessors.

Congress has so far denied Treasury the opportunity to re-litigate the issue, relying heavily on the theory that existing court decisions are correct. If, however, the Danforth amendment is passed and is upheld by the courts, how will anyone any longer be able to argue that a bond issued by a State is exempt, when the State itself is not exempt?

Indeed, the relationship between the two issues has already been noted and pointed out by Justice Douglas. He asked:

> If the constitution grants a State immunity from a tax on the issuance of securities, on what grounds can it be forced to pay a tax when it sells power or disposes of other natural resources?

That is a quote from Justice Douglas' dissenting opinion in *New York* v. *United States*, 326 U.S. 572, at 591 (1946).

Mr. DANFORTH. That was a dissent, is that correct?

Mr. LONG. That is right. Let me read on.

Justice Douglas' question is equally forceful the other way. If a State can be taxed on the sale of its natural resources, on what grounds can the the issuance of securities be held exempt?

The American Bankers Association is supporting my position. I would appreciate the help of all Senators.

Frankly, the American Bankers Association are not all lawyers. A lot of them are. But they have good lawyers. I would think the Senator would not challenge the qualifications of their lawyers.

Mr. President, I shall be glad to put in the RECORD in due course a statement by the Attorney General of Louisiana and some lawyers who see as I do that the proposed tax is unconstitutional. Let us keep in mind the difference between the authority on which the Senator relies and the authority on which I rely. They are both dicta, because neither of them squarely fit this particular situation.

The Senator is relying upon a case where the tax fell on the consumer. The burden of that tax is on the consumer. In that case, the Solicitor General asked the Court to hold that, so long as the Federal Government was not discriminating, it could tax the States just like everybody else, but the Court did not so hold. The language of one of the opinions did almost go that far, but that opinion reflected the views of only two Justices on the Court.

Mr. President, I have here an opinion from the Attorney General of Louisiana, the Honorable William J. Guste, Jr., discussing the Danforth proposal and giving us his judgment that—and I quote:

> Such an amendment would clearly be unconstitutional.

That is the opinion of the attorney general of Louisiana who, in my judgment, is a very good lawyer. I know that the Senator from Missouri was attorney general and I am not saying he is not a good lawyer.

As a matter of fact, Mr. President, I know lawyers differ about these things. The former majority leader of the U.S. Senate, Mike Mansfield, once heard a debate that went on for some time among lawyers on his floor. He made the statement that he was not a lawyer himself

he had just been a college professor on some other subject. But he said that it was his impression that in all lawsuits, there are lawyers on both sides, and one side won and one side lost. That convinced him that lawyers were right 50 percent of the time.

So lawyers can differ about these things and people should not be surprised when lawyers take a differing point of view.

(Mr. PROXMIRE assumed the chair.)

Mr. MELCHER. Will the Senator yield at that point?

Mr. LONG. Yes.

Mr. MELCHER. I think I can say unequivocally that in this case, the Senator from Missouri, if he offers his amendment, which I hope he never does, would be wrong.

The folly of trying to interfere with an exemption for States in this instance is absolutely folly. The schools that derive some benefit out of the oil or natural gas that is on the school lands are certainly enhanced by that benefit. I am here to tell the Senator from Missouri that those schools need that help.

Mr. LONG. Well, Mr. President, I want to touch briefly on another part of this subject. The Senator has a backup amendment to say that the States will be permitted to enjoy the mineral resources from their own lands without the Federal Government hogging it all up and taking it away, provided they meet one condition: That they do not raise their severance taxes.

Mr. President, no State could agree to that more easily than Louisiana. We have a severance tax of 12.5 percent. We have no intention of raising it.

It brings a lot of revenue to the State government. The Senator is right that the price is going to go up and that we are going to receive more revenue. So no one could more graciously agree to the present severance tax than Louisiana.

But, Mr. President, how about these other States? How about the State of Missouri? Suppose someone should drill down to 20,000 feet and find vast untold reserves of oil and gas, enormous resources there that no one ever estimated to be there? Would it be fair to say to the State of Missouri, "In view of the fact that you do not have a severance tax, you cannot levy one. Louisiana can have 12.5 percent of the resources and tax that away, and Alaska can do it and someone else can do it, because they were there first. But in view of the fact that you did not have a severance tax, you cannot levy one." Mr. President, that would be patently unfair.

Furthermore, Mr. President, the Federal Government should not take this additional step.

Let us keep in mind that Danforth No. 1 is to break new taxing ground. Danforth No. 1 is to break new ground in destroying what little is left of State and local sovereignty. Danforth No. 2 is to strip away their taxing power. Danforth No. 1 takes their property. Danforth No. 2 takes their taxing power, saying, "You can keep what is yours, provided you do not exercise your taxing power."

Danforth No. 1 strips from them their sovereignty, takes their property with Federal taxes. Danforth No. 2 strips them of their taxing power and says, "You can have what is yours, on one condition—that you do not exercise your rights."

I cannot support either proposal.

I suppose now it is my time to read from "Profiles in Courage," because here is something I can well go along with. What Mr. DANFORTH proposes to do is courageous, to be sure. All we are doing here is giving away the other guy's rights, because Louisiana has no intention of raising its severance tax.

I could well say, "Shame on you people in Montana. You found some coal. We'll buy some coal, but we don't want you to put a tax on it. Furthermore, we're worried that you people in Alaska might put an oil refinery on top of a glacier. So we're going to take that taxing power away from you. We don't want you to do it."

Mr. President, States should have their taxing power. Let us say this much for Danforth No. 2: It is an improvement over Danforth No. 1. No. 1 is unconstitutional. No. 2 is immoral.

No. 2 would say that "them as has gets." Those who already have a severance tax can collect, but those who do not have a severance tax are forbidden to have one. At least, they will be punished for exercising a right that is clearly theirs.

So I do not think either proposal should be agreed to.

We know what it is to be concerned about someone exercising their rights to a degree we think unwise. Sometime ago, Alaska proposed to have a severance tax that was substantially higher than that of Louisiana. People in Louisiana joined others in complaining about it and suggesting to Alaska that they thought that would be going too far, that they should restrain themselves, and they did. I am pleased to say that they even hired some Louisiana lawyers, which is a compliment to Louisiana law firms, to advise them how the minerals should be developed in Alaska. They reduced their taxing desires to conform to about what we have in Louisiana.

Another example is the tidelands fight. In Louisiana and Texas the proposed amendment is viewed pretty much as the people of that area viewed the tidelands fight, when they felt their States' sovereignty and their States' rights were affected.

The States had always felt—and they had good reason to think so, including many declarations of the Supreme Court—that they owned the submerged land within their States, including the land within their 3-mile limit and as far out as they had claimed sovereignty. They fought that battle over a long period of time.

Finally, a law was passed whereby States were permitted to have at least 3 miles. Texas could prove it had a bar that went out further, so it got more than 3 miles. On the gulf side of Florida, they got more than 3 miles. Louisiana was limited to the 3 miles and so were practically all the other States.

Mr. President, the Federal Government knew that there was oil in those tidelands off Louisiana when that bill was passed. President Eisenhower knew he was signing a bill that vested rights in those properties, in properties bearing oil, to Louisiana and California and Texas, when he signed that bill, which is known as the tidelands bill.

The Federal Government vested in the States 3 miles. The Federal Government took everything else. So, off Louisiana, the Federal Government permitted the State to have 3 miles, and the Federal Government took about 140 miles out into the gulf, on the Continental Shelf. The Continental Shelf is very productive. It is not producing anything like what we are producing inside our 3-mile limit, however. Why not? Because the Federal Government does not have the same interest in developing minerals that the State of Louisiana has.

It is easy to see why the State has such interest in developing minerals, when you recognize that it means a great deal more to the State than it does to the Federal Government. Louisiana is about an average sized State, about 2 percent of the population. So when Louisiana is able to bring about the development of its State-owned lands, a dollar derived from that to the State of Louisiana is worth $50 derived by the Federal Government if the Federal Government had owned land on which that oil was situated.

In other words, it is worth 50 times as much to a State the size of Louisiana to bring about the development of its mineral resources as it is to the Federal Government, because the Federal Government is 50 times as large.

Furthermore, the States do only about half as much taxing as the Federal Government does. Look at all the revenues collected by the State governments and add them up, and that works out to about 50 percent of the tax take of the Federal Government in Washington, because the States are not serving the same function as the Federal Government.

When we make that further calculation, a dollar of revenue to an average State such as Louisiana is worth a hundred times as much as the same dollar of revenue would be worth to the Federal Government. So Louisiana has put tremendous emphasis on developing its resources.

Our State legislature right now is moving forward to investigate to see if some lease that has been let by the State has been developed fully, even though the lessee is paying rentals. The State wants to be sure that he is capable of producing more and drilling more and developing it, because they feel the State has needs, that those are pressing and urgent needs, and they want the revenue.

On the other hand, in the area beyond the 3-mile limit, owned by the Federal Government with its environmental policies, it takes years for a person to obtain the lease and to erect a platform or even to mount a movable structure on that lease and to drill for oil. It takes much longer on Federal lands than on State lands.

The Federal Government has 50 times

as much to work with as the State has, and the Federal Government does a poorer job. They spend their time talking about environmental things and speculating about all kinds of things that might or might not happen, when all they need to do is to look at the experience the State had for 20 years before the Federal Government arrived on the scene, to see how those problems can be handled.

So the result is that they just take forever to let the leases and take forever to let someone drill on them to bring in an oil field or a gas field. To bring the product to shore, par for the course is about 5 years on the Federal lands. It should be about 2 years. So it takes about 2½ times longer than it should.

One of the great frustrations has been that we would sit there with those valuable prospects that could be developed and just sit and sit and think about it and talk about it without ever leasing it out.

When President Jimmy Carter visited a drilling rig out in the Gulf of Mexico he visited one that was in the process of drilling a dry hole. Those people were not out there to drill a dry hole. They hoped they were going to find something. But they were drilling a prospect that did not have much hope. They drilled on one side of the fault where they thought the oil was likely to be. Because they did not find anything and because Uncle Sam would not lease out very much in the gulf or anything in the Atlantic for them to drill, they just decided, "Well, for the lack of anything better why do we not drill over on the other side of the fault. We do not think there is any oil over there, but who knows. Rather than have nothing to do we will drill there also."

So they drilled a dry hole at great expense, the odds being very heavily against finding something. Their view was that was better than have the rig sitting there doing nothing, in view of the fact Uncle Sam was not willing at that time to let the leases in the Atlantic and not even willing to do much leasing in the Gulf of Mexico. If that had been State lands they would not have all these drilling rigs laid up at Morgan City, La., and all those rigs tied up at the shore at Grand Isle and Jefferson Parish and in the New Orleans area. Nothing of that sort. All of that equipment would have been out there working. Instead it was tied up at the dockside because even though they were hard pressed for energy the Federal bureaucracy had so many other things to think about than the urgent thing of getting minerals. They wanted to think of all the different environmental issues.

With time, they have gotten a little more reasonable. For a while I recall they wanted to require that when they lifted water out of the ocean to cool the equipment the water that went back into the ocean had to be purer than the water that came out of the ocean. One would have thought they were out there for the purpose of making freshwater out of saltwater rather than being out there for the purpose of producing oil and gas.

The reason I say that is just to illustrate that the Senator is wrong on his other major point, saying there will not be any supply response from the States. If the State is to have all its resources taxed away from it, then the State would not have this overwhelming and compulsive pressure to require the State lessees to drill on these leases.

Whether it be State land or Federal land in Louisiana most of the drilling is going to be done by the major companies. Most of Louisiana's mineral land is located beneath water. It is expensive to drill, and the best prospects are in the coastal areas that are out in the ocean. It is very expensive to drill out there. So most of it will be done by major companies.

They will be paying the 75-percent tax. There is a 46-percent-corporation tax and, on top of that, shareholders have to pay as much as 70 percent on the dividends. We had to amend this bill to be sure that anything would be left, so the Finance Committee put in a generous amendment to the bill. It said that in no case would this windfall profit tax exceed 100 percent. Was that not generous, Mr. President? In no case does the tax exceed 100 percent. If they take it all that is all you have to pay.

In short, there should be some incentive for someone to ride herd on those lessees, who have the burden of producing, to see that they do produce. By permitting the State at least on its share, which might be one-eighth or it might be one-sixth—perhaps a little more than that—if the State on its share is permitted to keep the full benefit that the landowner or the royalty owner is expected to have, then, at least, Mr. President, one could expect that the State would ride herd, as it is doing, to see to it that every bit that can be produced on these State properties is produced. That would be true for Alaska, California, Louisiana, Texas, and all the other States.

Mr. President, the Senator has thought to make it appear that there were only a few States involved.

I ask unanimous consent to print in the RECORD all these States that are involved as far as oil is concerned.

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

CURRENT STATE ROYALTY PRODUCTION

State	Production	Royalty	Authorizing agency
Alabama	1978: 28,938 bbl	$305,380	Conservation Department, Mr. Reynolds, 205/832-6354.
Alaska	70 mm/bbl	$840,000,000	Donna Cline, 907/465-2301.
Arkansas	1978-79: 180,638 bbl; 1979-80 (July to Nov. 28)—89,533 bbl.	$37,353.84; $4,588.66	Miscellaneous tax section, Mr. Mitchell, 501/371-2114.
California	30,000,000	$75,000,000	State Lands Commission.
Colorado	3 mm/bbl	$3,298,000	(*).
Florida		1978: $1,748,196.23	Department of Resources, Division of State Lands Management, 904/488-2290.
Illinois	1 producing lease on State-owned land; it's currently dormant.	⅛ to total sale revenue	Department of Energy Resources, George Lane, 217/782-775.
Indiana	Only production on river bottom land running through private land; no production figures kept.	1977: $103,913; 1978: $128,063	Department of Natural Resources, Mr. Brown, 317/232-4055.
Kansas	State land not leased to oil companies		Conservation Divisionof Kansas Corporation Commission, Roger Post, 316/263-3238.
Kentucky	0	0	
Louisiana	11.5 mm/bbl	$87,552,000	(*).
Michigan	6,950,676 bbl	$19,392,210.27	Marilyn Moral, 517/373-1250.
Mississippi	16th section tract of land 10,000 bbl/month. Royalties-Public education. No production figures for fiscal year 1978 or fiscal year 1979.	Fiscal year 1978; $20,000; fiscal year 1979: $21,978	Bureau of Geology, Alvin Bicker, 601/354-6228.
Missouri	None	None	Division of Geology, Jack Wells, 314/364-1752.
Montana	No figures available	1977-78; $2,586,423; 1978-79: $2,355,418	Department of State Lands, Ethyl Schenk, 406/449-207.
Nebraska		1977: $284,695.87; 1978: $290,083.32; 1979: $381,731.33	Board of Education, Lands and Funds, Sherry Hemple, 402/471-2014.
Nevada	No data	No data	(*).
New Mexico	4.6 mm/bbl	$48,416,000	* Tax section, Carolyn Lindberg, 505/827-3221.
New York			
North Dakota		$3,600,000	(*).
Ohio	55,700	$445,000	Department of Energy, Mr. Ryan, 614/466-3465.
Oklahoma		$11,090,730 (1978-79)	(*).
Pennsylvania	No oil production on State land—only natural gas		Department of Minerals, Eugene Frund, 717/787-48.
Tennessee	1978: 593,000 bbl	Received 1/20 of 1/8 of total dollar sales in royalties	Tennessee Energy Authority, Steve Kopp, 615/741-6667.
Texas	1978-79: 8.5 mm/bbl	$90,200,000	(*).
Utah	28.3 mm/bbl		(*).
Wyoming	1978-79: 7.6 mm/bbl	$9,752,194	(*).
South Dakota	197,905 bbl	$263,252 (1978-79)	(*).

* Denotes list prepared by Mr. Lamont.

Mr. LONG. Mr. President, when the Danforth proposal, if agreed to, breaks new ground in taxing State government it is not going to stop there, and this would do more than break new ground in taxing State governments. It would also be the beginning of a new Federal-State land policy where they would redistribute the resources on a completely different basis than has been the case in the past. You can understand that other States than Louisiana would be concerned about that.

Mr. President, here is a statement from the Western State Land Commissioners endorsing the exemption for State and local royalty oil. This, Mr. President, includes the State land commissioners from Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

They are all concerned about this Danforth proposal and they are against it for the reasons I have explained. A lot of them do not have oil, but they understand that when we do this type of thing it is a threat to them.

Mr. President, I ask unanimous consent that their statement be printed in the RECORD.

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

WESTERN STATES LAND COMMISSIONERS ASSOCIATION ENDORSES EXEMPTION FOR STATE AND LOCAL ROYALTY OIL

Public land commissioners from sixteen states belong to the Western States Land Commissioners Association. The Association has gone on record supporting the Finance Committee's decision not to apply the windfall profit tax to royalty income received by the states from the production of oil on state-owned lands. Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming all belong to this organization. The group agreed that the federal government should not tax income received by the states or any political subdivision derived from any publicly-owned natural resource.

RESOLUTION NO. 4 WINDFALL PROFIT TAX

Whereas, the Western States Land Commissioners Association is an organization of nineteen cooperating states which administer trust lands for the benefit of their citizens and all people of the United States; and

Whereas, the President of the United States has extended federal price controls for oil, allowing oil to be released gradually to higher price levels over a period of time, and

Whereas, the President has urged the Congress to adopt a tax on the added profits to producers of oil resulting from the higher prices to be received for crude oil; and

Whereas, there is before the Congress legislation which would, if enacted, impose a Windfall Profit Tax on oil released from regulation; and

Whereas, such legislation would exempt economic interests in crude oil held by a State or political subdivision thereof from imposition of the Windfall Profit Tax if all of the net income received pursuant to such interest is dedicated to public education or to a fund the income from which is dedicated to public education; and

Whereas, many of the member states have trusts which provide for important public uses other than public education to benefit from revenues from production of crude oil production on State lands;

Now, therefore, be it resolved that the Western States Land Commissioners Association urges the Congress to include in the "Crude Oil Windfall Profit Tax Act of 1979" full exemption from the tax provisions for all interests in crude oil held by a State and used or dedicated to a fund for use for a statewide public purpose or benefit, and

Be it further resolved that the Western States Land Commissioners Association urges and requests the Congress and the President of the United States to refrain from advancing or supporting legislation which incorporates taxation of income received by the states or their political subdivisions derived from any publicly owned natural resource, and

Be it further resolved that copies of this resolution be sent to the President of the United States, all members of the United States Senate, the Secretary of the Interior, the Secretary of Energy and Secretary of the Treasury and each member of the House of Representatives of the member states.

ADOPTED this 2nd day of August 1979.

Mr. LONG. Mr. President, there are other resources that have had an increase in the price of their products, and those should be kept in mind.

If this type policy is to be adopted where we are going to tax the States and tax the State lands, it will not stop there. It will be extended in time and apply to other things.

The oil and gas that we have, for example, will only last a few years in the future. Coal is going to be the big fossil fuel 10 years from now which will far outstrip the oil and gas that we have. Timber will always be a valuable resource because it is a renewable resource. Those have gone up in price also, as has silver and lead. Those minerals must be considered.

Mr. President, I ask unanimous consent that a paper entitled "Price Increases of Selected Natural Resources" be printed in the RECORD.

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

PRICE INCREASES OF SELECTED NATURAL RESOURCES

COAL

Domestic coal prices were four times higher in 1976 than in 1970. If you bought a ton of coal in 1970, it cost you an average of $4.99. In 1976, you would have to pay $19.43 for that same ton of coal. This price increase affected an important natural resource in many states. West Virginia, Pennsylvania, Kentucky, Tennessee, Alabama, Colorado, Indiana, Maryland, New Mexico, Ohio, Utah, Washington, Alaska, Kansas, Arkansas, Missouri, Virginia, Iowa, Wyoming, Arizona, Illinois, Montana, North Dakota, and Oklahoma all have coal reserves.

SOURCE.—Department of Energy.

TIMBER

Price increases for lumber are equally startling. The average price of one thousand board feet of lumber skyrocketed from $113 to $394 in a single decade. From 1970–1979, the average price for timber more than tripled.

Timber is an important natural resource for states across the country. Every state in the union has timber resources that can be used for lumber. Maine, Washington, Georgia, New Hampshire, Oregon, Vermont, Minnesota, Alabama, North Carolina, New York, Mississippi, Tennessee, South Carolina, and my own state of Louisiana all have significant timber production.

SOURCE.—U.S. Forest Service, Composite of Softwood Lumber Prices.

SILVER

Silver may well top the list of natural resources that have dramatically escalated in value. In 1970, a unit of silver (troy ounce) was $1.77. This October, the same unit of silver cost $16.78. That is a price increase of 847 percent. While few states are fortunate enough to have silver resources, these price increases mean substantial increases in the amount of money received from royalty leases. Washington, Colorado, Idaho, Utah, and Arizona all have silver deposits.

SOURCE.—Bureau of Mines/Congressional Research Service.

LEAD

The spot price of lead on the New York market has increased from 14.5¢ per pound in 1972 to 67¢ per pound in September of this year. This is a price increase of over 360 percent in less than seven years. Colorado and Missouri have important lead resources.

SOURCE.—Wall Street Journal daily listing of lead metal prices in New York spot market and Hammond's World Atlas.

Mr. LONG. Mr. President, this oil is not going to be around here all that long, at least not in profitable quantities. We voted to exempt stripper wells and tertiary recovery because it is very expensive to recover by tertiary recovery methods. There is not much profit in it, but we will squeeze what oil is there out for many years to come.

But the oil and gas people generally think that, if they could produce all of American oil requirements rather than only half of it, they could only produce enough to meet our oil needs for somewhere between 7 and 15 years.

So our potential for producing great quantities of oil is limited. It is only a few years. But, in my judgment, we are going to be producing enormous supplies of oil from shale. There are tremendous deposits out in Colorado and other Western States in that immediate vicinity, and there will be tremendous amounts of revenue coming from that.

Colorado is not regarded as a major oil-producing State. I see here they are listed as having only $3.298 million worth of oil royalties according to the latest report available to me, but that can be considered tidbits compared to the wealth that will be produced in Colorado from that shale out there. The money is being put together to bring on the development of that shale, and they have enough out there in Colorado alone, Mr. President, to provide our energy needs for a hundred years. So other States will have a far greater stake in this type of thing in the future than we do.

Mr. President, I know the Senator from Missouri views his fight as a very noble, inspired fight in the national interest, and I hope he will pardon me if I do not agree with him.

It seems to me it is sort of a beggar-thy-neighbor policy.

Mr. President, may I just announce for the majority leader that there will be no more votes this evening. He wanted to announce it, and I do so rather than yield to him.

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

Mr. LONG. Mr. President, how did your land policy, your Federal land policy, evolve? You started with 13 States which owned their own land. They formed the Federal Government, and they did not give their land to the Federal Government.

When other States were brought in, they said they would permit them to have the same benefit of owning their own land. The land was owned either by the State or the people in that State. The Federal Government became more restrictive when it brought Western States into the Union. But the land policy in those States was that that which was derived from that land would be used to develop the resources of that area, and it would be used for the benefit of the people of that area.

The original 13 States were not claiming anything out of it for themselves, nor were the other States like Louisiana, which came in, you might say, with the second tier of States which were fortunate enough to own their land for the States and the people, but who could conceivably claim some economic interest at the expense of States that were denied the benefit of owning the land that was within their borders when those States were made a part of the Union.

So the Senator is urging not only a new breakthrough in denying the States the rights that were reserved to them under the 10th amendment and in forming the Union, but the Senator is also seeking to destroy a land policy which has far more justice and equity and fairness to it than does a proposal of divide and conquer where one says, "Well, here there are about four States that have a lot of oil and, therefore, we ought to tax them so that we can spread their revenues among the entire Federal Establishment."

Mr. President, such a beggar-thy-neighbor policy is bound to fail, and it is bound to come back to haunt those who support such a thing. They would be wise to have no part of it.

I said sometimes, Mr. President, some people point a finger of scorn at those of us who represent States that produce oil. They give us a bad time and say some unkind things about us, and they seek to put us in a very bad light indeed.

But, Mr. President, they would be in one terrible fix without us, the States that produce oil. We in Louisiana produce about four times as much as we consume. We export the rest of it. We abide by price controls and all the rest. We do not complain about it, but we really feel they ought to be a little more generous toward us when they recognize that we, too, are working to benefit this great Nation and we are not holding back. We have not had the kind of strikes that people have complained of in other regions. There has been no interruption in our production of oil and gas.

Even though we find we may export most of it, a great deal of the revenue goes to others for whatever reason. We do not complain about all that in particular, but we do feel we are doing a lot for this great country, and we would hope others would recognize it.

The State of Texas, the State of Alaska, and the State of California are doing their share to support this great Nation, and they are doing too much for America, and they are doing it too well and too nobly, Mr. President, to be treated in a somewhat demeaning fashion, as though those States were out trying to do some harm or some injury to others. They have no intention of doing any such thing.

The revenue that properly belongs to those State governments will be used not to try to take an industry that belongs in some other State, it will be used to try to either pay off their State debts or reduce the obligations they owe, to provide a better education for their children or to develop their highways or provide other services to their people.

When the Senator spoke of the horrible results that one could envisage from some programs, Mr. President, I suspect it was the Senator's own imagination that he will find betrayed him because the States, so far as I know, have no intention of doing any of the kind of things the Senator has in mind, and lacking evidence to support such a charge, the Senator should not make it again. I hope he would not in any event.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from West Virginia.

Mr. ROBERT C. BYRD. I do not intend, Mr. President, to take the floor from any Senator who wishes to speak. Otherwise I thought we would proceed with morning business and come back to this matter on Monday. But if any Senator wishes to speak on this bill I will yield the floor.

Mr. DANFORTH. Mr. President, I was just going to proceed for 1 minute.

Mr. ROBERT C. BYRD. Yes.

Mr. DANFORTH. Mr. President, I will only reiterate what the issue is before us. It is not a legal issue. The Treasury Department has issued an opinion, CRS has issued an opinion, that this amendment would be constitutional.

The issue is an economic issue, and it is simply this: There is no way that over the next 10-year period of time the State of Texas should receive in excess of $33 billion, the State of Louisiana in excess of $13 billion, the State of California in excess of $21 billion without the threat, and very serious threat, of profound economic consequences for the rest of the United States of America. That is the issue before the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. ROBERT C. BYRD. Is the Senator going to speak on this subject?

Mr. CRANSTON. On this subject.

I would just like to state very briefly that plainly we have a very serious energy problem confronting our country, but the Senator from Missouri would approach that in a way that undermines our Federal system, undermines our tax system, undermines the entire matter of States' rights and, for that reason, I and the Senator from Louisiana and others very firmly oppose it.

I would like to correct one statement that was made not by the Senator from Missouri but by the Senator from Rhode Island sometime ago.

The annual $2 billion that California obtains from the sale of oil owned by the State is less than the amount the State of California receives from revenue-sharing. I want to correct the impression that the amount would equal 20 percent of our State budget as suggested by the Senator from Rhode Island.

The California State budget is not the $8 billion or $9 billion that the Senator mentions; it is $16 billion for 1980. The Senator from Rhode Island suggested, based upon an erroneous assumption about California's budget, that as much as 20 percent of our revenues would come from oil. I simply want to correct that exaggeration.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield? I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 30 minutes, and Senators may speak during that period.

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

PRESIDENT CARTER PROCLAIMS HUMAN RIGHTS WEEK AND CALLS FOR RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, yesterday President Carter issued a proclamation designating the week of December 10, Human Rights Week, and proclaiming December 10, Human Rights Day, and December 15, Bill of Rights Day. It is extremely fitting that these 2 days be celebrated during Human Rights Week. As President Carter pointed out, they provide us with an opportunity to "renew our dedication both to our own liberties and to the protection of human rights everywhere."

A TIMELY CALL

The President's call is particularly timely. Fundamental human rights continue to be threatened across the globe. Just a sampling of the daily press tells the story.

The internationally protected rights of diplomatic envoys are being mocked today in Iran.

Millions of Cambodians whom managed to survive the carnage of Pol Pot's despotic regime are now dying from starvation and disease.

Political prisoners continue to be imprisoned and tortured by the thousands.

And this list goes on and on.

Mr. President, these incidents make it clear. We must stand firm on human rights issues. We must speak out—loud and clear—on human rights issues. We must act quickly on human rights issues.

RATIFICATION OF THE GENOCIDE CONVENTION

But what can we do, Mr. President? President Carter's statement shows the

way. We can take prompt action on the human rights treaties now pending before the Senate, beginning with the Genocide Convention.

Mr. President, this is at least the fourth time that President Carter has called upon the Senate to act on the Genocide Convention.

Four times, Mr. President. We cannot ignore his call any longer.

Ratification of these Conventions, beginning with the Genocide Treaty, which seeks to guarantee the most fundamental of human rights, the right to live, will strengthen our hand in meeting these challenges to human rights. Our action will help focus world attention on the primacy that human rights must have in every nation's foreign policy.

Mr. President, as we celebrate Bill of Rights Day, we will be able to reflect with pride on our domestic record of civil and political rights—unsurpassed by any other nation.

But the challenge of Human Rights Week is to take those principles enshrined in our Bill of Rights and establish them as firm principles of international law.

The way to meet that challenge, Mr. President, is by taking prompt action on these Conventions. I urge my colleagues to act.

Mr. President, I ask unanimous consent that the text of President Carter's proclamation be included in the RECORD in full.

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

BILL OF RIGHTS DAY; HUMAN RIGHTS DAY AND WEEK, 1979: A PROCLAMATION

On December 15, 1791, the Bill of Rights became part of the Constitution of the United States. On December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. In marking these anniversaries, we renew our dedication both to our own liberties and to the promotion of human rights everywhere on earth.

In our open society, a freely elected government, an independent judiciary, a free and vigorous press, and the vigilance of our citizens combine to protect our rights and liberties—civil, political, economic and social.

We can be proud of what we have achieved so far. Yet we cannot rest satisfied until the Bill of Rights is a living reality for every person in the United States. The Equal Rights Amendment would help do that by explicitly guaranteeing the basic rights of American women. I urge every state that has not yet done so to ratify this wise and necessary measure in the coming year.

The Universal Declaration of Human Rights sets global standards that reflect the same vision that inspired our own Bill of Rights. Almost every country has endorsed the Declaration. Yet in too much of the world its promise is mocked.

Arbitrary arrest and imprisonment, summary executions and torture, disappearances and acts of genocide still shatter the lives of millions. Fundamental human liberties are continually threatened by the silencing of political dissenters, by discrimination based on race, religion, ethnic origin and sex, by violations of the freedoms of assembly, association, expression and movement, and by the suppression of trade unions. And as the kidnapping and abuse of American Embassy employees in Iran have reminded us, the internationally protected rights of diplomatic envoys are a basic condition of civilized relations among nations.

Those who cause others anguish—whether they are the secret police of dictators, the faceless bureaucrats of totalitarian states or the chanting mobs of revolutionary zealots—must know that we will not defend them, but their victims.

Bill of Rights Day and Human Rights Day and Week should be marked of redoubled support for international efforts on behalf of the full range of human rights.

I renew my request to the Senate to give its advice and consent to the Genocide Convention, the Convention on the Elimination of all Forms of Racial Discrimination, the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, and the American Convention on Human Rights. I commend the Senate Foreign Relations Committee for holding hearings on these treaties, and I urge all Americans to support their ratification.

Now, Therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim December 10, 1979, as Human Rights Day and December 15, 1979, as Bill of Rights Day, and call on all Americans to observe Human Rights Week beginning December 10, 1979. Let us rededicate ourselves to promoting the ideals embodied in the Bill of Rights and the Universal Declaration so that, one day, they will be enjoyed by all peoples of the world.

In witness whereof, I have hereunto set my hand this sixth day of December, 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.

MEMORIES OF THE GREAT BATTLESHIP "WEE VEE" STIRRED BY DEDICATION CEREMONY AT SALEM COLLEGE IN WEST VIRGINIA

Mr. RANDOLPH. Mr. President, December 7, 1941, is a date that not only will "live in infamy," in the late President Franklin Roosevelt's words, it is a date that stirs memories and agonies for many Americans. The Japanese attack on Pearl Harbor accelerated the largest and most savage war in the history of mankind. It claimed millions of lives, and dislocated millions more as ideologies and geography combined to redraw the map of the world. It was, in short, an event which irrevocably changed the course of civilization.

Not all the memories of that era are bitter ones. Those of us who lived during World War II can mask our sorrows with nostalgic remembrances and feelings of understandable pride. These feelings are often evoked by souvenirs and other tangible evidence of the great war machine assembled during World War II.

Recently, Salem College, my alma mater, received an object on loan from the U.S. Naval Historical Center which is of historical importance to West Virginians. It is the secondary conning station wheel salvaged from the battleship U.S.S. *West Virginia* before it fell to the cutter's torch in 1961.

In placing the steering wheel on display, college officials conducted a dedication ceremony in remembrance of the grand old ship and the men who served aboard her. In dedicating the wheel, Salem President James C. Stam turned to Myron J. Smith Jr., associate professor of history and director of libraries, to deliver a definitive history of the U.S.S. *West Virgina*.

I ask that Mr. Smith's address, together with an account of the ceremony in the Clarksburg, W. Va., Exponent and a listing of the battleship's honors and achievements, be printed in the RECORD.

The PRESIDING OFFICER. There being no objection, the material is ordered to be printed in the RECORD, as follows:

U.S.S. "WEST VIRGINIA" STEERING WHEEL TO BE DEDICATED AT SALEM

The largest remaining piece of the World War II battleship U.S.S. West Virginia is to be placed on public display at Salem College, Friday, Oct. 26, in conjunction with the 35th anniversary of the vessel's most famous battle, Surigao Strait, the college will hold a memorial ceremony to dedicate the steering wheel from the ship's secondary conning station.

The United States Naval Historical Center has given the steering wheel to the college on permanent loan. It will be placed "as a monument to the patriotism of all Mountaineers" in the main lobby of the Benedum Library on the Salem campus.

The dedication will be held at 5:30 p.m. at the Benedum Library. The public is invited to attend the ceremony.

The colorful history of the U.S.S. West Virginia has been a source of pride to the state for which it was named. Other fragments of the vessel have been placed as monuments in Charleston, Clarksburg, and the West Virginia University campus at Morgantown.

Salem College librarian Myron Jack Smith, a naval historian, is the author of a history of the ship, "The Mountain State Battleship, The U.S.S. West Virginia," which is now appearing in serial form in the "West Virginia Hillbilly" and will later be published by subscription.

The U.S.S. West Virginia was one of the many American ships sunk at Pearl Harbor on Dec. 7, 1941. It was raised in March 1942 and saw combat throughout World War II. In the battle of Surigao Strait in the Philippines on Oct. 25, 1944, the ship fired the opening and most effective rounds of fire, sinking a Japanese battleship. That enemy ship was the last battleship ever sunk in naval combat.

After World War II, the West Virginia was stationed at Bremerton Naval Yard in Washington. It was scrapped at Puget Sound in 1961. Its sister ships, the U.S.S. Colorado and U.S.S. Maryland, have also been scrapped.

The secondary steering wheel, which will be displayed at Salem College, was located on the ship, aft of the main mast, below decks. The solid brass wheel measures 42 inches and weighs just under 100 pounds. The main ship's wheel has been lost.

Taking part in Friday's dedication ceremony will be Salem College President James C. Stam, Board of Trustees Chairman James Frashure, Dean Ronald Champagne, Community Congress President Steve Powell and Associate Dean Doyle Zwiebel. Representing the U.S. Navy will be Commander Bryon E. Tobin, commanding officer of the Naval Recruiting District in Pittsburgh, Pa.

DEDICATION CEREMONIES

Significant features of the U.S.S. *West Virginia* (BB-48):

Physical: 624′ x 97′; 32,600 tons; main battery, 8 16″/45 cal. guns.

Launched: November 1921.

Commissioned: December 1923.

Pre-Pearl Harbor awards: Fleet gunnery, efficiency, or preparedness champion, 1925, 1927, 1931–1934.

Pearl Harbor: Sunk, 7 December 1941; raised, 30 May 1942; repaired, 4 July 1944.

World War II battles and campaigns: Leyte landing, October 1944; Battle of Surigao Strait, October 1944; Flagship, Mindoro Invasion, December 1944; Luzon landing, January 1945; Iwo Jima landing, February 1945; and Okinawa campaign, April–June 1945.

World War II achievements and awards: 223 days in combat area(s); 8 Japanese planes shot down, 12 assists; 1 Japanese battleship (Yamishiro) sunk; 71,165 miles steamed; casualties: 4 killed, 31 wounded, 2 MIA; and awarded 5 battle stars.

Post-war fate: "Operation Magic Carpet," Sept.–Dec. 1945; inactivated, December 1945; decommissioned, January 1947; sold, August 1959; and scrapped, 1961–1962.

Other U.S.S. *West Virginia* memorials in West Virginia: Mainmast, West Virginia University, and Jackstaff, Harrison County Courthouse, Clarksburg.

ADDRESS BY MYRON J. SMITH, JR.

Mr. President, Representatives of the Trustees, Faculty, Students, and U.S. Navy, Friends:

Writing to French moneymen in 1778, American sailor John Paul Jones implored the use of a good, stout vessel. "I intend to go in harm's way," he warned. Two hundred years ago September 23, Jones went into "harm's way" and won the most famous naval victory of our history.

Today we gather to honor the memory of a generation of men and a ship which was no stranger to harm and was often in harm's way. People from this State and around the world knew the battleship as the U.S.S. *West Virginia* (BB–48). To her crews, she was affectionately the "Wee Vee" or old "Task Force 48."

Conceived in the months prior to U.S. entry into World War I, the *West Virginia* was the ultimate in naval construction when commissioned in 1923. She was the Trident or MX of her day—America's first line of defense. In the crises filled days before 1941, she was the showboat of our fleet, taking the flag around the globe to assure and reassure foreigners and Americans alike that this country would tolerate no force hostile to its well-being.

Many of us gathered here today can remember—and have so testified—as to the shock experienced when news came of the "Wee Vee's" loss at Pearl Harbor. The ship's honor, that of our State and Nation, had been soiled by sneak attack. America would now go to work to redeem and revenge this setback.

In one of the engineering miracles of the Second World War, the *West Virginia* was pulled from the mud of Battleship Row in May 1942 and completely rebuilt by July 4, 1944. With a new crew, new officers, and a new spirit, the "Wee Vee" was sent to war in late summer 1944.

It was in the Battle of Suriago Strait, during the American return to the Philippines, that the *West Virginia* sailed into harm's way and was not found wanting. With a little help, the ship won a victory all Mountaineers still recall with pride.

In an effort to dislodge MacArthur's invasion fleet off Leyte, the Japanese dispatched a powerful group of battleships and cruisers. The Imperial warships, on a moonless, starless night—35 years ago yesterday, entered into their plan to find and destroy the beachhead. Little did the sailors of Nippon know that they were headed straight into a watery valley of death.

Forewarned, the American shore bombardment force of the U.S. 7th fleet was waiting at the northern entrance to the Strait, with the radar-equipped Pearl Harbor ghost *West Virginia* leading the battleline. As the Japanese came within 17,000 yards, the "Wee Vee's" captain received permission to open fire. The first battlewagon to spit a broadside, the *West Virginia* poured 93 one-ton shells into the enemy formation in 14 minutes. When the battle was over, the Imperial task force was destroyed with one battleship, the last to be sunk by gunfire, the victim of marvelous accuracy by the gunners of old "Task Force 48."

The *West Virginia*, as you can see by your programs, was a participant in all of the remaining big campaigns of the Pacific war. Her guns were often in action and her contribution to final Allied victory was not small. Although the "Wee Vee" had only been in "harm's way" 223 days when the Japanese surrendered, she had more than recovered any honor lost at Pearl Harbor.

The wheel we dedicate today is the largest remaining piece of the vessel available for public display. It was saved by the Navy from the cutter's torch when the ship was scrapped in 1961. Housed in the secondary conning station aft the main funnel, its purpose was to be available should the main wheel in the conning tower forward be destroyed in action. It is the only large piece from the 1923 commissioning period on display in this state. Never employed in combat, it is somewhat ironic that this wheel survives while the main wheel has vanished.

On behalf of the ship and men whose honor it has been mine to chronicle, I thank all of you who have joined us today for this ceremony.

MRS. JESSIE M. RATTLEY OF NEWPORT NEWS, NEW PRESIDENT OF THE NATIONAL LEAGUE OF CITIES

Mr. HARRY F. BYRD, JR. Mr. President, as a Virginian, I am pleased that Mrs. Jessie M. Rattley of Newport News is the new president of the National League of Cities. In 1978, she was elected to the presidency of the Virginia Municipal League.

Mr. President, I am pleased to congratulate Mrs. Rattley. It is a fine tribute to her that her talents and her dedication to community betterment has been recognized both statewide and nationwide.

The Daily Press of Newport News-Hampton had this editorial comment on Mrs. Rattley in its December 2 issue. I ask unanimous consent that the editorial be printed at this point in the RECORD.

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

SHE BRINGS HONOR

The succession of Mrs. Jessie M. Rattley to the presidency of the National League of Cities (NLC) brings honor to Newport News and the State of Virginia.

This recognition by her peers in American city government bestows distinction on her, the first black woman to achieve this post.

We join her fellow Newport News City Council members and other friends in offering congratulations.

Mrs. Rattley had been deeply involved in community betterment efforts even before she first won a seat on council in 1970. As a councilwoman she has labored in behalf of the city as a whole as well as the black community.

Beyond her home community Mrs. Rattley's abilities have had statewide recognition. In 1978 she was elected to the presidency of the Virginia Municipal League.

A "come hell or high water" Democrat, she became first vice chairman of the state party and went on to the National Committee where she has been given important assignments including convention committee seats.

Her dual capacity as a National Democratic Committee member and an elected municipal official have gained her entre to the White House on various groups.

Over the years, she has become an authority on federal revenue sharing programs, an area of expertise which has already redounded to the benefit of this area and will stand her in good stead as NCL's leading spokesman.

For the past two years as second and then first vice president of NCL, she has been chosen to represent American municipal government and the nation on fact-finding and good will trips to a number of foreign nations. Most recently she was in China.

In her new post with NCL, Mrs. Rattley will be traveling more than ever. Wherever she goes, she will take with her the identification of Newport News, Virginia.

We wish her success in her efforts on behalf of better, more efficient government.

VA STUDY ON THE EFFECTS OF AGENT ORANGE: A TROUBLING COMPROMISE

Mr. PERCY. Mr. President, I have for some time been extremely concerned about the welfare of the Vietnam veterans who may have been exposed to the defoliant commonly known as "Agent Orange." Thousands of veterans have reported that they were exposed to the substance while in Vietnam. Many of them have reported strikingly similar pathologies, including, cancer, genetic damage, psychological abnormalities, nervous disorders, skin rashes, and a host of other pathologies.

Scientific controversies over the precise effects of Agent Orange are as yet unsettled, but we cannot ignore the preliminary scientific data of Agent Orange's danger to human health, nor the tragic firsthand accounts of thousands of Vietnam veterans. As the Senator from California (Mr. CRANSTON), the distinguished chairman of the Veterans' Affairs Committee knows, I believe that a thorough, scientific and impartial epidemiological study of Agent Orange's health effects on Vietnam veterans should be undertaken immediately.

To that end, I cosponsored with the Senator from California and Senators JAVITS, MOYNIHAN, and SIMPSON, an amendment to H.R. 3892, directing the Secretary of HEW to conduct such an epidemiological study. The compromise language, reached in conference between the Senator from California and Representative SATTERFIELD, was made known to me and my staff yesterday; the measure was brought up on the Senate floor last night, unfortunately without my knowledge.

Although I believe I understand the reasons for the compromise, I frankly find the compromise language a bitter pill to swallow. The Senate has been forced to yield to jurisdictional concerns of House Members that, in this instance, are not in the best interests of our Vietnam veterans.

Mr. CRANSTON. As I have said, the compromise was not what I have wanted or thought best, but I believe that we had to do what was necessary to get a study underway as soon as possible.

Mr. PERCY. My principal concern is that any epidemiological study of Agent Orange's effects upon Vietnam veterans be done with the utmost dispatch, thoroughness, objectivity, and impartiality

possible. The Department of Health, Education, and Welfare, as the agency principally responsible for the Nation's health needs, is, we have agreed, best equipped to conduct such a study. I refer principally to the Department's Center for Disease Control in Atlanta, which has superb facilities, staffed by experts in epidemiology. Language agreed to last night would, instead, place the study in the hands of the Veterans' Administration. There is good reason in the minds of many people, including many veterans, to question the ability and the willingness of the VA to conduct a thorough, immediate and objective study of Agent Orange.

Time and time again, the VA has proven unresponsive to the pressing needs and concerns of veterans concerned about Agent Orange. Months ago, the VA appointed an interagency task force to study the problem. To date, the task force has produced few visible results. The VA's official policy is to perform a thorough examination of any veteran who comes to the VA and reports that he may have been exposed. Many veterans, however, have told us that VA doctors bypass this procedure. Moreover, a VA circular of instruction on Agent Orange dated April 16, 1979, says—

> It is to be emphasized that at this time VA medical centers will refrain from efforts to induce veterans who are not currently part of their patient population to undergo an examination for possible health related effects of herbicides.

In light of recent GAO findings that many thousands of servicemen may well have been exposed, I find this directive totally inappropriate. The VA's response in this matter has been and continues to be unsatisfactory.

For all of these reasons, I continue to believe that HEW and not the VA should be directed to conduct the study. I do believe however, that this compromise is better than having no study at all.

Mr. CRANSTON. I agree with the Senator that, ideally, HEW should conduct the study. I believe that the compromise language we hammered out is the best that could have been achieved and that the VA will be able to do the job under the provision. The compromise agreement requires the VA to submit its protocol to the Director of the Office of Technology Assessment for his review and approval thereby effectively giving the Director of OTA a veto over an invalid protocol or an approach that lacks credibility or objectivity. The Director is to monitor the conduct of the VA's study in order to assure the VA's compliance with the protocol. The Administrator of the VA must also submit to Congress annual reports of the VA's progress.

The Senate last night approved S. 2096, to require a similar study of dioxins, with similar oversight by the OTA, to be performed by HEW, of populations that have been exposed to dioxins.

The ongoing OTA review, and Presidential mandate for coordination, coupled with a concurrent HEW study, is designed to assure a scrupulously fair, expeditious, and thorough study by the VA.

Mr. PERCY. In a previous conversation the Senator from California and the ranking minority Member (Mr. SIMPSON) have assured me that they will personally do their best to assure that the objectivity of the VA's study and the OTA's review procedures will be preserved. That is a matter of utmost concern to me.

The Department of HEW has medical, human, and research resources unmatched by any other Government agency. I would suggest to the VA, to HEW, and to the OTA that HEW personnel and other resources should be loaned to the OTA to assist in the design and monitoring of the study. Indeed I would hope that the VA itself would seek to have HEW personnel temporarily detached to it for the purpose of conducting and writing this study.

The compromise language provides that the President shall assure full coordination and cooperation between HEW and VA studies. I urge that that language be broadly construed to insure intimate HEW involvement in the VA's study.

The VA should be on notice, here and now, that the Senate will be looking over their shoulder every step of the way on this study. The Senators have given me their personal assurances that the objectivity, thoroughness, and expeditiousness of the VA's study will be beyond question. Should there be any sign that the study is not going forward in this manner, I am prepared to initiate an immediate inquiry through the Permanent Subcommittee on Investigations.

Mr. CRANSTON. The Senator does indeed have my assurances of my utmost vigilance over the conduct of these studies.

Mr. PERCY. In light of the recent history of lack of action by the VA and the DOD, congressional action on this matter is taken under a dark cloud. Following my receipt of the GAO report that thousands of U.S. troops were in areas sprayed with Agent Orange, I hand-delivered letters to Secretary of Defense Brown and Mr. Cleland of the VA on November 20, requesting their prompt response to my request for immediate action on their part to conduct an outreach program to contact veterans in close proximity to spraying missions. I also requested from Secretary Brown an immediate response about the serious and indisputable inaccuracies in Defense Department assertions about the proximity of U.S. ground troops to spraying missions. The fact that as of this moment DOD and VA have not seen fit to respond does not bode well for the future of these particular veterans' concerns.

PRESIDENT CARTER'S PROPOSALS ON THE NUCLEAR REGULATORY COMMISSION DESERVE OUR SUPPORT

Mr. RANDOLPH. Mr. President, I call attention to President Carter's proposals relating to the Nuclear Regulatory Commission.

I am gratified that the President has expeditiously considered and responded to the report of the President's Commission on the Accident at Three Mile Island which was issued just over a month ago.

The President is right in declaring that nuclear energy must be a power source of last resort and that the safe operation of nuclear powerplants must have the highest priority. I am particularly gratified by his emphasis on the direct use of coal as a means by which increased use of nuclear power can be held to a minimum.

President Carter has acted correctly in retaining the Commission as a multimember body rather than an agency directed by a single administrator. The issues of nuclear power safety and operation are complex and far-reaching. They must have the attention and deliberations of individuals of diverse backgrounds and viewpoints.

It is important, however, for one person to have the authority to act quickly and decisively in emergency situations. The proposals of the President to enhance the emergency powers of the NRC Chairman, as well as his plans for other reorganization of the agency, will be carefully reviewed by the Committee on Environment and Public Works when they are submitted to the Congress early next year.

This responsibility will coincide with our own development of legislative proposals growing out of the Three Mile Island accident. Senators GARY HART of Colorado and ALAN SIMPSON, of Wyoming, the chairman and the ranking minority member of our Subcommittee on Nuclear Regulation, as well as all members of our committee, will work constructively in this area of concern.

DRAFT MX BASING BILL

Mr. PROXMIRE. Mr. President, today I am making public a proposed bill the Air Force has quietly circulated on Capitol Hill which would waive certain environmental requirements for deploying the MX missile system; make it easier to withdraw public lands for MX use; reduce the time local officials have for considering the MX; and shortcircuit judicial review relating to the MX.

The MX bill, titled draft No. 22 to the MX Missile System Basing Act, has not been approved by the Pentagon or the Office of Management and Budget. It is being changed day by day. As such, it does not yet represent administration policy. It has been circulated to various Senators and Members of the House of Representatives representing the geographical area involved. In some cases, this was done by request after word leaked out about the existence of such a bill. In other cases the Air Force simply offered the bill for review to interested parties.

The Air Force should have followed normal policy for a controversial issue of this magnitude. That is, they should have obtained clearance from the Office of Management and Budget and the Secretary of Defense and then sent this proposal to the Congress for review.

The draft bill spells trouble for the residents and local political leaders of Utah and Nevada. Here is what it would do:

It would permit the President, upon recommendation of the Secretary of Defense, to select a basing area for the MX without fully analyzing the environmental effects of alternative areas. It would thus limit a provision of the National Environmental Policy Act (NEPA) requiring that alternative sites be fully compared in environmental terms to the selected site.

The Council on Environmental Quality has strongly protested this waiver authority. In a letter to the Air Force on November 14, CEQ said the legislation was unneeded. The Council said:

> The precedent of this sort of waiver of a law, which in President Carter's words "has had a dramatic—and beneficial—influence on the way new projects are planned," would be most undesirable.

This bill also provides authority to the Secretary of Defense to recommend additional basing areas even after MX is deployed. Thus, residents of Nevada and Utah, or wherever MX is deployed, will be faced with the continual uncertainty of future land grabs by the Air Force.

Under title III of the proposed bill, the Air Force could bypass existing laws governing the use of public land. This provision would permit the Air Force to acquire all necessary land by late 1981 by first "segregating" large land areas for potential MX use simply by filing a letter with the Secretary of the Interior. Then the Secretary of the Air Force would "withdraw" specific areas from those "segregated" on which the MX would be built. Unused land eventually would revert back to the Department of the Interior.

In order to preclude local officials from holding up the MX system, the Air Force bill would intervene and overrule local and State permit granting authority and force a decision on any requested permits within a 270-day period. If no action is taken before 270 days, the Air Force would proceed as if the application had been approved.

And finally, the Air Force bill designates the U.S. Court of Appeals for the District of Columbia Circuit to have exclusive jurisdiction to hear MX legal challenges under the bill. This bypasses regional district courts.

The Air Force would like some Member of Congress to introduce this bill before the end of this year and have it considered and passed in 1980. As of yet there have been no takers.

This bill would gut environmental laws, usurp local and State control over land, curtail local legal rights, and railroad the MX down the throats of residents in the effected areas. Undoubtedly, this bill will be modified and changed. The "segregation" provision already has been dropped I am told. Nonetheless, I hope the Congress has the wisdom to kill this bill should it ever get the concurrence of the administration. Further, I question the authority of the Air Force to circulate this bill without the administration's consent.

Mr. President, I ask unanimous consent that the proposed draft bill and the referenced Council on Environmental Quality letter be printed in the RECORD.

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

DRAFT 22 OF MX BASING BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE; FINDING; PURPOSES; DEFINITIONS SHORT TITLE

SEC. 101. This Act may be cited as the "MX Missile System Basing Act".

FINDINGS AND STATEMENT OF PURPOSE

SEC. 102. (a) The Congress finds that the expeditious siting and construction of the MX missile system and the achievement of an initial operational capability of such system by 1986 are vital to the national defense and are in the paramount interest of the United States.

(b) The purpose of this Act is to provide the means for expediting Federal and State procedures required for the selection of a basing area for the MX missile system, for the selection of particular sites for specific components of such system, and for the construction of such components.

DEFINITIONS

SEC. 103. As used in this Act—

(1) The term "MX system" means (A) the MX intercontinental ballistic missiles proposed to be deployed, and (B) all devices and facilities (including roads, railroads, shelters, bases, field assembly facilities, maintenance facilities, and support facilities) to be used to operate and maintain such missiles that are located in a basing area.

(2) The term "basing area" means the total land area or areas within which the entire MX system is proposed to be deployed.

(3) The term "missile area" means an area of land within the basing area on which one or more MX missiles are proposed to be deployed.

(4) The term "missile site" means a specific tract of land within a missile area on which components of the MX system, or facilities used for the construction, operation, or maintenance of such system, are proposed to be located.

(5) The term "support site" means a specific tract of land within the basing area but not inside any missile area on which facilities used for the construction, operation, or maintenance of the MX system are proposed to be located.

(6) The term "withdrawal" means the withholding of an area of Federal land from settlement, sale, location, or entry under the public land laws and the Mining law of 1872 and the transfer of such land to the Department of the Air Force for use in connection with the deployment of the MX system.

TITLE II—SELECTION OF BASING AREA

RECOMMENDATION OF BASING AREA TO THE PRESIDENT BY THE SECRETARY OF DEFENSE

SEC. 201. (a) Before September 1, 1980, the Secretary of Defense shall recommend to the President a basing area, or alternative basing areas, for the MX system. The recommendation shall be accompanied by—

(1) a written report setting forth the reasons for recommending the area or areas recommended; and

(2) the environmental impact statement respecting the recommended basing area or areas required by section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) The environmental impact statement submitted under subsection (a)(2) shall include a description and analysis of alternative basing areas to the extent considered appropriate by the Secretary of Defense in light of the purposes of this Act and of section 101 of the National Environmental Policy Act of 1969 (42 U.S.C. 4331) and after consultation with the Council on Environmental Quality. However, notwithstanding any other provision of law, such statement shall not be considered to be inadequate or deficient because of insufficient description or level of analysis of any alternative basing area described in such statement or because of any failure to analyze alternative basing areas not described in such statement.

PUBLIC AVAILABILITY OF RECOMMENDATION; COMMENTS

SEC. 202. (a) The recommendation, report, and environmental impact statement submitted to the President under section 201 shall be made available to the public at the same time that they are submitted to the President.

(b) The Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Council on Environmental Quality may hold joint or separate public hearings on the recommendation of the Secretary of Defense and on any alternative basing area described in the environmental impact statement or in any draft version of the environmental impact statement.

(c) The Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Council on Environmental Quality, and the Governor of any State in which any part of the basing area or areas recommended by the Secretary of Defense is to be located may submit comments to the President regarding the recommendation of the Secretary of Defense under section 201. Any such comment shall be submitted before the end of the 45-day period beginning on the date of the submission of such recommendation to the President. Such comments shall be made available to the public when submitted to the President, except to the extent that they are exempt from disclosure under section 552(b)(1) of title 5, United States Code, relating to classified information.

NOTIFICATION TO CONGRESS OF BASING AREA SELECTION

SEC. 203. The President, promptly upon his selection of a basing area, shall notify the Congress of such selection. Such notification shall be accompanied by a statement of the reasons for the selection of the area selected and shall include the report and environmental impact statement submitted to the President under section 201 for the area selected, modified in such manner as the President considers appropriate.

ADDITIONAL RECOMMENDATIONS BY THE SECRETARY OF DEFENSE

SEC. 204. The Secretary of Defense may, if he considers it appropriate, modify any basing area recommendation submitted to the President under section 201 or make additional basing area recommendations to the President. The provisions of this title shall apply to any modification of a basing area recommendation and to any additional basing area recommendation submitted to the President.

TITLE III—USE OF PUBLIC LANDS

SEGREGATION OF PUBLIC LANDS COMPRISING PROPOSED MISSILE AREAS AND SUPPORT SITES

SEC. 301. (a) Simultaneously with any submission by the Secretary of Defense of a recommendation for a basing area or areas to the President under title II, the Secretary of the Air Force shall submit to the Secretary of the Interior a description (in accordance with the public land system of survey) of the Federal lands comprising the proposed missile areas and support sites within the recommended basing area or areas.

(b)(1) Upon delivery of any land description to the Secretary of the Interior under subsection (a), the lands described therein shall be segregated from the operation of the public lands laws in accordance with this section. Upon receipt of such description, the

Secretary of the Interior shall promptly publish a notice in the Federal Register describing such lands and stating that such lands have been so segregated.

(2) Lands segregated from the operation of the public land laws pursuant to this section shall be withheld from settlement, sale, location, or entry under the public land laws and the Mining Law of 1872 except as otherwise provided in this title, but any such segregation shall be subject to rights with respect to such lands existing at the time of the segregation.

(3) Unless terminated sooner under section 303, lands segregated from the operation of the public land laws under paragraph (1) shall remain segregated for a period of five years beginning on the date of the publication of notice of such segregation under such paragraph and for such additional period (not to exceed five years) as the Secretary of the Air Force may determine is required to complete the selection and withdrawal of sites for the MX system under section 302.

(c)(1) Subject to paragraph (2), during the period of the segregation of Federal lands segregated from the operation of the public land laws under subsection (b), the Bureau of Land Management of the Department of the Interior shall continue to manage such lands for multiple use under the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable statutes.

(2) The Secretary of the Air Force shall be given advance notice of, and 30 days in which to object to, any land-use management action proposed by the Bureau of Land Management which will result in a substantial new or increased use of such segregated lands. If the Secretary of the Air Force objects to such proposed action within such 30-day period, the Secretary of the Interior may not proceed with such action until the objection is resolved.

(d) Mineral exploration by private persons on lands segregated under subsection (b) may continue during the period of such segregation unless and until such lands are withdrawn under section 302.

(e) Notwithstanding any provision of the Mining Law of 1872, no claim on any land segregated under subsection (b) that is located after the segregation takes effect shall carry any legal or equitable rights (except for a right of possession against parties other than the Federal Government) as long as the segregation (and any subsequent withdrawal) of such land is in effect.

WITHDRAWAL OF LANDS FOR THE MX SYSTEM

SEC. 302. (a) After the selection of a basing area by the President, the Secretary of the Air Force (after consultation with the Secretary of the Interior) shall prepare proposals for areas of land in the area selected as the basing area which are proposed to be withdrawn for use as missile sites or support sites for the MX system. Each such proposal shall be prepared in compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 42(2)(C)) and shall include a description of the lands proposed to be withdrawn based on a survey by metes and bounds performed in accordance with survey standards and procedures prescribed by the Secretary of the Interior. When practicable, such surveys shall refer to previously established township or section corner monuments of the United States Public Land Survey System.

(b)(1) The Secretary of the Air Force shall publish each such proposal in the Federal Register and shall transmit a copy of any such proposal to each State and local official and each member of the public who has requested notice of proposals under this section. Any interested person or governmental entity may submit comments on such proposal to the Secretary of the Interior or the Secretary of the Air Force before the end of the 45-day period beginning on the date of the publication of such proposal.

(2) After the end of the period for submission of comments under paragraph (1) and before the end of the 90-day period beginning on the date of such publication, the Secretary of the Interior shall publish in the Federal Register and shall submit to the Congress an order withdrawing the lands described in the proposal with such modifications as the Secretary of the Interior and the Secretary of the Air Force may agree upon. If the Secretaries disagree with respect to any such modification, such 90-day period shall be extended until the disagreement is resolved.

(c) Each order published by the Secretary of the Interior under subsection (b) shall become effective when published, but any such order shall terminate and become ineffective if, before the end of the 90-day period beginning on the date of the submission of such order to the Congress, the Congress adopts a concurrent resolution disapproving such order. In computing such 90-day period, days on which either House of Congress is not in session because of a recess or adjournment of more than three days shall be excluded.

(d)(1) Unless terminated sooner under section 303, each withdrawal of an area of land put into effect by an order under this section shall remain in effect until the end of the 30-year period beginning on the date of the publication of such order. If the Secretary of Defense determines that any withdrawn area is required for the MX system (or for another strategic missile system) after such 30-year period and notifies the Secretary of the Interior of such determination, the withdrawal of such area shall remain in effect until the Secretary of Defense notifies the Secretary of the Interior that such area is no longer needed for such purpose.

(2) A site withdrawn under this section may not be used for any purpose not connected with basing a strategic missile system unless a permit for such use or a new withdrawal order for such purpose is issued under applicable provisions of law.

TERMINATION OF SEGREGATION AND WITHDRAWAL OF LANDS

SEC. 303. (a) After a basing area is selected, the Secretary of the Air Force shall review, at least once every six months, the lands segregated under section 301 and shall determine to what extent segregation of such lands should continue or should be terminated. The results of each such review shall be promptly transmitted to the Secretary of the Interior, who shall promptly revoke, by an appropriate order published in the Federal Register, the segregated status of the lands designated by the Secretary of the Air Force for termination of segregation.

(b) Upon any modification by the Secretary of Defense of any basing area recommendation or any modification by the President of the area or areas selected for the basing area, the Secretary of the Air Force shall notify the Secretary of the Interior of the segregated lands which are no longer included in the basing area as so modified. The Secretary of the Interior, upon such notification, shall promptly revoke the segregated status of such lands by an appropriate order published in the Federal Register.

(c) Whenever the Secretary of the Air Force determines that withdrawal of some or all of the lands in the basing area is no longer required for the MX system or for any other strategic missile system, he shall so notify the Secretary of the Interior. Upon receiving such a notification, the Secretary of the Interior shall promptly publish in the Federal Register an order revoking the withdrawal of the lands specified by the Secretary of the Air Force in such notification, except that such order shall not apply to lands determined by the Secretary of the Interior to be unsuitable for administration by the Department of the Interior because of substantial changes in the character of such lands. The Secretary of the Interior shall notify the Secretary of the Air Force of any such lands determined to be unsuitable for administration by the Department of the Interior, and the Secretary of the Air Force shall then dispose of such lands in accordance with applicable provisions of law.

TEMPORARY USE PERMITS AND RIGHTS-OF-WAY

SEC. 304. (a) The Secretary of the Interior may issue temporary use permits to allow studies to be made in proposed basing areas to aid in the preparation of an environmental impact statement and in the preparation of any recommendation of the Secretary of Defense under section 201.

(b) The Secretary of the Air Force may obtain rights-of-way for the purpose of this Act under the procedures of section 302 of this Act or under the procedures of section 507 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1767).

RELATION OF THIS ACT TO EXISTING LAW

SEC. 305. The first section and sections 2 and 3 of Public Law 85-337 (commonly referred to as the "Engle Act") (43 U.S.C. 155-157) and section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) shall not apply to the segregation or withdrawal of Federal land under this Act.

TITLE IV—AGENCY PERMITS

JOINT PROCEDURES FOR EXPEDITING DECISIONS BY THE ENVIRONMENTAL PROTECTION AGENCY RELATING TO THE MX SYSTEM

SEC. 401. The Secretary of the Air Force and the Administrator of the Environmental Protection Agency shall jointly establish procedures for the issuance on an expedited basis of the permits for the construction and operation of the MX system required to be issued by such agency under applicable Federal laws governing air and water pollution, solid waste disposal, and underground injection of liquid waste. Such procedures shall provide that to the extent reasonably possible such permits shall be issued on a consolidated basis.

EXPEDITING OF AGENCY PERMIT DECISIONS

SEC. 402. (a)(1) Notwithstanding any other provision of law, every authorization, license, permit, variance, or other form of permission with respect to the construction or operation of the MX system (or any component of such system) that is required to be issued by any Federal or interstate agency or official, or by any State or local agency or official of a State in which any part of the basing area is proposed to be located, shall be granted or denied before the end of the 270-day period beginning on the date on which an application for such permission is received by such agency or official. Failure of any such agency or official to render a final decision with respect to such application before the end of such 270-day period shall authorize the Secretary of the Air Force to proceed as if the application had been granted.

(2) Upon the request of the head of the agency or the official to whom the application for such permission was submitted, the Secretary of the Air Force may, in his discretion, agree to extend such 270-day period for such additional period as the Secretary of the Air Force determines will not substantially impair the expeditious and cost-effective construction and operation of the MX system.

(b) This section shall not be construed as an extension of the provisions of existing law granting the consent of the Congress to the application of State or local laws, regulations, standards, or procedural requirements to Federal activities of any kind.

TITLE V—JUDICIAL REVIEW

VENUE AND TIMING OF JUDICIAL REVIEW

SEC. 501. (a) Petitions for review of (1) any action taken under this Act (including any petition alleging the unconstitutionality of any such action), and (2) any decision by a Federal agency or official to which section 402(a) applies may be filed only in the United States Court of Appeals for the District of Columbia Circuit, which shall have exclusive jurisdiction over such petitions.

(b) Any such petition shall be filed within 60 days after the date of the action or decision of which review is sought and shall (1) be docketed at the earliest possible date, (2) to the greatest extent practicable, take precedence over all other matters pending before the court, and (3) be expedited in every way by the court. The court shall render its decision with respect to any such petition within 90 days after the date of the filing of such petition unless it determines that a longer period is required by the Constitution, in which case it shall render its decision as soon as possible.

EXCLUSIVELY OF JUDICIAL REVIEW UNDER THIS TITLE

SEC. 502. Any action with respect to which review could have been obtained under section 501 shall not be subject to judicial review in any other forum.

SUPREME COURT REVIEW

SEC. 503. Any petition for review by the Supreme Court of a decision by the Court of Appeals under section 501 shall be barred unless filed within fifteen days after the date of the decision of the Court of Appeals. Review of such a decision by the Supreme Court shall be completed at the earliest possible date.

SUITS FOR INVERSE CONDEMNATION

SEC. 504. Nothing in this title shall apply to actions for inverse condemnation under section 1346 or 1491 of title 28, United States Code.

EXECUTIVE OFFICE OF THE PRESIDENT ON ENVIRONMETAL QUALITY,
Washington, D.C., November 14, 1979.

Hon. ANTONIA H. CHAYES,
Under Secretary, Department of the Air Force, The Pentagon, Washington, D.C.

DEAR TONI: I am writing with some concern since the Air Force has not responded for almost a month to our proposals for expediting the application of NEPA to the MX siting decisions. You will recall that you and others from the Air Force made a presentation to Gus Speth, myself, and others from the Council on October 11. Specifically we discussed how best to cooperate to comply with NEPA within severe time constraints occasioned by national security considerations. We offered our assistance and experience in making this possible. You suggested a legislative partial waiver of NEPA, a solution concerning which we had grave doubts absent a compelling showing on your part of overriding necessity. We asked that you immediately provide us with your time chart or schedule showing what had to take place by what time so we could apply our expertise with NEPA to make implementation of that Act fit the time available, if that was possible. No time chart arrived for several days despite our calls and although both you and Grant Reynolds phoned to say one would be coming. When one came, it did not deal in any detailed fashion with the matter at issue—just what had to be done by what time to prepare the basing area EIS. Instead this critical issue was relegated to the first one inch segment of a full-page flow chart. There was no breakdown within that inch of what was to be done by when during that time. After receiving this CEQ representatives met twice over the next two days (October 17 and 18) with Air Force representatives. Both agencies said they wished to expedite matters.

At the sceond such meeting (October 18) I took the lead in representing the Council, and Grant Reynolds did so for the Air Force. At that time we informed the Air Force that based upon our experience with NEPA and with other agencies' successful efforts (with our cooperation) to expedite its application when required by important national priorities, no legislative waiver of NEPA was needed. All that had to be done could be done within the time available (using the Air Force's own time deadlines). Your schedule involved filing a draft EIS by June 30, 1980, filing a final EIS by October, 1980, and making a decision on the basing area (including location of the operating centers and first 10 loops) by November/December, 1980. This schedule is governed by the need to start construction in early 1981 in order to meet the President's goal of having initial operating capability for the MX (10 loops) by 1986.

At the October 18 meeting CEQ advised the Air Force that it is possible to meet your deadline without waiving NEPA in one of two ways—(1) by one EIS which considered basing area alternatives (i.e., Utah-Nevada as opposed to Western Nebraska-Eastern Colorado, etc.) as well as more geographically specific (valleys, 10 loops) material or (2) by two EISs on expedited time schedules (which I personally prefer), the first dealing with basing area alternatively and the second with the siting decisions within the basing area(s) chosen after the first EIS.

The essence of these options is our insistence that NEPA does not require the alternative basing area analysis to go into site specific effects of the MX program. For example, you can do a program EIS just on alternative areas with a broad-brush analysis of effects. This EIS can be done relatively quickly (using information available in your Milestone II EIS on the basing mode and other information the Air Force has been collecting and has available). We said that based on our expertise the Air Force could with determined direction prepare a draft EIS by February, 1980, and a final EIS (and, with time waivers, a decision) by April, 1980. Either a second EIS or a supplement to the first one can then be done analyzing site specific effects of the MX program on the basing area selected (e.g. Utah-Nevada) to be finished by October, 1980. Expedited consideration of environmental factors is not a perfect solution, but it is infinitely preferable to waiving by legislation any consideration of the environmental effects of the basing area alternatives and decision, as the draft legislation would do. We further stressed that legislation was undesirable [1] because:

(1) The Air Force would still have to prepare an EIS on the legislation (since the legislation would in fact make the choice among alternative basing areas; see NEPA, Sec. 102(2)(C)).

(2) The precedent of this sort of waiver of a law, which in President Carter's words "has had a dramatic—and beneficial—influence on the way new projects are planned," would be most undesirable.

(3) Having just gone through a very devisive fight in Congress on the waiver provisions of the Energy Mobilization Board (also dealing in good part with Western lands and water rights issues), the last thing the Administration needs is a repeat, with chancy prospects of success.

In brief, legislation partially waiving NEPA is not needed, and we offered our wholehearted cooperation to move with the utmost rapidity to complete environmental analyses within the time permitted by your schedule. We emphasized that firm direction and a willingness to move the process expeditiously would be vital. Almost a month has passed, and we have received no response from the Air Force to our proposals on how to make NEPA fit the time available, despite our attempts by phone to get a response. Instead the General Counsel's office has sent over another draft of the legislation. It is this circumstance that occasions this letter. We cannot afford to waste time, but must get on with the job of preparing the environmental impact statement or statements. The time is there, but it is growing shorter. Prompt action by the Air Force is essential.

We look forward to hearing from you promptly and to lending our support and cooperation to you to move the NEPA process vigorously to a conclusion within the time available.

Yours truly,

NICHOLAS C. YOST,
General Counsel.

[1] We understand from EPA that no legislation is needed to deal with the issues of their permits, but that any waivers, if needed in the national interest, may be handled by the President under his existing statutory authority. We further understand from the Department of the Interior that legislation will ultimately be needed for land withdrawals, but this, of course, comes at a later stage when the lands involved have been identified.

Mr. PROXMIRE. Mr. President, I yield the floor.

SENATOR BAUCUS GETS THE GOLDEN GAVEL

Mr. ROBERT C. BYRD. Mr. President, I wish to call the Senate's attention to the fact that at 5:35 p.m. today our colleague, Senator MAX BAUCUS, completed his 107th hour of presiding over the Senate. I wish to take this opportunity to compliment and to commend him for the fair and impartial method in which he has presided over this body and to express my personal appreciation to him for his cooperative attitude in assuming this responsibility. I am fully aware—and I want the other Members of the Senate to be aware—that this has included considerable sacrifice on his part to accommodate these presiding duties.

In terms of age, Senator BAUCUS would probably be rated as one of the younger Members of the Senate but, in terms of judgment, wisdom, and expertise in mastering the workings of the legislative branch of our Government, MAX BAUCUS is wise and experienced beyond his numerical years. He could truly be called an "old timer" in that respect.

Mr. President, since Senator BAUCUS came to the Senate, I have found him to be one of our most able and dedicated Members of the Senate and in addition, he is always willing to work with the leadership and for that I am personally appreciative. Senator BAUCUS is a fighter for his State and the causes in which he believes. However, while he is an able and tenacious adversary, he is also a gentleman in every sense of the word who ultimately gains the respect of both of his supporters and his adversaries for the competent and gentlemanly ways in which he fights his causes.

Senator BAUCUS, I congratulate and thank you for presiding over this body for 107 hours.

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

Mr. ROBERT C. BYRD. Yes.

Mr. MATSUNAGA. As a golden gaveler myself, I wish to join with the distinguished majority leader in the accolade accorded the distinguished Senator from Montana. I have observed the young Senator, with whom I served in the House, perform in the President's chair, and I must say that he performs superbly. I congratulate the Senator from Montana, and in doing so I wish to associate myself with all the great things which the majority leader said about him. Congratulations.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Hawaii, who has spoken of the golden gavel. Mr. BAUCUS will be presented with a golden gavel at a ceremony next week.

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

Mr. ROBERT C. BYRD. I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I join the other Senators in tribute to our colleague from Montana. In addition to his performance in the chair, he has been diligent in all respects in the performance of his duties on the floor, and I offer him my congratulations.

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

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. I was just wondering whether the golden gavel award could be made retroactive. In that Republicans are no longer permitted to preside over the Senate, if we could go back in the records and find what Republicans have presided for more than 100 hours, perhaps we could present them with golden gavels also.

Mr. ROBERT C. BYRD. Mr. President, Republicans are not the only ones, may I say, who have not been awarded golden gavels. May I say that I was never presented with one, though I have served my time in the chair, I am sure more than 100 hours. But I have no desire to go back and get a golden gavel.

Mr. BAUCUS. Mr. President, I thank the majority leader for his very kind words. I might add, however, that one of the reasons why I have presided as many hours as I have has been in an attempt to learn the complicated Senate rules. When I first came to the Senate I was told that the rules were very complex, and that if one would spend some time learning the rules, one could perhaps further one's legislative goals.

I must say, however, that even after 107 hours in the chair, I have by no means perfected my understanding of the rules. I will certainly strive to learn more.

I might also add that I feel that the majority leader does an exceptionally capable job. I have carefully watched the majority leader, quite candidly in part because his predecessor, Mike Mansfield of Montana, was an idol of mine. I might say that we in Montana admire the Senate majority leader, Mr. ROBERT C. BYRD, and I am very honored to be associated with the majority leader, and also with the other Members of the Senate.

With those final words, I am very grateful, not just for the recognition, but for the opportunity to serve it represents.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for what he has said, with his characteristic modesty.

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 commttees.

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

MESSAGE FROM THE HOUSE

At 11:23 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 914) to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multistate regional development commissions to promote balanced development in the regions of the Nation, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; that Mr. JOHNSON of California, Mr. ROE, Mr. OBERSTAR, Mr. NOVAK, Mrs. BOUQUARD, Mr. EVANS of Georgia, Mr. HARSHA, Mr. HAMMERSCHMIDT, and Mr. CLINGER were appointed as managers of the conference on the part of the House; and that the Speaker has appointed Mr. MOORHEAD of Pennsylvania as an additional manager on the part of the House for consideration only of the following provisions of the House amendment and Senate modifications thereto committed to conference: In section 103 of the House amendment, the following provisions added to title II of the Public Works and Economic Act of 1965: Section 202(f); in section 203(a), the 10-year limitation on partial payment of interest by the Secretary; in section 203(c), the 4 per centum minimum rate payable by the Secretary; in section 205 (4), the provision following the comma in the second sentence, exempting the extension of maturity of a loan or guarantee from the restrictions on maturities; and section 205(7), paragraphs A through E.

The message also announced that the Speaker has appointed Mr. ECKHARDT as a manager in the conference on the part of the House on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1308) to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes, vice, Mr. SEIBERLING, resigned.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 7, 1979, he presented to the President of the United States the following enrolled bills:

S. 901. An act to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery;

S. 1491. An act to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building";

S. 1535. An act to designate the Federal Building in Rochester, N.Y., the "Kenneth B. Keating Federal Building";

S. 1655. An act to designate the building known as the Department of Labor Building in Washington, District of Columbia, as the "Frances Perkins Department of Labor Building"; and

S. 1788. An act to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2603. A communication from the Comptroller of the Currency, transmitting, pursuant to law, the 1978 Annual Report of the Comptroller of the Currency; to the Committee on Banking, Housing, and Urban Affairs.

EC-2604. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize additional appropriations for the Northeast Corridor Improvement Project of the Railroad Revitalization and Regulatory Reform Act of 1976; to the Committee on Commerce, Science, and Transportation.

EC-2605. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the Administration's Semiannual Report on the Effectiveness of the Civil Aviation Security Program, January 1 to June 30, 1979; to the Committee on Commerce, Science, and Transportation.

EC-2606. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report entitled "NRC Semi-Annual Report to Congress on the Status of Domestic and International Evaluations of Nuclear Fuel Cycle Systems"; to the Committee on Environment and Public Works.

EC-2607. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a prospectus proposing the acquisition of space by lease in Philadelphia, Pa.; to the Committee on Environment and Public Works.

EC-2608. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Advisory Council on Social Security reviewing the status of the social security trust funds; to the Committee on Finance.

EC-2609. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to amend chapter 23 of title 44, United States Code, to reconstitute the membership of the National Archives Trust Fund Board, and for other purposes; to the Committee on Governmental Affairs.

EC-2610. A communication from the Director of the Office of Administration, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a proposed new system of records for the Commission for imple-

menting the Privacy Act; to the Committee on Governmental Affairs.

EC-2611. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report of the Federal Judicial Center for fiscal year 1979; to the Committee on the Judiciary.

EC-2612. A communication from the Administrator of the Veterans' Administration, transmitting, pursuant to law, the annual report on the exchange of medical information program of the Veterans' Administration for fiscal year 1979; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 2727. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes (Rept. 96-465).

By Mr. DECONCINI, from the Committee on the Judiciary, with an amendment:

S. 1654. A bill to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes (Rept. No. 96-466).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 3756. An act to authorize appropriations for certain insular areas of the United States, and for other purposes (Rept. No. 96-467).

By Mr. MELCHER, from the Select Committee on Indian Affairs, without amendment:

S. 1730. A bill to declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe (Rept. No. 96-468).

By Mr. MELCHER, from the Select Committee on Indian Affairs, with amendments and with a preamble:

S.J. Res. 108. A joint resolution to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups (Rept. No. 96-469).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1946. A bill to reform the economic regulation of railroads, and for other purposes (Rept. No. 96-470).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submited:

By Mr. LONG, from the Committee on Finance:

Michael Brackett Smith, of Maryland, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

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

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

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

(The nominations ordered to lie on the Secretary's desk appeared in the RECORD of November 28, 1979, at the conclusion of the Senate proceedings.)

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. JEPSEN (for himself and Mr. ROTH):

S. 2097. A bill to establish a joint export marketing assistance program within the Department of Commerce to stimulate promotion activities; to the Commitee on Banking, Housing, and Urban Affairs.

By Mr. STEWART:

S. 2098. A bill to amend section 431 of the Public Health Service Act to provide funds to the National Institute of Neurological and Communicative Disorders and Stroke for research in the area of regeneration of the spinal cord; to the Committee on Labor and Human Resources.

By Mr. COCHRAN:

S. 2099. A bill for the relief of Rene Arevalo Guerrero; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 2100. A bill to provide conditions of bail to prevent continued drug trafficking pending trial; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 2101. A bill to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. NELSON (by request):

S. 2102. A bill to amend the Inland Waterway Authorization Act of 1978 (Public Law 95-502; 92 Stat. 1693); to the Committee on Finance.

By Mr. MATSUNAGA (for himself, Mr. RANDOLPH, and Mr. HATFIELD):

S. 2103. A bill to establish a Department of Peace, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEPSEN (for himself and Mr. ROTH):

S. 2097. A bill to establish a joint export marketing assistance program within the Department of Commerce to stimulate promotion activities; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. JEPSEN when he introduced the bill appear earlier in today's proceedings.)

By Mr. STEWART:

S. 2098. A bill to amend section 431 of the Public Health Service Act to provide funds to the National Institute of Neurological and Communicative Disorders and Stroke for research in the area of regeneration of the spinal cord; to the Committee on Labor and Human Resources.

RESEARCH IN SPINAL CORD REGENERATION

Mr. STEWART. Mr. President, spinal cord injury is a devastating and catastrophic condition which has resulted in the paralysis of more than half a million Americans. Injury to the spine can happen to anyone, of any age, at anytime. The list of those paralyzed as a result of spinal cord injury includes politicians, athletes, doctors, and laborers. They are young, they are old, they are black, and they are white. Three-term Alabama Gov. George Wallace is one of those who suffers from paralysis as a result of spinal cord injury, former professional football player Daryl Stingley is another. The list goes on and includes the famous and the not so famous. What all these people have in common is the loss of movement in their limbs as a result of a spinal cord injury.

The legislation which I am introducing today would give hope to those now paralyzed as a result of spinal cord injuries. This legislation would authorize the National Institute for Neurological and Communicative Disorders and Stroke in the National Institutes of Health to spend $16 million for research in the area of spinal cord regeneration. Research in this area has potential for developing a cure for spinal cord injuries.

This year the National Institute of Neurological and Communicative Disorders and Stroke will spend about $7 million on spinal cord regeneration research. Even with this meager expenditure we have made major breakthroughs in the area. Drs. Malcolm Wood and Melvin Cohen at Yale University have successfully repaired severed spinal cords in lampreys using a horseradish derivative. Doctors elsewhere have successfully stimulated spinal nerve regeneration in dogs and mice. The additional moneys will permit the acceleration of research into spinal cord regeneration and hopefully it will hasten the day when we can cure spinal cord injury.

A sum of $16 million is not a lot of money when one considers what spinal cord injuries cost. It has been estimated that lifelong medical cost along with lost earnings amount to more than $700,000 per person. Initial hospitalization and rehabilitation costs alone amount to between $40,000 and $150,000 per person. HEW will spend $3 billion on rehabilitation programs and an equal amount is spent on rehabilitation in the private sector. Then there is the additional cost in public assistance payments for spine injured people. There is no way that we can quantify the human cost of spinal injuries. More than 16,000 families must cope with the trauma of spine injury related paralysis. The tremendous physical and psychological adjustments to paralysis are devastating, often resulting in alcoholism and mental illness.

The bill I am introducing today will provide hope and encouragement to victims of spinal injuries and their families. It will allow us to take full advan-

tage of our research capabilities to address a major medical problem.

By Mr. DECONCINI:

S. 2100. A bill to provide conditions of bail to prevent continued drug trafficking pending trial; to the Committee on the Judiciary.

DRUG TRAFFICKING PREVENTION ACT OF 1979

● Mr. DECONCINI. Mr. President, the Senate Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary is in the process of conducting an intensive examination into the many problems associated with the war on illicit drugs. Frankly, it does not appear that we are winning that war; the best that can be said is that after substantial governmental reorganization and the expenditure of many millions of tax dollars, we are treading water.

It is my intention, Mr. President, to continue these investigations until satisfactory answers emerge. We may find, in the future, that some fundamental changes in our manner of attack will be necessary. However, the problem I would like to address today is more limited. In the context of our hearings, the GAO released to the subcommittee the results of a comprehensive study of the Federal drug enforcement effort, entitled: "Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes." The GAO study is the most extensive ever attempted on the subject, and it overs the entire range of relevant topics.

In its analysis of the drug trafficking problem, the GAO examined Federal judicial practices. It discovered that a major flaw in the process of bringing traffickers to justice is our inability to control their activities prior to trial. Thus, while the law enforcement agencies of the Federal Government may arrest a major trafficker and the Justice Department obtain an indictment, his activities will not cease. In most cases, he will continue his trafficking activities as usual. It seems to me, Mr. President, that such a loose attitude toward individuals who head or figure prominently in major drug trafficking organizations is unwarranted. Society has a right to demand that certain safeguards be established to protect it from the continuing predatory activity of these persons.

The legislation I am introducing today is designed to protect society from the continued operation of drug trafficking organizations between the time of arrest and trial. The bill will allow the Court to impose certain conditions on an individual prior to permitting release on bond. Those conditions might involve travel and association restrictions. If, in the judgment of the Court, however, no set of reasonable conditions could prevent the defendant from continuing in drug trafficking, or if the drug trafficking offense was committed while the defendant was on release pending trial on a previous offense, it would be allowed to deny bail on the grounds of a "danger to the community."

The suggestion embodied in this bill was originally made by the GAO study. That report states:

Bail and sentencing practices throughout the country have diluted the effect of drug enforcement efforts. Many defendants who are released on bail continue their drug trafficking, while those who are convicted often are not immobilized for long periods of time. These are long-standing problems that have remained unresolved despite considerable attention. Changes in the judicial system should be considered by the Congress to improve the bail law and enhance the capacity of the court system. The Judicial Conference of the United States should perform a comprehensive assessment to determine the effects of judicial discretion on the justice system and whether disparate sentences and a reduced deterrent value of sentencing have resulted.

Mr. President, there remains an unresolved question of constitutional law as to whether a person may be denied release pending trial. The eighth amendment states:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The ambiguity of the amendment on the question of right to bail is exemplified by dicta statements in two Supreme Court cases handed down in the same term. In *Stack* v. *Boyle*, 432 U.S. 1, 4 (1951):

This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction.

In *Carlson* v. *Landon*, 342 U.S. 524, 545 (1952): The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different Concept.

Mr. President, there is ample precedent for the proposition that the eighth amendment guarantees only reasonable bail in those cases where bail is appropriate. The Massachusetts Body of Liberties of 1641 guaranteed bail except in those cases where an "act of Court doth allow it (that is, detention pending trial)," or in capital cases. The 1682 Pennsylvania Constitution, the congressionally enacted Northwest Ordinance of 1787, and the District of Columbia Code also enacted by Congress, all provide for preventive detention for specified classes of cases.

The legislation I am introducing is grounded in the rationale that the continued operation of drug trafficking organizations poses a serious danger to the community. Where conditions of release less restrictive than pretrial detention would be an effective prophylactic, the bill authorizes the court to impose those conditions. However, when the court finds that no conditions of release could effectively prevent the defendant from trafficking in drugs on release, I believe it is in the best interest of the community that the person be detained. Certainly, when the defendant has been arrested for a trafficking offense while already on pretrial release, parole, or probation, he has proven himself dangerous and this bill would allow the court to detain him.

I ask unanimous consent to have the relevant section of the GAO report and the text of the legislation printed in the RECORD.

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

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Add a new section to 18 U.S.C., Chapter 207, as follows:

Section 3148A. Release in cases involving controlled substances.

(a) A person who is charged with an offense involving the manufacture, transportation, or sale of a substance controlled under Title 21, United States Code shall be treated in accordance with section 3146, except that the court shall order such conditions as to reasonably insure that the person will not engage in the conduct proscribed by the offense pending trial. If the court finds that no conditions could reasonably insure that the person will not engage in the proscribed conduct pending trial, the person may be ordered detained.

(b) For purposes of subsection (a), it is conclusively presumed that no conditions will reasonably insure that the person will not engage in the proscribed conduct if the person was charged:

(1) while on release pending trial for any State or Federal offense; or

(2) while on probation or parole under a conviction on any State or Federal offense.

BAIL AND SENTENCING PRACTICES FURTHER WEAKEN IMMOBILIZATION EFFORTS

Bail and sentencing practices throughout the country have diluted the effect of drug enforcement efforts. Many defendants who are released on bail continue their drug trafficking, while those who are convicted often are not immobilized for long periods of time. These are longstanding problems that have remained unresolved despite considerable attention. Changes in the judicial system should be considered by the Congress to improve the bail law and enhance the capacity of the court system. The Judicial Conference of the United States should perform a comprehensive assessment to determine the effects of judicial discretion on the justice system and whether disparate sentences and a reduced deterrent value of sentencing have resulted.

TRAFFICKING WHILE ON BAIL

Many alleged drug traffickers who are subsequently convicted do not curtail their illegal activities after arrest because they continue their illicit trafficking activities while free on bail. The current bail law does not authorize judges, when deciding bail in noncapital cases, to consider the danger of an alleged trafficker to the community, i.e., the likelihood that the defendant will deal in drugs while on bail and thereby present a danger to the community. Various reports and studies have concluded that the bail statutes have, therefore, hindered the immobilization of alleged drug traffickers by allowing them to be released with no restrictions before trial.

BAIL LAW DOES NOT AUTHORIZE DETENTION OF DRUG DEFENDANTS LIKELY TO TRAFFIC IN DRUGS

The Bail Reform Act of 1966 (18 U.S.C. 3146 *et seq.*) does not provide for pretrial bail decisions for drug defendants based on considerations of whether the individuals may traffic in drugs while on bail and therefore pose a "danger to the community." Current bail law applicable to drug violations provides that assurance of "the appearance of the person as required" is the criteria to be considered. Other bail laws—those dealing with capital offenses [1]—do permit judges to

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[1] Crimes punishable by death.

consider danger to the community and allow the refusal of pretrial bail. But narcotics violations are not considered capital offenses.

The Bail Reform Act was passed to better assure that defendants, regardless of financial status, are not needlessly detained while awaiting court appearances. The bail law delineates certain factors judges are to use in determining a defendant's conditions of release. One section of the act provides that defendants in noncapital cases shall be released on bail unless the judge determines that release will not reasonably assure the defendant's appearance at trial. If the judge determines that the imposition of bail by itself will not ensure the defendant's appearance, he may impose certain specified conditions on the defendant's release. Since drug offenses are not capital offeses, bail for such defendants must be provided in accordance with section 3146.

In contrast, another section of the bail law (18 U.S.C. 3148) provides that defendants in capital cases and convicted defendants awaiting sentencing or appeal shall be released on bail unless the judge determines that no conditions of release will adequately assure either that the defendant will appear for trial or sentencing or that the defendant will not pose a threat to the community. If such a determination is made, the judge may order the defendant detained. Where the danger to the community rationale is employed to detain a convicted drug offender awaiting appeal, there must be substantial evidence that the community would be threatened by the defendant's release.

Studies have cited bail law as a problem

Various reports by the executive branch, the Congress, and our office have all concluded that many drug traffickers continue to deal in drugs while free on bail pending trial. In addition to these past studies, we noted recent instances where drug defendants were released prior to trial and then rearrested on new drug charges while out on bail, obviously diluting the effects of drug enforcement efforts.

In 1973, our office[2] concluded that some alleged drug traffickers were not being effectively immobilized because, among other reasons, they were frequently released on bail for long periods. This situation was determined to exist because the bail criteria did not consider the likelihood of a defendant continuing to deal in drugs and thereby posing a danger to the community when released on bail, and BNDD generally did not monitor the activities of arrested traffickers who were free on bail. We recommended that DEA monitor those alleged traffickers who are out on bail and who are likely to traffic in drugs.

The House Select Committee on Narcotics Abuse and control has also identified the bail law as a problem. The Committee, in a 1977 Interim Report, found that the current law allows for major traffickers to be released to the community, and a significant number of those released return to their illegal activities or become fugitives.

DEA has continually claimed that the bail law is inadequate. In one study, DEA found that of a random sample of 499 individuals released pending trial after arrest for narcotics trafficking in 1972, 47.5 percent were implicated in postarrest trafficking. Similar DEA results were used as a basis for the recommendation in the 1975 White Paper that stiffer penalties be imposed to deter drug offenses committed while on bail. A more recent (1977) DEA examination of bail practices showed that:

One-half of DEA's serious defendants in the study were released awaiting trial, on bond or personal recognizance; and

"More than one-third of the released serious defendants were free on bond or own recognizance for 7 months to more than a year.

In our review we saw examples of what can happen after an alleged drug trafficker is released. To illustrate:

"Two men were arrested and charged with manufacturing PCP. While on trial for that charge, the same two were arrested again and charged with conspiring to manufacture PCP. Enough material to make 10 pounds of PCP was seized at the time of the second arrest.

"An individual was arrested on drug charges and released on bail. While free on bail, he was arrested in another State and charged with conspiring to smuggle approximately 58 pounds of cocaine from Bolivia to the United States. The Magistrate ordered the person released on the existing bail posted in the first case."

Various proposals have been suggested to help alleviate the problem of accused drug offenders continuing to deal in drugs while released on bail. One of these proposals has suggested that the Federal bail statute be amended to provide that judges setting pretrial bail in all serious, noncapital cases could consider whether a defendant released on bail would pose a danger to the community.

While the proposed changes appear simple and clearcut, they are not without problems, since opinions differ regarding their advisability and constitutionality. It has never been resolved, for instance, whether a defendant may constitutionally be denied bail in noncapital offenses for reasons other than to assure that the defendant appear for trial. Some believe that it may be unconstitutional to deny bail to defendants for any other reason than assuring their appearance for trials except in capital offenses. The Eighth Amendment provides that "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." This provision is, however, subject to two different interpretations. The first is that, since only excessive bail is prohibited, the Congress is not prevented from denying bail altogether in certain classes of cases. The second interpretation is that, since "excessive bail" is prohibited, an outright denial of bail, which is a more serious infringement on the liberty of an accused person, must also be barred. The Supreme Court has never settled this issue.

In summary, then, it is clear that the bail problem is complex and difficult to deal with. This does not mean that the Congress should be deterred from developing solutions, but any modifications or reform to the bail law must consider both constitutional principles and the means to prevent traffickers from engaging in illicit activities that present a danger to the community.●

[2] "Difficulties in Immobilizing Major Narcotics Traffickers" (B-175425. Dec. 21, 1973).

By Mr. EAGLETON:

S. 2101. A bill to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes; to the Committee on Labor and Human Resources.

● Mr. EAGLETON. Mr. President, I am introducing today a bill which would authorize the National Labor Relations Board to serve process and papers by certified mail.

Under existing law, the NLRB may deliver many case documents only by hand, telegraph or registered mail. Adding certified mail to this list of options would save approximately $2.5 million over the next 5 years and, according to the Board itself, the Office of Management and Budget and the Postal Service, have absolutely no adverse consequences whatsoever. This appears, in fact, to be one of those rare instances in which something can be done a different way perfectly well, at less cost, and to everyone's satisfaction.

Congress imposed the registered mail requirement on the NLRB, and other agencies over the years, as a failsafe mechanism for establishing proof of service. Its purpose was to insure that the sending and delivery of legal documents could be verified, by requiring the use of a specific delivery operation which furnishes receipts.

Receipts notwithstanding, however, registered mail is an inappropriate and inordinately expensive answer to the NLRB's needs. Registered delivery is primarily a high-security system for the shipment of valuables. Provision of receipts is incidental to the indemnification against loss or damage of mailed items which is this service's distinctive feature. Logically, rates for registered mail reflect the cost of its insurance coverage.

Few NLRB papers have any intrinsic value. The Board's only real need is to document their delivery. Yet, under law, this agency must serve filings, notices and other materials on all parties in approximately 60,000 cases a year via a system intended to protect jewelry. In fiscal year 1979, this amounted to 189,000 registered mailings. Each carried between $2.20 and $3.00 worth of postage. This is an outrageous price to pay for a receipt.

Such expense becomes all the more preposterous in view of the fact that another form of delivery, perfectly attuned to the Board's needs, is available at a dramatically lower rate. The Postal Service designed certified mail service to carry items for which delivery records are necessary, but extra security and insurance are not. It costs about 80 cents a letter.

In 1960, Congress recognized the greater-cost efficiency which certified mail offers by authorizing most Federal agencies to use it. The Certified Mail Act amended 56 statutes for this purpose; apparently due to an oversight, the National Labor Relations Act was not among them.

Correcting this omission will let the NLRB accomplish the same purpose for which registered mail was originally required, at substantial savings. Its postage costs, according to the Congressional Budget Office, will diminish by $400,000 in fiscal year 1980; $500,000 a year from fiscal year 1981 through fiscal year 1983, and $600,000 in fiscal year 1984. At the same time, the Board asserts there would be no reduction in the security or effectiveness of its mailings. OMB and the Postal Service agree.

Frankly, all parties concerned consider the proposed change to their advantage. Certainly, it would be to the taxpayers. I hope the Senate will concur.●

By Mr. NELSON (by request):

S. 2102. A bill to amend the Inland Waterway Authorization Act of 1978

(P.L. 95–502; 92 Stat. 1693); to the Committee on Finance.

● Mr. NELSON. Mr. President, I am today introducing legislation on behalf of the administration to extend the deadline for preparing a master plan of the upper Mississippi River system, as mandated by Congress last year in the Inland Waterway Authorization Act of 1978 (P.L. 95–502). The extension, which would change the date of submission of the plan by 19 months, is necessary to allow the preparation of the information requested by the Congress, and reflects substantial congressional delays in enacting the legislation and in appropriating the authorized funds.

I ask that the text of the November 29, 1979, letter from Mr. Guy Martin, alternate to the chairman of the U.S. Water Resources Council to the President of the Senate, the Honorable WALTER F. MONDALE, be printed in the RECORD.

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

Hon. WALTER F. MONDALE,
President of the United States Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the Inland Waterway Authorization Act of 1978 (P.L. 95–502; 92 Stat. 1693)."

We recommend that the bill be introduced and enacted.

This bill would amend section 101(a) of the Inland Waterway Authorization Act of 1978 to extend the deadline for preparing a Master Plan of the Upper Mississippi River System. The development of a comprehensive Master Plan was mandated by Congress in legislation authorizing rebuilding of Locks and Dam 26 on the Upper Mississippi River's navigation system. The existing law requires publication of a preliminary plan by January 1, 1981, and submission of the final Master Plan to the Congress by January 1, 1982. The draft bill would change those dates to December 1, 1982, and July 25, 1983, respectively.

The Master Plan process is intended to help coordinate the many policies and programs of the five States and ten Federal agencies which manage various segments of the Upper Mississippi River System. Congress assigned responsibility for preparing the Master Plan to the Upper Mississippi River Basin Commission, working in conjunction with Federal, State and local officials, and other affected parties.

The Master Plan language, including dates, was inserted into the Locks and Dam 26 legislation in 1976, but the bill was not enacted and signed into law by President Carter until October 1978. The law still contained the original dates for the completion of the Master Plan which were based upon an anticipated four-year plan of study when the bill was introduced. The dates were not changed to reflect the lengthy debate. Because of delays in enacting the bill, the deadline in the bill is not adequate; accordingly an extension of the deadline is needed.

Months of work went into preparation of a four-year Plan of Study (POS) for conducting the environmental, economic and transportation studies required by the Act. The POS was unanimously adopted by the Upper Mississippi River Basin Commission at their August meeting. The Commission, however, resolved to ask Congress to amend the deadline in the Federal law to reflect the four-year time-frame included in the original legislation. This decision was based on strong evidence that only the longer period could yield the information essential to develop a viable Master Plan and to resolve the management problems created by competing economic, recreational and environmental interests.

The legislation mandating the Master Plan authorized $12 million for this effort. To date, Congress has appropriated only $6 million—$2 million in Fiscal Year 1979 and $4 million in Fiscal Year 1980—for the Master Plan. The supplemental appropriation for Fiscal Year 1979 was not signed until July 25, 1979. These funding decisions were not made until recently and contribute to the need for a time extension.

Furthermore, the Commission has been directed to utilize the resources and results of the Upper Mississippi River Resources management study (GREAT) and other ongoing studies to the fullest extent possible. The GREAT reports were originally scheduled for September 1979 (GREAT I), September 1980 (GREAT II), and September 1983 (GREAT III). To attempt to complete the study within the presently authorized time-frame would preclude maximizing use of these study results.

Work on the Master Plan is underway. The Master Plan Task Force held its first meeting September 6. Committees are organizing and scopes of work are being written. Contracts must be advertised and let. The contract work alone will take six months. Plan formulation from the data that must be collected and analyzed will also take months. The bill we are submitting reflects these time requirements.

The bill will provide three full years for the technical planning and research needed to formulate a Master Plan based on study results with statistical reliability. An excerpt from a letter to the Upper Mississippi River Basin Commission Chairman, Neil Haugerud, from the Upper Mississippi River Conservation Committee (UMRCC) illustrates this point. The letter from the UMROC Chairman states.

"UMROC biologists have maintained throughout the GREAT River Study and now the Master Plan that except for small scale inventories, one year biological studies are of little value. At least 3–5 years are required for a sound biological study. . . . We recognize that Congress has placed time limitations on the development of this plan. Yet we sincerely believe that it is our professional responsibility to bring to Congress' attention the fact that the proposed POS* and the time limitations they have imposed on its (sic) development, prevent achievement of the environmental objectives of Public Law 95–502."

The law authorized numerous transportation, environmental and economic studies. Almost none of the prescribed work elements could be adequately addressed in the next fourteen months as required by existing law.

The time-frames established in the attached draft bill are necessary for a quality document that will give Congress the information it needs to make the decisions about the River's carrying capacity and larger questions surrounding the management of the entire Upper Mississippi River System. I urge your favorable consideration of this bill.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation from the standpoint of the Administration's program.

Sincerely,

GUY MARTIN,
Alternate to the Chairman.●

By Mr. MATSUNAGA (for himself, Mr. RANDOLPH, and Mr. HATFIELD):

S. 2103. A bill to establish a Department of Peace, and for other purposes; to the Committee on Governmental Affairs.

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*Refers to an April draft POS.

DEPARTMENT OF PEACE ORGANIZATION ACT OF 1979

Mr. MATSUNAGA. Mr. President, today with the cosponsorship of the distinguished senior Senator from West Virginia, Mr. RANDOLPH, and the distinguished Senator from Oregon, Mr. HATFIELD, I am introducing the Department of Peace Organization Act, a bill that supports an idea that is as old as the Republic itself. It seems altogether fitting and proper that I do this on a day which commemorates the 38th anniversary of the bombing of Pearl Harbor and the entry of the United States into World War II. Sorrowfully, we and the world have experienced peace only fitfully since then.

Shortly after another war—the American Revolution—an essay appeared, entitled "A Plan of a Peace Office for the United States." The writing honors were shared by Benjamin Bannekar an author and scientist who sometimes was called the black Ben Franklin, and Dr. Benjamin Rush a physician, social reformer, and a signatory to the Declaration of Independence.

This essay proposed that a peace office should be established and be presided over by a Secretary of Peace, and should have the objective of influencing the American public and its Government toward peace. Further, the peace office was to undertake extensive educational efforts in each American community.

After 200 years in which we have failed to establish a peace office one might conclude that this is an old and tired idea that should at long last be laid to rest. I do not share that view. On this 38th anniversary of the beginning of the worst hiatus in the peace of the world we need to be mindful of a message by Gen. Omar Bradley in which he said:

> We have grasped the mystery of the atom and rejected the Sermon on the Mount. . . . Ours is a world of nuclear giants and ethical infants. We know more about war than we know about peace, more about killing than we know about living.

Mr. President, we need to heed these words and learn more about peace and living than war and killing.

I am sure that there are a good number of people in our Nation who are astounded by an irony that allows us to profess the desirability of peace while we continue to organize for war, and refuse to recognize the absence of a strong Government agency to argue for alternatives to war.

Peace, when we think about it, is too often appended to muscle, as in the phrase "peace through strength," or, as former Secretary of Defense Melvin Laird recently put it, in opposing approval of SALT II, "strength and purpose in the cause of world peace." Mr. President, this is not the kind of peace about which I am speaking. I do not believe that a "Pax Romana" is a real peace. Peace through suppression is nothing more than an uprising waiting to happen, a hiatus between conflicts, not the peace which all men crave. Subjugation has never been and never will be an acceptable price to pay for peace.

A condition that will bring peace with dignity was articulated by Walter Scheel,

former President of the Federal Republic of Germany when he said, in January 1979, that world peace requires a new international system based on an appreciation of the economic interdependence between nations. It was also stated very well 190 years ago by our own James Madison who in drafting the U.S. Constitution called for a "mature world order" emerging from balance and stability.

Whatever the basis of peace may be, peace will not come about by wistfully wishing for it. At the time that the peace treaty was signed between the once bitter enemies of Israel and Egypt, President Carter pointed the way. He said at that time that "Peace is active, not passive * * * peace is doing, not waiting * * * peace, like war is waged."

In the context of waging peace an event took place this week from which we may take heart. President Carter made the final three appointments to the nine member Commission on Proposals for the National Academy of Peace and Conflict Resolution. The Commission will shortly be undertaking its assigned task. Mr. President, I am pleased to be a member of this Commission which will be looking into the creation of an entity committed to the study and research of peace.

But, Mr. President, this is only the first beachhead in waging peace. We must now commit the resources to make absolutely sure that this brave beginning is sustained and nurtured—and this can only be accomplished by providing the ideas of peace with access to the highest councils of Government.

By setting up a Department of Peace my bill would create a Cabinet-level Secretary of Peace who could engage in debates and discussions with other high-level officers of the administration in the Executive decisonmaking process.

It would also pull together a number of agencies devoted to the encouragement of both foreign and domestic peacemaking activities and provide centralized administrative coordination and accountability. Agencies to be included in such an organization are the newly created International Development Cooperation Agency, ACTION and all of its components including the Peace Corps and VISTA, and the Arms Control and Disarmament Agency.

Among new functions to be included in the Department are the creation and overall administration and responsibility for the Academy of Peace and Conflict Resolution—which would also act as the research arm of the Department, and the creation and administration of the U.S. Peace Award Commission.

The Academy would function primarily as a center for graduate training and research in fields associated with the peaceful resolution of conflict in both domestic and foreign relations.

The purpose of the U.S. Peace Award Commission would be to recognize citizens of the United States and foreign countries who have made notable contributions to peaceful conflict resolution, or who otherwise have enhanced the climate of human relationships in order that people might live with each other in harmony. The awards would be made yearly in a number of categories. The public recognition that would thus be drawn to the efforts of those engaged in waging peace could be expected to further encourage peacemaking activities, and, thereby, achieve the objective advanced two centuries ago by Bannekar and Rush, "To influence the American public and its government toward peace."

Mr. President, the world today exists with a sense of its own mortality. While it has shrunk through technical advances in communication and transportation it has simultaneously expanded its destructive capacity to the point where the continuation of humankind itself is threatened. We who inhabit the world are therefore more interdependent than ever before for our very existence, and while we have the capacity to promote a good life for all, we can also end life for all.

This condition begs us to look at life and living in ways that we never have before. In our own self-interest—the self-interest of survival—we must look at new ways of interacting and solving our differences. The Department of Peace can be the instrument to help us practice these new ways.

One major obstacle to a Department of Peace in the past has been opposition from those who held that it would only duplicate efforts of the Department of State. This would be true only in the narrowest sense that the Peace Department would be substantially concerned with issues in international relations. The responsibilities of the two departments in fact would be quite different.

The State Department represents special interests of U.S. citizens and U.S. businesses—and it should. As stated by John Foster Dulles before a House Appropriations Committee on June 18, 1957: "Not for 1 minute do I think the purpose of the State Department is to make friends." In contrast to this view, the Peace Department would represent no special interest in the traditional sense. The function that it will serve would be to strive for the reconciliation of conflicts in global terms.

In this sense it would take a long view of the concept of self-interest. It would say in fact that self-interest for Americans is the same as self-interest for all of mankind, and that if the interest of mankind is served then we too are well served. Carried further it takes the philosophy uttered by Goldwin Smith at Cornell University 100 years ago, that "Above all nations is humanity," and makes it a reality. I might mention at this point, with pride, that this same phrase is also the motto of the University of Hawaii, my alma mater.

The closest that the United States has ever come to having a Secretary of Peace occurred in 1955 when President Eisenhower appointed Harold E. Stassen to a newly created Cabinet-level post of Special Assistant to the President for Disarmament, and Stassen became informally hailed as "The U.S. Secretary of Peace."

At that time President Eisenhower said that he was convinced of the need for the new post by his "deep concern" for "* * * the massive resources required for modern armaments, the huge diversion of materials and of energy, the heavy burden of taxation, the demands for years of service of vast numbers of men, the unprecedented destructive power of new weapons, and the internation tensions which powerful armaments aggravate * * *."

While this position never achieved prominence, it was speculated that it led in 1959 to a proposal for a national peace agency by the Democratic Advisory Committee, which in turn led to the establishment of the Arms Control and Disarmament Agency in 1961.

A year earlier in 1960, Senator Hubert Humphrey introduced a bill to establish a national peace agency. At the time he said that such an agency was necessary, "because of the need for emphasis on peace by the Government—not peace as a byproduct of the State Department, but rather as a concerted, determined effort by the Government of the United States to dramatize our sincere dedication to the cause of a just and enduring peace." As for myself, I introduced my first peace department bill in 1968 while I was serving in the House.

In a press conference in February 1969 former President Richard M. Nixon declared himself to be strongly in favor of peace but strongly against a Peace Department. He said:

> I consider the Department of State to be a department of peace and I can assure you that at the White House level in the National Security Council that is where we coordinate all of our efforts toward peace.
>
> I think putting one department over here as a department of peace would tend to indicate that the other departments were engaged in activities that were not interested in peace.

A response in Commonweal magazine, that same month, stated that the central issue to which Nixon was addressing himself was whether he or any President would tolerate a devil's advocate of so grand a conspiracy in the Cabinet.

Mr. President, it is for us to pry loose from their smug sanctuaries the concepts of "love," "peace," and "the dignity of man," and force them to wallow in the mire of real politics, genuinely competing with all other ideas. Too often these words are as divorced from what people really believe as Sunday is divorced from the rest of the week. I hope to see the time when peace becomes a 7-day word.

Mr. President, what I am pursuing so avidly in this body is a new vehicle that will provide fresh views on issues of paramount international and domestic significance, and by so doing remove a natural obstacle to sound decisionmaking. The peace department can provide a new level of national dialog and debate, and thereby avoid potential disasters. It can maintain and continue to articulate the view expressed by President Carter at his press conference on Wednesday, November 29, 1979, relating to the Iranian crisis, when he said:

> The United States has neither the ability nor the will to dominate the world, to inter-

fere in the internal affairs of other nations, to impose our will on other people whom we desire to be free to make their own decisions. . . . Patience is not at all a sign of weakness, it is a sign of sure strength.

Mr. President, I have long wished for my country, the United States of America, that it shall be the first Nation on the face of the Earth to establish a high Cabinet level Department of Peace, dedicated solely to the promotion of peace on Earth and brotherhood among all men. It is with this wish that I am today introducing a bill to create that Department of Peace.

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. 2103

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 "Department of Peace Organization Act of 1979".

DECLARATION OF PURPOSE

SEC. 2. The Congress declares that it is in the national interest and will promote the general welfare to establish a Department of Peace in order to—

(1) carry out the urgent and continuing responsibility of the United States to seek international peace;

(2) fulfill the obligations of the United States under the Kellogg-Briand Pact of 1929, the Nuremberg Charter of 1945, and paragraph (1) of article I and paragraphs (3) and (4) of article II of the United Nations Charter;

(3) provide an organizational structure to facilitate the achievement of the peaceful resolution of international and domestic conflict.

TITLE I—DEPARTMENT OF PEACE

ESTABLISHMENT OF DEPARTMENT

SEC. 101. There is established as an executive department of the Government, the Department of Peace (hereinafter referred to as the "Department"). The Department shall be administered, in accordance with the provisions of this Act, by a Secretary of Peace (hereinafter referred to as the "Secretary") who shall be appointed by the President, by and with the advice and consent of the Senate.

FUNCTIONS OF THE DEPARTMENT

SEC. 102. (a) The Department shall carry out the purposes specified in section 2 of this Act. In achieving such purposes, the Department shall—

(1) develop and recommend to the President appropriate plans, policies, and programs designed to foster peace;

(2) exercise leadership in coordinating all activities of the United States Government affecting the preservation or promotion of peace;

(3) cooperate with the governments of other nations in research and planning for the peaceful resolution of international conflict, and encourage similar action by private institutions;

(4) encourage and assist the interchange of ideas and persons between private institutions and groups in the United States and those in other countries; and

(5) encourage the work of private institutions and groups aimed at the resolution of international and domestic conflict.

(b)(1) In carrying out the functions of the Department under subsection (a)(1), the Secretary shall include such recommendations as he determines appropriate for the pacific settlement of current international controversies in which the United States Government has or claims an interest. Such recommendations may include specific proposals for the arbitration or adjudication of legal or justiciable disputes, the diplomatic settlement through compromise of political disputes, and such other procedures, with or without past precedents in international practice, as the Secretary determines most likely to achieve a nonviolent resolution of a controversy.

(2) In carrying out the functions of the Department under subsection (a)(4), the Secretary shall establish a Cultural Exchange Division within the Department.

PRINCIPAL OFFICERS

SEC. 103. (a) There shall be in the Department an Under Secretary of Peace (hereinafter referred to as the "Under Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Peace shall perform such functions as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of Secretary, the Under Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and the Under Secretary or in the event of vacancies in both of those offices.

(b) There shall be in the Department four Assistant Secretaries of Peace and a General Counsel. Each Assistant Secretary and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such functions as the Secretary shall prescribe.

TRANSFERS OF AGENCIES AND FUNCTIONS TO THE DEPARTMENT

SEC. 104. (a) The International Development Cooperation Agency, including the Agency for International Development and the Institute for Scientific and Technological Cooperation, is transferred to the Department, and all functions of the Director of the International Development Cooperation Agency are transferred to the Secretary.

(b)(1) The ACTION Agency is transferred to the Department, and all functions of the Director of the ACTION Agency are transferred to the Secretary.

(2) All functions of the President with respect to and being administered by the Director of the ACTION Agency under the Peace Corps Act are transferred to the Secretary.

(c) The United States Arms Control and Disarmament Agency is transferred to the Department, and all functions of the Director of the United States Arms Control and Disarmament Agency are transferred to the Secretary.

(d) All functions of the Secretary of State with respect to any agency or function transferred to the Secretary and the Department under subsections (b), (c), and (d) are transferred to the Secretary.

(e) All functions of the Secretary of State, or of any office or officer of the Department of State relating to the participation of the United States in the specialized agencies (as defined in Article 57 of the United Nations Charter) are transferred to the Secretary.

(f) Within one hundred and eighty days after the effective date of this Act, the President may transfer to the Secretary any function of any other agency or office, or part of any agency or office, in the executive branch of the United States Government if the President determines that such function relates primarily to functions or agencies transferred to the Secretary or the Department by subsections (a) through (e) of this section.

CODIFICATION

SEC. 105. Within two years after the effective date of this Act, the Secretary shall prepare and transmit to the Congress a proposed codification of all laws which authorize functions transferred to the Secretary by this title.

TITLE II—NATIONAL PEACE ACADEMY

ESTABLISHMENT OF ACADEMY

SEC. 201. There is established in the Department the National Peace Academy (hereinafter referred to as the "Academy"). The Academy shall furnish training and instruction to prepare citizens of the United States for service in positions or programs relating to the field of promoting international and domestic understanding and peace, and shall carry out the functions of the Department under section 104(a)(3).

OFFICERS, STAFF, AND INSTRUCTORS

SEC. 202 (a). There shall be in the Academy a Director, who shall be appointed by the Secretary. The Director shall be responsible for the executive and administrative operation of the Academy and shall carry out such functions as the Secretary may prescribe.

(b) The Secretary may appoint or assign, on a full-time or part-time basis, such officers, staff, and instructors as the needs of the Academy require.

(c) The Secretary may assign or detail, on a full-time or part-time basis and with the consent of the head of the Federal agency concerned, any officer or employee of the executive branch of the United States Government to serve on the faculty or staff of the Academy. During the period of his assignment or detail, such officer or employee shall be considered as remaining in the position from which he was assigned or detailed.

(d) The Secretary shall provide the Academy with such support, facilities, and assistance as may be necessary to enable the Academy to carry out its duties under this title.

BOARD OF TRUSTEES

SEC. 203. (a) There is established in the Academy a Board of Trustees of the Academy (hereafter referred to in this Act as the "Board") which shall advise the Secretary on the operation of the Academy. The Board shall be composed of—

(1) the Secretary, who shall be an ex officio member;

(2) two officers of the Department designated by the Secretary;

(3) (A) one member of the Senate appointed by the President pro tempore of the Senate upon recommendation of the majority leader of the Senate; and

(B) one member of the Senate appointed by the President pro tempore of the Senate upon recommendation of the minority leader of the Senate;

(4) two Members of the House of Representatives, one of the majority party and one of the minority party, appointed by the Speaker of the House of Representatives;

(5) the Chairman of the Nuclear Regulatory Commission, or his designee;

(6) The Chairman of the Federal Council on the Arts and the Humanities, or his designee;

(7) one member from the National Academy of Sciences, to be appointed by the President after consultation with the President of the Academy;

(8) two educators of prominence appointed by the President;

(9) two prominent individuals associated with the advancement of world peace, appointed by the Secretary; and

(10) the United States Ambassador to the United Nations.

(b) Each member of the Board shall be appointed for a two year term and shall be eligible for reappointment. A vacancy on the Board shall not impair its power to function.

(c) A majority of the members of the Board shall constitute a quorum.

(d) The Board shall elect a Chairman from among its members.

(e) The Board shall visit the Academy

annually. With the approval of the Secretary, the Board, or any of its members may make other visits to the Academy in connection with carrying out the duties of the Board.

(f) The Board shall inquire into the morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board determines appropriate.

(g) Within sixty days after its annual visit, the Board shall submit a written report to the President concerning the visit, which shall contain the views and recommendations of the Board pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within sixty days after its approval by the Board.

(h) Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

ADMISSION OF STUDENTS

SEC. 204. (a) The authorized number of students at the Academy shall be one hundred and fifty.

(b) The Academy shall operate as a coeducational institution and students shall be selected for admission to the Academy on the basis of merit, as determined by a competitive examination to be given annually in each State, the District of Columbia, and the Commonwealth of Puerto Rico, at such time, in such manner, and covering such subject matter, as the Secretary may prescribe.

(c) No individual shall be eligible for admission to the Academy unless he is a citizen of the United States who has been awarded a bachelor's degree upon graduation from a college or university located in the United States or a degree which the Secretary determines is generally recognized as the equivalent of a bachelor's degree upon graduation from a college or university located in a foreign country.

STIPENDS AND TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 205. Each student of the Academy shall be entitled to receive—

(1) a stipend in an amount determined by the Secretary to be within the range of stipends or fellowships payable under other Government programs providing for the education or training of graduate students; and

(2) reasonable travel and transportation allowances, including transportation for his immediate family, household goods, and personal effects, under regulations prescribed by the Secretary, but such allowances shall not exceed the allowances payable under section 5723 of title 5, United States Code.

COURSE OF INSTRUCTION AND TRAINING

SEC. 206. (a) The course of instruction and training for students at the Academy shall be prescribed by the Secretary, and shall be for a period of two years. In prescribing such course of instruction and training, the Secretary shall provide that special emphasis be placed on such studies as will best prepare students for leadership and research in the nonviolent resolution of international and domestic conflicts and in the promotion of international and domestic understanding and peace. The Chairman of the Board may confer the degree of Master of Arts in Conflict Resolution upon any student who the Secretary determines has satisfactorily completed the prescribed course of instruction and training of the Academy.

(b) The course of instruction and training at the Academy shall, during each year of its operation, be organized as prescribed by the Secretary.

AGREEMENTS BY STUDENTS

SEC. 207. Each student selected for admission to the Academy shall sign an agreement that, unless sooner separated, he will—

(1) complete the course of instruction at the Academy; and

(2) accept, if offered, an appointment as an officer or employee of the United States or, in the discretion of the Secretary, employment with an international organization or private agency or foundation determined by the Secretary to be engaged in activities relating to the promoting or achieving of international understanding and peace, in any position for which such student is qualified by reason of his special training at the academy, for at least two years immediately following the award of his certificate from the Academy or the completion by him of any period of full-time graduate study approved by the Secretary.

AUTHORIZATION; ACQUISITION OF PROPERTY

SEC. 208. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) The Academy shall have power to acquire and hold real and personal property and may receive and accept gifts, donations, and trusts.

TITLE III—UNITED STATES PEACE AWARD COMMISSION

FUNCTION OF THE COMMISSION

SEC. 301. (a) There is established within the Department the United States Peace Award Commission (hereinafter referred to as the "commission"). Each year, the Commission shall make awards to citizens of the United States and foreign countries who have made notable contributions to peace and conflict resolution. The categories, types, and numbers of United States Peace Awards shall be determined by the Commission. The Commission shall accept nominations for United States Peace Awards and shall determine the recipients. The Commission shall develop a method for distributing United States Peace Awards that maximizes public awareness of the goals of the award.

(b) The Commission shall be composed of—

(1) the Secretary, who shall be an ex officio member;

(2) the Director of the Commission appointed under section 303;

(3)(A) one member of the Senate appointed by the President pro tempore of the Senate upon recomendation of the majority leader of the Senate; and

(B) one member of the Senate appointed by the President pro tempore of the Senate upon recomemndation of the minority leader of the Senate;

(4) two members of the House of Representatives, one of the majority party and one of the minority party, appointed by the Speaker of the House of Representatives;

(5) two individuals appointed by the President;

(6) the Director of the National Peace Academy;

(7) the United States Ambassador to the United Nations, or his designee;

(8) the Secretary of State, or his designee;

(9) the Secretary of Labor, or his designee; and

(10) three prominent individuals associated with the advancement of peace appointed by the Secretary, except that after the expiration of the first term of membership of such individuals, the Secretary shall appoint individuals under this clause who are also recipients of a United States Peace Award.

(c) Each member of the Commission shall be appointed for a two year term and shall be eligible for reappointment for a maximum of two additional terms. A vacancy in the Commission shall not affect its power to function.

(d) A majority of the members of the Commission shall contitute a quorum.

(e) The Commission shall elect a Chairman from among its members.

(f) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

STAFF

SEC. 302. (a) There shall be in the Commission a Director, who shall be appointed by the Secretary. The Director shall be responsible for the executive and administrative operation of the Commission and shall carry out such additional functions as the Secretary may prescribe.

(b) The Secretary shall provide the Commission with such other staff, support, facilities, and assistance as may be necessary to enable the Commission to carry out its duties under this title.

ADMINISTRATIVE PROVISIONS

SEC. 303. (a) In carrying out the provisions of this title, the Commission is authorized—

(1) to promulgate such rules, regulations, and procedures as may be necessary to carry out its functions;

(2) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable;

(3) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal departments and agencies and of State, local, and private agencies and instrumentalities, with or without reimbursement therefor;

(4) to accept voluntary and uncompensated services, without regard to the provisions of section 3679 (b) of the Revised Statutes (31 U.S.C. 665(b)) if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis; and

(5) to request such information, data, and reports from any Federal department or agency as the Board may require and as may be produced consistent with other law.

(b) Upon request of the Commission, the head of each Federal department or agency shall promptly make the services, equipment, personnel, facilities, and information of the department or agency (including suggestions, estimates, and statistics) available to the Commission to the greatest extent practicable.

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—GENERAL PROVISIONS

ADMINISTRATIVE PROVISIONS

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys and investigators, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

(c) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679 (b) of the Revised Statutes (31 U.S.C. 665 (b)) if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(d) The Secretary is authorized to appoint such advisory committees as may be necessary to assist him in carrying out the functions of the Secretary of the Department.

(e) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

(f) Except as otherwise provided in this Act, the Secretary may delegate any of his functions to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall not relieve the Secretary of responsibility for the administration of such functions.

(g) The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

(h) (1) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursment, as the Secretary may deem necessary or appropriate to carry out his functions in administering the Department.

(2) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under subsection (i).

(i) (1) The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

(2) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(j) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

(k) The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

(l) The Secretary is authorized to provide for, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) motion picture equipment and film for recreation and training; and

(5) living and working quarters and facilities.

The furnishing of medical treatment under clause (1) and the furnishing of services and supplies under clauses (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(m) (1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or individuals for the conduct of research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary may disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems pertinent on the research carried out pursuant to this subsection.

(3) Nothing contained in this subsection is intended to amend, modify, or repeal any provisions of law administered by the Secretary which authorize the making of contracts for research.

(n) The Secretary is authorized to appoint such advisory committees as may be necessary to carry out the functions of the Department.

TRANSFER OF PERSONNEL

SEC. 402. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(c) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

INCIDENTAL DISPOSITIONS

SEC. 403. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body, or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, 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 may be necessary to carry out the provisions of this Act.

SAVINGS PROVISIONS

SEC. 404. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, the functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been taken by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearing, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

ANNUAL REPORT

SEC. 405. The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year.

REFERENCE

SEC. 406. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or the Department.

TRANSITION

SEC. 407. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

AMENDMENTS

SEC. 408. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Peace".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Peace.".

(c) Section 5312 of such title is amended by adding at the end thereof the following: "(16) Secretary of Peace.".

(d) Section 5314 of such title is amended by adding at the end thereof the following: "(70) Under Secretary of Peace.".

(e) Section 5315 of such title is amended by adding at the end thereof the following: "(128) Assistant Secretaries of Peace (4). "(129) General Counsel, Department of Peace.".

(f) Section 5317 of such title is amended by striking out "34" and inserting in lieu thereof "36".

(g) Section 2 of the United Nations Participation Act of 1945 (22 U.S.C. 287) is amended by inserting at the end thereof the following new subsection:

"(h) The Secretary of Peace shall advise the President with respect to the appointment of any person to represent the United States in the United Nations, or in any of its organs, commissions, specialized agencies, or other bodies.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 409. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

SEPARABILITY

SEC. 410. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

EFFECTIVE DATE

SEC. 411. (a) The provisions of this Act shall take effect ninety days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 401(f) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 412. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provision of law, the President may designate an officer in the executive branch to act in such office for ninety days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

● Mr. RANDOLPH. Mr. President, it is my privilege to join with my able colleagues, the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Oregon (Mr. HATFIELD) in cosponsoring legislation to establish a Department of Peace.

I am delighted to actively participate in this renewed movement to establish a Department of Peace and to be a part of this coordinated and bipartisan effort.

Mr. President, what a great dream can come true if peace among the nations and peoples of the world is achieved. Today, with the Middle East a tinderbox of violence and threats of violence, with 50 American citizens held in an insane situation defying diplomatic initiatives, with new candidates for the nuclear club preparing their credentials day by day, we must attempt to move civilization back on the path toward peace.

In this proposal we are not attempting to expand the Federal bureaucracy, as such, or to construe the lines of authority of other agencies which presently have jurisdiction over programs that promote international understanding and cooperation. Rather we are attempting to bring together in one place all our efforts to accomplish the goal of peace. We need an organized and concerted campaign. It cannot be the hodgepodge we have today.

Life is too important to me, to you, to the people of the United States of America, and to citizens living under other flags and other governments to dismiss this legislation as a well-meaning effort to legislate and manufacture love of our neighbors. If we do not do our utmost for peace today, there may be no tomorrow for any of us.

As many of you know, my efforts on this issue are not new. They date back to 1945 when I introduced such legislation as a Member of the U.S. House of Representatives. We succeeded in holding hearings on that bill before the House Foreign Affairs Committee. No affirmative action was taken, however, and I subsequently returned to testify before the Committee on Expenditures in the executive departments on a similar measure introduced by my successor in the 80th Congress.

Returning to the Congress as a Sena-

tor in 1958, I renewed my efforts for this proposal by introducing a Department of Peace bill in 1959.

In the past 3 years I also have been actively involved in the campaign to create a U.S. Academy of Peace and Conflict Resolution, and I believe that we may see some concrete results of this movement over the next couple of years. This fiscal year the Congress appropriated a half million dollars for a 1-year study of this proposal.

Let us carry the message of peace in this season of goodwill and giving to all nations and to all peoples. Let us give impetus to the crusade for harmony among all God's children by the creation of a Department of Peace.

Mr. President, we read in the Scripture, "Blessed are the peacemakers: for they shall be called the children of God." To the high purpose of peace let us dedicate our personal and official energies. We can—indeed we must—learn to live together in comity and understanding. To the realization of this coveted goal, let us move forward with a new demonstration of faith in our future—the creation of a mechanism to promote and produce peace on Earth and goodwill to men and women.

Yes, it is time we placed greater emphasis on the job of finding a base of understanding in this world. With a Department of Peace to spearhead the campaign we can bring the issue of peace to the forefront of the lives of all Americans and the lives of all the inhabitants of this Earth.●

● Mr. HATFIELD. Mr. President, I am pleased to join with my distinguished colleagues, Senator MATSUNAGA and Senator RANDOLPH, in cosponsoring the Department of Peace Organization Act.

The psychology of high level Government decisionmaking demands that we offset the institutional momentum behind coercive and hostile methods of conflict resolution. Time and time again, we have seen the mentality produced by an overinsulated decisionmaking process bring us to the brink of war. Mr. President, a Cabinet-level Secretary of Peace would serve to counter the often self-destructive tendencies which stem from blind pursuit of the national interest. He would serve the human interest—disregarding the artificial barriers which separate nations. Humanity requires that the most powerful Nation on Earth voluntarily establish a check and balance on the incredible momentum behind war and violence. As the distinguished Senator from Hawaii so aptly noted, "group think" or the exclusion of unpopular or unusual ideas from a decisionmaking group is a phenomenon which has threatened us many times. A strong case can be made that the professed willingness of the United States to engage in a nuclear exchange for no reason other than to "save face" during the Cuban missile crisis, stemmed, in part, from this "group think" mentality.

I am reminded of President Washington's desire that some type of "peace establishment" come into being. At first, it may seem to be an irony that the first great military hero of our country would have asked to be remembered in such a way. This should not surprise us, however. Often those who have experienced the most brutal and devastating manifestations of warfare have become some of the most eloquent spokesmen for finding ways to avoid war in the future. The words of another great military hero, Dwight Eisenhower, are frequently quoted as a caution against excessive reliance upon military solutions for international conflicts.

It is long past time for us to begin exploring alternatives to the traditional means of defending our country. The armament approach to security has become bankrupt and obsolete in the nuclear age. As military technology has become more sophisticated, its capacity to actually protect us has diminished. We must move out into the frontier of new philosophies and techniques of keeping the peace, symbolized not by the gun and the bomb, but by the human embrace and the extended hand of friendship and understanding.

Over $400 billion is spent by the family of nations each year to further fuel the military machines of this world. This occurs while millions go to bed hungry at night, while illiteracy reigns more powerful than education. It is truly ironic that we have not given legitimacy to ways of cultivating friendship between nations other than to transfer the means and the knowledge with which to kill one another. I cannot help but dream of the world that we might someday create when all of the technological expertise, physical manpower, and financial backing which we now pour into the endless reservoir of the military is channeled toward peace, the eradication of disease, and developing the tools with which people can provide for themselves and their families.

The Department of Peace would, unfortunately, not divert resources from the Pentagon and its armament solutions to the problems we face. But it would integrate and strengthen the ways of peace. Mr. President, I sincerely hope that the Congress will give this important idea, whose implementation is long overdue, its most serious consideration.●

ADDITIONAL COSPONSORS

S. 1427

At the request of Mr. SCHMITT, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 1427, the United States-Mexico Good Neighbor Act of 1979.

S. 1858

At the request of Mr. BAYH, the Senator from North Carolina (Mr. MORGAN) was added as a cosponsor of S. 1858, the National Guard Tort Claims Act of 1979.

SENATE JOINT RESOLUTION 40

At the request of Mr. WILLIAMS, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from New Jersey (Mr. BRADLEY), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Michigan (Mr. LEVIN), the Senator from South Dakota (Mr. PRESSLER), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), the Senator from Georgia (Mr. TALMADGE), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of Senate Joint Resolution 40, a joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day."

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. WILLIAMS, the Senator from Minnesota (Mr. BOSCHWITZ) was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel.

AMENDMENT NO. 212

At the request of Mr. SCHMITT, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of amendment No. 212 intended to be proposed to S. 1020, the Federal Trade Commission authorization bill.

AMENDMENT NO. 711 (AS MODIFIED)

At the request of Mr. HART, the Senator from West Virginia (Mr. RANDOLPH), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Nebraska (Mr. EXON), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of amendment No. 711 (as modified) proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 735

At the request of Mr. BENTSEN, the Senator from Oklahoma (Mr. BELLMON), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Utah (Mr. GARN), the Senator from Maryland (Mr. MATHIAS), the Senator from New Mexico (Mr. SCHMITT), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of amendment No. 735 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 746

At the request of Mr. PACKWOOD, the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of amendment No. 746 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 304—SUBMISSION OF A RESOLUTION COMMENDING GREAT BRITAIN ON PEACE IN ZIMBABWE-RHODESIA

Mr. PERCY (for himself, Mr. JAVITS, Mr. CHURCH, Mr. BAKER, Mr. PELL, Mr. LUGAR, Mr. MCGOVERN, Mr. HAYAKAWA, Mr. ZORINSKY, Mr. BIDEN, Mr. GLENN, Mr. STONE, Mr. COHEN, Mr. CHILES, Mr. NUNN, and Mr. ROTH) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 304

Whereas the status of the government of Rhodesia (now Zimbabwe-Rhodesia) has been a disputed issue in the world community for over fourteen years;

Whereas the differences among the concerned parties have resulted in hostile conflict in the region for seven years;

Whereas the people of the southern African region have suffered great tragedy as a result of the conflict;

Whereas the government of the United Kingdom by authority of Prime Minister Margaret Thatcher and with the skillful assistance of Foreign Secretary Lord Carrington, has brought the parties to the conflict together to achieve a peaceful resolution; and

Whereas the negotiations have resulted in an agreement among the concerned parties: Now, therefore, be it

Resolved, That it is the sense of the Senate that the government of the United Kingdom merits the commendation and appreciation of all peaceloving and free nations for a major contribution in reducing tensions in Zimbabwe-Rhodesia and the southern African region and establishing a basis for peace.

Mr. PERCY. Mr. President, it appears that the London negotiations on the future of Zimbabwe-Rhodesia have been successful.

In less than 4 months the British Government, under the gifted leadership of Prime Minister Margaret Thatcher and Foreign Secretary Lord Carrington, have achieved a settlement which has eluded all others before them for 14 years.

For the last 7 years a bloody conflict has raged in Zimbabwe-Rhodesia and surrounding countries. Tens of thousands of innocents have lost their lives. Economic disaster has befallen the region.

The situation in the area was very bleak when Prime Minister Thatcher proposed to make a last-chance attempt at settling the issue through negotiations involving all concerned parties. Under the no-nonsense chairmanship of Foreign Secretary Carrington, the conference moved forward, issue by issue, phase by phase, at an astounding pace. What is emerging from the conference is an agreement which will bring a cease-fire, elections, and a constitution which protects the principles of majority rule and minority rights—which are essential to the stability and future development of the country. Though there are still many difficulties to overcome in the future, magnificent progress has been made these past 100 or so days. The British Government deserves the highest praise for a major contribution to peace in southern Africa, and for this reason I am today submitting for myself and Senators JAVITS, CHURCH, BAKER, PELL, LUGAR, MCGOVERN, HAYAKAWA, ZORINSKY, BIDEN, GLENN, STONE, COHEN, CHILES, NUNN, and ROTH, a resolution commending the Government of the United Kingdom. I would welcome the support of other colleagues and an early opportunity for the entire Senate to put itself on record in this sense of the Senate resolution.

SENATE RESOLUTION 305—SUBMISSION OF A RESOLUTION RELATING TO PAYMENT OF EXPENSES PAYABLE FROM A SENATOR'S OFFICIAL OFFICE EXPENSE ACCOUNT

Mr. HATFIELD (for himself, Mr. CRANSTON, Mr. COHEN, Mr. PACKWOOD, and Mr. SCHWEIKER) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 305

Resolved, That, effective October 1, 1979, whenever a Senator or an employee in his office has incurred an expense for which reimbursement may be made under Section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), the Secretary of the Senate is authorized to make payment to that Senator or employee for the expense incurred, subject to the same terms and conditions as apply to reimbursement of the expense under such section.

● Mr. HATFIELD. Mr. President, I am today introducing a resolution which would make a much needed change in reimbursement procedure used by the Senate Disbursing Office. Joining me as cosponsors are Senators CRANSTON, COHEN, PACKWOOD, and SCHWEIKER. Thanks to the suggestions of these colleagues, we have drafted a simple resolution aimed at a vexing problem of office administration.

As my colleagues are aware, Mr. President, the current system in the Senate requires that a Senator make actual payment on an expense before he or she may be reimbursed. In practice, this means that a Senator must establish an office account, drawn from personal funds, from which these expenses are paid.

As the key step in the procedure, this account is then replenished by reimbursements from the Disbursing Office for those expenses which are paid and approved. The end result is a system which can tie up a considerable amount of personal funds for what are official office expenses.

To put it more bluntly, many Senators face an uncomfortable tension with this personal fund. As the bills for official expenses come in, this small account is not always enough to insure timely payment. The result is a choice between going further in debt to cover official duties or falling behind in the payment of bills.

The resolution I am offering, Mr. President, is significant for the simple things it will accomplish. Its remedy centers around authority for the Disbursing Office to make payment for expenses when they are incurred, rather than after payment by individual Senators. As a result, Senators would not have to tie up their personal money for official costs. Instead, vouchers for a Senator or a Senate employee may be handled on expenses as soon as they are forwarded to the Disbursing Office. Thus, the resolution will create a smoother operation for the payment of expenses under the official office expense account.

At the same time, the resolution is significant for the changes it would not make. No additional money is required under this proposal. Nor would there be a restriction of the standards for determining what constitutes an official expense, since the disbursing office would still review all submissions for payment.

Mr. President, I urge my colleagues to give this resolution their favorable consideration. It is a long overdue change.●

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 752

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. NELSON, and Mr. BIDEN) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SPECIAL RULES FOR INCREMENTAL TERTIARY OIL

● Mr. JAVITS. Mr. President, I am today submitting for myself and Senators NELSON and BIDEN an amendment which deals with a tax on incremental tertiary oil. The Senate Finance Committee, like the House of Representatives, has accepted the principle that gains accruing to producers because of future OPEC price increases are in a sense as truly a "windfall" as gains from decontrol of already-discovered oil. Yet the Senate bill exempts such oil altogether. It is true that the House measure imposed an unrealistically low base price on this expensive production—a 60-percent tax on a base price of $17.

Hence I am submitting today an alternative tax on tertiary oil at a more modest level.

The Senate Finance Committee bill exemption of tertiary oil would cost the Treasury $27.0 billion while assuming only 144,000 barrels of new production above that production induced by the House measure. While it is in the national interest to induce cost-effective tertiary oil recovery investments, the modest production increment resulting from this massive tax expenditure is not as cost effective as alternative investments in new energy technology would be.

According to the Department of Treasury a tax of 50 percent on tertiary oil between a base price of $23.50 and $26, and of 60 percent on such oil over a $26 base price would return $11.7 billion to the Treasury and would still produce an estimated 1,663,000 barrels of tertiary oil a day in 1990 or 74,000 barrels more than the estimate on which the House bill was based.●

AMENDMENTS NOS. 753 THROUGH 757

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted five amendments intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENTS NOS. 758 THROUGH 760

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted three amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 761

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM (for himself, Mr. RANDOLPH, Mr. STEWART, Mr. HEINZ, Mr. HUDDLESTON, and Mr. SCHWEIKER) sub-

mitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 762

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 763

(Ordered to be printed and to lie on the table.)

Mr. HEINZ (for himself, Mr. RANDOLPH, Mr. GLENN, Mr. HUDDLESTON, Mr. SCHWEIKER, and Mr. BELLMON) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENTS NOS. 764 AND 765

(Ordered to be printed and to lie on the table.)

Mr. DURENBERGER submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 766

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself, Mr. LEAHY, Mr. STAFFORD, Mr. COHEN, Mr. TSONGAS, Mr. NELSON, and Mr. DOLE) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

● Mr. DURKIN. Mr. President, I am proposing today an amendment to H.R. 3919, the Windfall Profit Tax Act, which would extend the residential energy credits to include wood-burning furnaces and boilers which are part of central heating systems.

I want to thank my colleagues, Senators LEAHY, NELSON, STAFFORD, COHEN, and TSONGAS for joining me as cosponsors.

My amendment would allow a 15-percent credit, up to $2,000, on the cost of wood-burning central heating equipment bought after September 30, 1980, and before January 1, 1983. In order to be eligible for the credit all systems must be approved and certified to be safe and energy efficient.

There is a great need for this tax credit. Already a significant amount of energy comes from the use of wood-burning stoves in the residential sector. In northern New England, well over half of the homeowners use wood as a source of energy. Over 1 million wood stoves were sold in 1978 and indications are that perhaps twice that many will be sold in 1979. By the end of the year 4 to 5 million families will rely on wood to supply their heating needs. If wood-burning central heating equipment were more economically attractive to homeowners, even more imported oil could be displaced. Because wood-burning central heating equipment is expensive to buy—typically as much as $2,000 per unit—hard-working homeowners find it difficult, if not impossible, to purchase it. This is particularly true for low-income families. For these reasons, the tax credit we propose is badly needed.

Also the 15-percent tax credit will encourage the purchase of the more expensive low polluting and high efficiency furnaces which will soon be on the market.

My amendment will cost approximately $10 million, but it would save almost $78 million per year. By 1983 it will decrease our expensive and dangerous dependence on imported oil by over 3 million barrels.

Additionally, the management and productivity of the Nation's forests can be improved through more intensive use of wood stoves and furnaces. The use of wood for energy creates a demand for low-quality trees which presently inhibit forest productivity. The end result is that a larger rather than smaller wood supply is created.

In sum, a vast almost incalculable energy resource exists today—not in some foreign country or future world—but in the forests of the Northeast, Southeast, and Northwest.

I urge my colleagues to support my amendment, and tap this vital resource. A coordinated wood-energy program will enhance our forests and provide valuable savings to our hard-working homeowners. Its prompt passage will be an important step down the road to energy independence.●

AMENDMENT NO. 767

(Ordered to be printed and to lie on the table.)

Mr. BAUCUS (for himself and Mr. HART) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

NATURAL GAS FROM TIGHT SANDS FORMATIONS

● Mr. BAUCUS. Mr. President, for myself and Mr. HART, I submit for printing an amendment to H.R. 3919, the windfall profit tax bill.

I ask unanimous consent that a fact sheet on the amendment, together with other material, be printed in the RECORD.

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

FACTSHEET—NATURAL GAS FROM TIGHT SANDS FORMATIONS

Tax Credit.—This amendment provides a tax credit of 50 cents per mcf for natural gas produced from new wells in tight sands formations. The tax credit is not indexed for inflation. The tax credit will phase out as the price of gas from these formations rises to the energy equivalent of $29.50 per barrel of oil. The tax credit is expected to expire by 1985 when price controls on new gas expires.

Production.—Natural gas in tight sands formations flows extremely slowly due to the almost impermeable geological formation. Expensive techniques, called hydraulic fracturing, are needed to increase the rate of flow of gas from these formations. A high incentive price is necessary to justify the hydraulic fracturing techniques. This tax credit incentive, plus incentive prices offered under existing law, will greatly accelerate efforts to produce gas from tight sands formations.

Quantities of Reserves and Production.—There are estimated to be over 600 trillion cubic feet of gas in three major tight sands formations in the Rocky Mountain West. There are estimated to be another 600 trillion cubic feet of tight sands gas in smaller formations in the South, Southwest, and Western parts of the United States, as well as in the Appalachian East. When fully developed, these reserves could supply the equivalent of 30 years of American gas consumption at present rates. Gas from tight sands formations is currently producing the equivalent of 400,000 barrels of oil per day. With accelerated efforts to drill into these formations and to apply flow stimulation techniques, tight sands formations could be producing the equivalent of four million barrels of oil per day by 1990, according to Administration estimates. Tight sands formations in the next few years could provide sufficient energy to replace the equivalent of our past daily imports from Iran.

Definition.—The definition of tight sands formations is based on the principles of the FERC proposed regulations for tight sands with some modifications. Qualifying formations may have up to 0.1 millidarcies of permeability (1.0 millidarcies in low pressure wells less than 3,000 feet deep). This definition is sufficient to include most of the tight sands resources in the country.

Environmental Impacts.—Natural gas is our cleanest burning fuel and therefore maximum supplies are desired. Environmental impacts of drilling and hydraulic fracturing to stimulate faster rates of production are environmentally acceptable in most locations.

Administration Position.—The Administration strongly endorses this amendment.

Cost.—The Joint Committee on Taxation estimates the cost of this amendment to be $1.1 billion before the tax credit phases out in the mid-1980's.

THE WHITE HOUSE,
Washington.

"TIGHT SANDS" NATURAL GAS COULD SAVE MILLIONS OF BARRELS OF OIL

We could add the equivalent of several million barrels of oil per day to domestic energy production by 1990 by developing previously uneconomic natural gas formations, so-called "unconventional gas". (Total oil imports are now 8 million barrels a day.) Almost all of this new production would come from "tight sands" areas, low permeability sandstone and limestone formations in the Southwest, the Rockies, and the Northern Great Plains, Recoverable tight sands natural gas reserves probably exceed total proven U.S. reserves of oil.

These tight sands formations would produce the equivalent of between several hundred thousand and two million barrels a day of this safe, clean, economic fuel by 1985. Given world energy uncertainties, this early relief is urgent business.

The President's program proposed a tax credit for all unconventional gas production. However, the credit in the current Windfall Profits Tax bill excludes tight sands gas. The Administration urges the Senate to amend the bill to include tight sands production, the heart of the matter.

The tight sands formations are already yielding the equivalent of 500,000 barrels of oil a day. This production could grow to over 4,000,000 barrels a day by 1990 assuming either a $20/barrel price and advanced technology or prices exceeding $20. Four million barrels a day is half our current level of oil imports. The higher and more secure the price, the more energy we will produce.

The Department of Energy estimates that it may cost $24 per barrel to produce the bulk of this gas. The Administration's proposed tax credit of 50 cents per thousand cubic feet will make the gas worth that much to the producers. The credit phases out at higher prices.

In addition to providing a great deal of new energy quickly, this gas has a number of other advantages:

It is one of our least expensive means of replacing foreign oil.

It is clean and safe—both to produce and to use.

Tight sands drilling is a known technol-

ogy—with known costs that are unlikely to escalate dramatically.

It will generate jobs.

It would be produced from many thousands of wells encouraging competition and ensuring against large scale interruptions and military vulnerability.

Some of the easiest to get tight sands is already in production, but most tight sands gas is still too expensive to produce. The massive production increases we could achieve and the reduction in oil imports they imply will not occur unless the unconventional gas tax credit also covers tight sands gas.

PRODUCTION ESTIMATES FOR TIGHT SANDS AREAS

Tight Sands production could provide the equivalent of up to 4 million barrels of oil a day by 1990:

Estimated tight sands production [in barrels of oil equivalent per day assuming a $20/barrel price in 1979 dollars]

	Low		High
1985	800,000	to	1,850,000
1990	1,750,000	to	3,800,000
2000	2,100,000	to	3,350,000

Source: Lewin Associates (Report for DOE, 1978).

For comparison, the U.S. imported 8 million barrels of oil in 1978.

The actual level of production we achieve over the next decade will depend on the price of the gas produced, the risks, and the pace of technological development. Covering tight sands under the unconventional gas tax credit will help push production towards the upper end of these ranges.

RECOVERABLE RESERVES OF UNCONVENTIONAL GAS

Recoverable U.S. reserves of unconventional natural gas are truly enormous. Tight sands natural gas recoverable reserves at current oil prices exceed the U.S.'s current proven oil reserves.

"Unconventional Gas" is natural gas from western and southwestern tight sands, from Devonian shale in the Appalachians and Midwest, from geopressurized methane along chiefly the Gulf of Mexico, from coal seams in most regions, and from very deep wells. Limited production, chiefly from the tight sands regions, has begun.

DOE's National Energy Plan estimates of recoverable reserves of unconventional gas were as follows:

Recoverable unconventional gas reserves

[Trillions of cubic feet (quads)]

Tight sands formation	40	420
Devonian shale	25	400
Coal bed methane	50	700
Geopressurized methane	5,000	63,000

Sources: NEP II, Table IV-6.

Lewin and Associates and the Institute of Gas Technology have made similar estimates. To put these figures in perspective, we now import 16 quads of oil a year.

In addition, the United States Geological Survey has recently informed the National Petroleum Council that their examination of drilling logs from old wells indicates the existence of previously uncounted tight sands gas deposits below 10,000 feet. These deposits are roughly equal to 400 quads (less than half recoverable), but they will cost the equivalent of $25 to $55 per barrel to recover because of the depth involved. These reserves are in addition to those shown in the table and illustrate an important point. These estimates only include discovered basins. No provision is made for new field discoveries.

Price will be the chief determinant of how quickly these reserves are developed. The Administration's proposed tax credit of 50 cents per thousand cubic feet for all forms of unconventional gas, specifically including tight sands, would make an enormous difference.●

AMENDMENT NO. 768

(Ordered to be printed.)

Mr. NELSON (for himself, Mr. TALMADGE, and Mr. MATSUNAGA) proposed an amendment to H.R. 3919, supra.

AMENDMENT NO. 769

(Ordered to be printed.)

Mr. MATSUNAGA (for himself, Mr. NELSON, Mr. TALMADGE, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. DURKIN) proposed an amendment to H.R. 3919, supra.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

AMENDMENT NO. 770

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to S. 2094, a bill to authorize loan guarantees for the benefit of the Chrysler Corp.

INDUSTRIAL ADJUSTMENT ACT OF 1979

● Mr. STEVENSON. Mr. President, I submit an amendment in the nature of a substitute to the Chrysler Corporation Loan Guarantee Act of 1979. It is an alternative to the ad hoc bailout legislation for Chrysler reported by the Banking Committee and addresses the systemic problem of distressed companies which will continue on the heels of Chrysler.

My amendment would authorize the President, if he determines there is a threat of an economic emergency with respect to workers or a business, to direct the Secretary of Commerce, acting through the Economic Development Administration, to administer loans, loan guarantees, and retraining and relocation programs to firms which are innovative and competitive. It aids the competitive—not the noncompetitive industries, in this case the survivors, not the wreck of Chrysler. It would permit the use of the $1.5 billion in loan guarantees for firms which could make something out of Chrysler's facilities and provide durable employment.

Mr. President, this amendment does not require any new governmental agencies. It builds on the capacities for informed and coherent industrial policymaking we are developing in the Commerce Department. EDA already has the mandate to promote innovation and industrial adjustment assistance.

The Nation enters the 1980's with an aging industrial structure. We face stiff foreign competition with no framework for an effective industrial policy. It is easy to regard the proposed bailout for Chrysler as a one time phenomenon, to pretend that we can hand over $1.5 billion in Government assistance in a manner so grudging that no firm will again seek such assistance. But this process is a small price to pay for parties with much at stake, and vastly more comfortable, than the alternatives of bankruptcy or reorganization. We delude ourselves; we have heard this argument before. It is made for every bailout.

Conditions are always attached. And if they pinch, they are lost on the Senate floor, or in conference, or in committee. The UAW and Chrysler have made public their opposition to the 3-year wage freeze provision of S. 2094. Even if approved, the conditions do nothing, except to fine tune another bailout—again. The outcome is the same.

By guaranteeing these loans we divert $4 billion in capital resources to a firm which is a singularly poor risk. The entire pool of venture capital in the country invested in new, high technology and other enterprises this year was under $300 million—less than 10 percent of the total contributions to be invested in Chrysler. Even if Chrysler is saved, it will not generate more wealth or employment than the $300 million invested in the enteprises of the future. The administration proposed $55 million in additional funding for industrial innovation one day—and $1.5 billion the next for Chrysler. The $1.5 billion in Federal and State assistance exceed all the authority of EDA for adjustment assistance to all workers, all communities, and all companies in the country. Comparisons of this kind and weighing of such priorities have been absent from the debate on Federal assistance to Chrysler.

Producivity is declining. Per unit labor costs are rising. Inflation continues, and our action is another bailout for an inefficient, uncompetitive firm.

We ignore the issues which brought Chrysler to this pass. We do not have to look far for evidence of the Chrysler syndrome. Ford has joined the billion dollar league. United States Steel announces it can no longer produce steel profitably in many of its plants. Five other steel companies are already receiving Federal assistance. The textile industry is in chronic difficulty.

In just the first wave of layoffs, United States Steel has disgorged 13,000 workers. In the auto industry, 130,000 are on temporary or indefinite layoff. And our programs of adjustment assistance are ineffective; mechanisms are available, but they lack funds and a mandate. We prefer the illusions that Chrysler is an anomaly and that we are helping workers, while, in fact, consigning them to lives on and off the unemployment rolls.

Economic efficiency and social welfare could both be served if the Federal Government accepted its responsibility for an industrial strategy and effective adjustment assistance to facilitate the flow of labor and capital from declining companies and sectors to expanding employment-generating ones. But this Government does not resist the pressure—and so it goes the British route—resisting change, instead of adapting to it—as do the Japanese and West Germans.

The alternative to bailing out Chrysler is not Government inaction. It should be, instead, a package of guarantees, loans, and direct grants, when necessary, to firms which would reshape Chrysler's assets and for assistance to workers in need of retraining, relocation, and new employment. The Treasury Department lacks the authorities, tools, and mandate to construct such a package. It approaches the Chrysler request—as it did Lockheed's—on an ad hoc financing basis and not in the context of U.S. industrial strategy.

A sound industrial strategy will not be developed without a change in our habit of responding with billion-dollar bailouts and reserving only lipservice—and

small change—for efforts to spur research, innovation and capital for the future. With an ad hoc approach to crises and no systematic approach to adjustment, as in other nations, political pressures in the United States dictate recourse to loan guarantees which simply prop up the existing structures, no matter how futile and wasteful and cruel to the human beneficiaries of our professed solicitude.

No legislation can map or promise the magic balance which could minimize all the social and economic costs of a Chrysler bankruptcy, or transplant displaced workers painlessly into new and rewarding careers. No adjustment is painless. But we could move substantially in the direction of effective adjustment assistance with reform and expansion of the programs we have. This amendment is an option to be preferred over special legislation for Chrysler.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

● Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Housing and Urban Affairs, which I chair on the Banking, Housing and Urban Affairs Committee has scheduled a hearing on Thursday, December 13, 1979, at 9:30 a.m. in room 5302, Dirksen Senate Office Building, on energy conservation issues as they relate to community planning and development.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to mark up the Nuclear Policy Act and other pending calendar business.

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Near Eastern and South Asian Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, December 10, 1979, beginning at 2 p.m. to hear administration officials on U.S. military assistance to Egypt.

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

ADDITIONAL STATEMENTS

SENATE JOINT RESOLUTION 40—NATIONAL ARBOR DAY

● Mr. WILLIAMS. Mr. President, I am delighted to report that 17 of my colleagues have joined as cosponsors of Senate Joint Resolution 40, a resolution I have introduced to designate the last Friday in April as "National Arbor Day." They are: Mr. BAYH, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. DURENBERGER, Mr. HATCH, Mr. HATFIELD, Mr. HEINZ, Mr. LEVIN, Mr. MATHIAS, Mr. MCGOVERN, Mr. MOYNIHAN, Mr. PRESSLER, Mr. RANDOLPH, Mr. SARBANES, Mr. SASSER, Mr. TALMADGE, and Mr. TSONGAS.

This strong bipartisan support for the Arbor Day resolution will enable the Judiciary Committee to act on it expeditiously. I am pleased that the distinguished chairman of the Judiciary Committee (Mr. KENNEDY) has indicated his willingness to take up the resolution at the committee's next business meeting.

Mr. President, by stimulating interest in planting and maintaining trees, a National Arbor Day will provide benefits to this and future generations. It is, therefore, most gratifying to be able to report on the progress of this resolution.●

OUTDOOR LIFE CONSERVATION AWARD

● Mr. COHEN. Mr. President, John Cole, a writer and environmentalist, recently received the Outdoor Life Conservation Award for 1979. He was honored not only for his commitment to saving the striped bass, but for his far-seeing philosophy of man's place in Nature.

His articles, which often appear in the New York Times, Atlantic Monthly, and the Maine Times, which he founded, describe both our responsibility for preserving the environment and philosophy that demands action on behalf of endangered species. His last book, "Striper," in fact, led in a significant way to Federal legislation mandating an emergency 3-year study of the striped bass in Atlantic coastal waters.

Mr. Cole is especially interested in how we perceive our world and how their perception shapes our actions. His recent essay, "Giving Old Sol His Due," which appeared in the New York Times, examines the modern "personna" of our Sun.

Mr. Cole wrote:

> During the millions of years that life has existed on this earth, the sun has seldom been seen solely in its current modes: as a fusion phenomena to be duplicated, or an energy source to be captured and exploited. It has instead been viewed through a third dimension—a dimension of wonder, of reverence, of mysticism, magic, worship, gratitude, artistic inspiration, and an awareness of essential mystery. These are qualities so vividly absent from today's perceptions.

This brief passage makes clear the philosophy of John Cole. Essential to the idea of preservation is the awareness of the metaphysical worth of what we are preserving.

Mr. President, I request that the following article be printed in the RECORD.

The article follows:

[From the New York Times, Dec. 1, 1979]

GIVING OLD SOL HIS DUE

(By John N. Cole)

BRUNSWICK, MAINE.—During the millions of years that life has existed on this earth, the sun has seldom been seen solely in its current modes: as a fusion phenomena to be duplicated, or an energy source to be captured and exploited. It has, instead, been viewed through a third dimension—a dimension of wonder, of reverence, of mysticism, magic, worship, gratitude, artistic inspiration, and an awareness of essential mystery. These are the qualities so vivdly absent from today's perceptions. Yes, we have astronomers, we have physicists, we have more knowledge of the facts of the sun than ever before. But in a paradox of history, as that physical knowledge has increased, the sun's metaphysical significance has decreased until the personna of our star is eclipsed by the data of its vital statistics.

Just as we shall never be governed best by leaders chosen only for their height, weight, features, age and sex, so we shall not establish a good and true relationship with the sun until we re-explore its metaphysics, reread its fables, reacquaint ourselves with its mysteries and reinvest it with the full measure of meaning for humanity that the sun has acquired since it first generated the environment for life on this earth millions of years ago.

The wonder is that a force as pervasive as the sun's could have been as minimized as it has been since the start of the Industrial Age. One has only to consider the fundamental universality of the sun's relationship with this planet to comprehend the totality of its effect on our lives. The sun provides heat and light; without it, we would indeed freeze in the dark. It is the parent of the wind, the progenitor of clouds, the creator of rain, the sprouter of seeds. Our seasons are orchestrated by the sun's arc in the heavens; our sunrises and sunsets are witness to its daily passage—a journey that moves a perpetual dawn around the globe, inspiring bird songs in a rippling wave from meridian to meridian so there is never a moment when this earth is without natural music.

The sun tames glaciers, is the alchemist that draws life-giving oxygen from the plants of land and sea, and is the massive gravitational force that holds each celestial sphere of our galaxy in its proper orbit. Without the sun, humanity would have long since been lost in space.

Echoes of that knowledge reverberate within us, unconsciously, whenever we feel the warmth of the sun in our face, whenever we awaken to a bright dawn. We say we "feel great" in the clear sunshine of a new spring, or in an azure September afternoon; what we are feeling is the sun's own reassurance that the natural order of things is in place. We say "it came to me in a flash" when we have an idea, a creative thought; the imagery is one of interior illumination, of a light within the mind, of a small sunbeam flashing within the cellular galaxies of our own internal universe.

The parallels are no accident; the electromagnetic energy that allows brain-cell communication is a duplicate of the sun's radiations. Although this earth captures but a fraction of that energy the rest is bestowed munificently on our sister planets and the vast void of space), it is, on balance, more than enough, not only for our survival, but for our flourishing.

We can comprehend and have proved the mathematics of the solar-energy equation. What we have been unable to do in recent years is to acknowledge the sun as our primary natural presence—metaphysically as well as physically. If we had done that, we would not view the future with anxiety but with the certainty that it could be lived fulfillingly, in harmony with the natural.

We must begin to see the sun for its wonder as well as its warmth; for its history as well as its hydrogen; for its relationship to the individual as well as its spatial relation to earth. Only by re-investing the sun with these dimensions can we hope to establish it as a benign and primary energy source. The sun has, after all, been around for some 4,000-million years, and (we are informed by astronomers) should be around for at least 5,000 million more. It behooves us—energy crisis or no energy crisis—to get to know it

in all its fascinating aspects, not just its vital statistics. It is a comment on the technological imbalance of this, our generation, that we could have been led so far from the sun. Our solar balance needs restoring.●

INTERDEPENDENCE, A SIGN OF THE FUTURE

Mr. STEVENSON. Mr. President, Robert J. Samuelson has written a perceptive article entitled "Interdependence, a Sign of the Future" which appeared in the Washington Post on December 4. His discussion of the implications of an unstable, interdependence world is worth heeding.

Mr. President, I request that the following article be printed in full in the RECORD.

The article follows:

INTERDEPENDENCE, A SIGN OF THE FUTURE

(By Robert J. Samuelson)

We are fooling ourselves if we view the Iranian crisis as some freak accident. Better to recognize it as a painful illustration of the dilemmas we face in a world where the worn cliche has acquired a horrifying reality: As nations become increasingly interdependent economically, the cultural and political bonds that link them seem to grow weaker.

Iran and the United States aren't behaving as differently as we would like to believe. Both countries are groping after a past that is forever gone: the United States after its once-clear economic and political dominance; Iran after a traditional, preindustrial society in which religious leaders and values reigned supreme.

That is the modern paradox. As countries become more subject to outside influence, they seek to deny the intrusion by resurrecting history. If Americans are learning the impossibility of this, so is Iran. The urbanization and population growth of the past 20 years have made Iran heavily dependent on food imports and industrial employment. Change has trapped the Ayatollah Khomeini as much as it has President Carter.

We haven't become weaker so much as other nations have become stronger. All our advantages have eroded: the overwhelming military dominance, the unquestioned economic stability, the unsurpassed technological superiority, the boundless natural resources. We confront a world in which nations still aren't equal, but are less unequal.

Consequently more and more events slip beyond our control. It is easy to say that we aligned ourselves too closely with the shah but, even in retrospect, it isn't clear whether another policy would have made much difference. Other nations were eager to sell the shah any arms that we wouldn't.

And in guns, as in almost everything else, the market is broadening. Technology and wealth are spreading. According to the U.S. Arms Control and Disarmament Agency 12 "developing" countries exported arms in 1977. Brazil is beginning to ship armored cars and jet trainer aircraft; Israel sells guided missiles and transport planes.

Don't think that we can shut ourselves off from these changes. They have gone too far. Even without our critical dependence on energy imports, too many powerful constituencies have a sizable stake in internationalism. About one-third of America's grain goes abroad, and about half of our production of commerical jets. At last count, U.S. banks had $125 billion outstanding in foreign loans. In 1977, 8.3 million Americans journeyed overseas and 6.5 million foreigners came here. Vested interests protect all these flows.

Moreover, if many of our problems originate abroad, their solutions also may lie—at least partially—abroad. In a recent speech, Donald E. Stingel, a director of the Export-Import Bank of the United States persuasively argued that one way to lessen energy scarcity here is to import more energy-intensive products such as fertilizer and aluminum from countries with abundant natural gas or hydroelectric power. Environmental hazards—atmospheric and oceanic pollution, control of nuclear and chemical wastes—increasingly demand international policing.

In short, there seems to be an historic drift toward global community, even of the most turbulent sort. Nations that traditionally sought isolation and self-sufficiency have succumbed progressively to the suction of world commerce: most conspicuously China and the Soviet Union. Money increasingly flows across national borders, as do workers, even when countries (such as the United States) impose official restrictions. According to one estimate cited in a recent report by the Worldwatch Institute, such "economic refugees" now may total 20 million.

By temperament and training, Americans aren't well equipped to deal with this world. We are being thrown into contact and conflict with peoples whose histories and motivations we hardly understand at all.

On the simplest level, few of us speak anyone else's language: A presidential commission recently reported that only 8 percent of American colleges and universities have a foreign language entrance requirement against 34 percent in 1966. It is naive to see language training as the path to brotherhood, but it is essential if Americans are to shed the burden they carry overseas: dread of the unfamiliar and dependence on translators.

Our language inadequacies betray a sense of moral superiority that sends U.S. foreign policy swinging between extremes of altruism and violence. We like to assume that all good things are compatible. Democracy and economic development go hand in hand; prosperity means peace and, probably, friendship. Life would be easier if these things were true but, unfortunately, they aren't.

A central dilemma today revolves around this question: How do we deal with governments whose friendship or resources or trade we value when we disapprove of the regime's politics?

To say, for example, that American support for the shah prostituted our commitment to democracy is an easy judgment, but one that smacks of moral absolutism. The shah's torture was not pretty, but neither is the anarchy and religious tyranny of Khomeini. Repression in Chile may not be appealing, but neither was the economic and political chaos of Salvador Allende. And what about South Korea?

It is also too simplistic to argue that our self-interest lies in supporting regimes friendly to the United States no matter what their other vices. As the case of Iran demonstrates, excessively close ties to unpopular governments ultimately may boomerang.

But where do American interests lie?

The foreign policy establishment—too preoccupied with superpower politics—has few answers. At home and abroad we are suffering the aftereffects of our reduced power. Others take us as a symbol of their frustrations, and we are frustrated by our apparent impotence. We dislike uncertainty and instability, but they are inevitable. The impulse to retreat from this unpleasantness is as understandable as it is inadvisable. Perhaps our refuge is to deal more with others but to expect less: to limit our risks by spreading them.●

DELAWARE DAY

● Mr. ROTH. Mr. President, I ask my colleagues to pause for a moment from our legislative business, because I want to tell them today is a very special day in the hearts and minds of the citizens of my home State.

Today, December 7, 1979, is Delaware Day. Today, my home State commemorates that joyous day 192 years ago when Delaware became the first of the Thirteen Original States to ratify the Constitution.

Delaware is not only the First State—it is indeed "The State That Started a Nation."

Delaware's history is a long and proud one. The earliest explorations of our coastline were made by the Spanish and Portuguese in the 16th century.

The State derived its name from Lord De La Warr, an early Governor of Virginia. In 1610 Capt. Samuel Argall, sailing for Lord De La Warr, was blown off course and sailed into a strange bay, which he named De La Warr in honor of his Governor.

During the colonial period in our history, no less than three flags of different nations flew over the colony of Delaware, commencing with the Dutch with their ill-fated settlement near the present town of Lewes in 1631, continuing with Peter Minuit and the Swedes in 1638 at Fort Christina near present day Wilmington, and the English from 1664 until our Declaration of Independence. At one time Delaware was even part of William Penn's colony of Pennsylvania, but in 1776 achieved State independence along with the independence of the Nation.

Every Delaware schoolboy or girl can call from memory the famous all-night horseback ride on July 1, 1776, of Caesar Rodney, the Delaware delegate who broke the deadlock among our patriots at the First Continental Congress in Philadelphia and helped lead them to the Declaration of Independence.

Delaware played a substantial role in the Revolution. It rasied nearly 4,000 men. Its long-term Continental regiment fought in almost every important battle from Long Island in 1776 to Yorktown in 1781. The only Revolutionary engagement fought on Delaware soil was the skirmish at Cooch's Bridge near Newark on September 3, 1777.

Tradition has it that it was here that the American flag was first unfurled in battle on U.S. soil.

Mr. President, from its signing of the Constitution to its University of Delaware football team, from its industrial muscle to its lovely beaches and shoreline, from its poultry farmers who feed the Nation, to its schools and hospitals and strong cultural and religious traditions, Delaware is still the First State today.

I am proud to be a Delawarean, and as a token of my pride, I will be distributing to each of my colleagues a pin which symbolizes Delaware, the First State.●

A MEMORIAL TO FORMER SENATOR CHARLES E. POTTER

● Mr. LEVIN. Mr. President, our former colleague, Charles E. Potter, of Michigan, who served his State and the Nation

from 1947 to 1959, passed away on Friday, November 23, 1979.

A valiant infantry soldier in World War II, Mr. Potter lost both legs in that struggle and was decorated with the silver Star, the Bronze Star, and the French Croix de Guerre.

During a career of public service, Mr. Potter worked in the U.S. Labor Department as a vocational rehabilitation adviser for handicapped veterans before running for elected office.

A landslide victory in his home district in 1947 brought him to the House of Representatives where he served for three terms. His election to the U.S. Senate in 1952 propelled him into national prominence. Of his many efforts, Michigan shall always remember him particularly with gratitude for his tireless effort to improve the St. Lawrence Seaway.

Mr. President, as we honor and remember our late Senator, Charles E. Potter, I submit for the RECORD the following obituary from the Detroit Free Press.

The article follows:

FORMER MICHIGAN SENATOR CHARLES POTTER DIES IN WASHINGTON

(By W. Kim Heron)

During his 11 years in Washington as a representative and senator, Charles E. Potter commanded attention.

He spearheaded investigations into alleged communist activities in Hollywood and Michigan labor organizations, and later was an opponent of Sen. Joe McCarthy, R-Wis.

He also led the drive that forced Sherman Adams, a high-ranking adviser to President Eisenhower to resign.

For the last 20 years, Potter had been active in Republican circles and as a Washington consultant to private firms.

Mr. Potter died Friday in Walter Reed Hospital in Washington. He was 63.

He was first elected to Congress from the district that included Cheyboygan, and reelected in 1948 and 1950.

In 1952, he opposed Democratic appointee Blair Moody for the Senate seat vacated when Arthur H. Vandenberg died. Mr. Potter was elected to the remaining two months of Vandenberg's term and won a full six-year term in the same election. He was defeated by Philip Hart in 1958.

He spent the last 20 years behind the scenes in Washington politics and running a consulting firm for American and foreign companies.

Born on a farm near Lapeer in 1916, he attended Eastern Michigan University and went to work as director of social aid in Cheboygan County in 1938.

In 1942 he enlisted in the U.S. Army. After having been injured twice before, he lost both legs in France in 1945 when a land mine exploded. He left the service as a major with the Silver Star, Bronze Star and the Croix de Guerre medals.

After returning from the war, he became interested in politics, said his sister, Frances Potter, a retired Lapeer schoolteacher. While he was undergoing therapy at Walter Reed Hospital, his sister said, "He was able to go to the Senate and the Capitol because he didn't have anything else to do at the time."

Fitted with artificial legs and able to walk with two canes, Mr. Potter worked for the U.S. Department of Labor after his discharge in 1946 as a rehabilitation adviser. A year later he was in Washington as a congressman.

While in the House he served two years on the House Un-American Activities Committee and gained notoriety for his role in reopening hearings on alleged communist penetration of Hollywood and for a separate investigation into the alleged spread of communism in Michigan's labor organizations.

But after the Army-McCarthy hearings, Mr. Potter, then a senator, became the first member of McCarthy's committee to inquire into allegations of impropriety by McCarthy and his staff. A statement issued in his name said, "I believe a criminal case against some of the principals might be developed." That was seen as the beginning of the end for McCarthy, clearing the way for his censure.

However, another version of the story, advanced by Mr. Potter's press aide Tommy McIntyre, had McIntyre writing the decisive statement without Mr. Potter's prior knowledge and the senator finding out only after it had been distributed.

Mr. Potter was also one of the first Republicans to question the relationship of Eisenhower adviser Sherman Adams to Boston industrialist Bernard Goldfine.

Despite Eisenhower defense of Adams, Adams ultimately resigned. Loss of support from the president was seen by some as decisive in Potter's defeat in 1958.

After leaving office, Potter never strayed far from government.

He founded Potter International, a small firm which kept major companies like Uniroyal and Rockwell International abreast of government's regulations and engaged in limited lobbying.

Survivors include his wife, Mary Elizabeth; a daughter Wendy Cundy; a sister, Frances Potter, and one grandchild.

He will be buried Wednesday in Arlington National Cemetery.●

SPECIAL PURPOSE AGRICULTURAL STRUCTURES DESERVE TAX CREDITS CONGRESS INTENDED

● Mr. HELMS. Mr. President, I am delighted to cosponsor S. 2089, introduced by the able Senator from Delaware (Mr. ROTH) to amend the Revenue Act of 1978. This bill seeks to clarify an interpretation of the Internal Revenue Service with respect to a taxpayer taking an investment tax credit for the construction of special purpose agricultural structures or buildings.

The Revenue Act of 1971 restored use of the investment credit, and Congress attempted at that time to specify that the credit was intended to apply to special, or single purpose agricultural structures. Examples of these structures include poultry houses, hog barns and greenhouses, among others.

However, the IRS denied the credit for these structures on numerous occasions, which prompted farmers and nurserymen to take their cases to court. The U.S. Tax Court properly sustained their allegations, and allowed them to take the credit. But, this judicial process was time consuming and expensive. In order to correct this oversight, Congress approved a provision contained in the Revenue Act of 1978 allowing the investment tax credit for special purpose agricultural structures.

Unfortunately, the Internal Revenue Code, thus amended, limited refunds for credits to 3 years after the tax return is filed. This effectively restrains taxpayers from using the credit for expenditures made before 1976—even though the clear intent of Congress was to allow retroactive use for all tax years after August 15, 1971. The only exception to this ruling relates to taxpayers who disputed the original IRS regulations, therefore leaving those prior tax years open, and in so doing became eligible for the credit. I hope my colleagues will agree that this is a most inequitable situation that must be corrected.

I also would stress that enactment of this legislation will not result in any "windfall" for the poultry or pork industries. Producers of these products have provided ample supplies for our consumers in recent years, and at lower prices than many other commodities. If they are allowed to keep their industries stable and regain their lost tax credits, I feel sure they will be able to serve the American public in a similar manner as in the past.

Moreover, this bill does not seek to disadvantage family farmers or small pork or poultry producers. The vertical integration that has developed in their industries has occurred through the action of market forces—supply and demand—and will not be reversed. It seems logical at this time to keep them viable and productive so that we may be assured of adequate poultry and pork products in the future.

For the record, Mr. President, I am submitting the following list of organizations that support this legislation:

National Broiler Council; United Egg Producers; National Turkey Federation; National Pork Producers Council; Poultry and Egg Institute of America; and American Farm Bureau Federation.●

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT—S. 985

● Mr. INOUYE. Mr. President, it is my understanding that next week the Committee on Agriculture, Nutrition, and Forestry will move that the Senate concur in the House amendment to S. 985 with a further amendment. S. 985 amends the Consolidated Farm and Rural Development Act to establish overall lending limits for the next 3 years under the farm and rural development loan programs administered by the Farmers Home Administration.

When the message from the House of Representatives on S. 985 is considered by the Senate, it is my intent to ask the Senate to concur in an amendment that has already been approved by the House of Representatives.

This amendment simply rewrites section 343, which defines certain terms used in the Consolidated Farm and Rural Development Act, and the only substantive change made in the section is to include a definition of the term owner-operator to include lessee-operator. This provision was in the bill during the period September 16, 1966, to September 19, 1970, and through oversight, was omitted from the bill since then.

This amendment is very important to the people of Hawaii because there are large areas of land which cannot be owned with fee simple deeds but which must be leased for farming or rural housing. It is especially important to native Hawaiians and small farmers who cannot secure adequate capital to farm productively. The Secretary of Agriculture

makes the determination of whether or not the property cannot be owned in fee simple.

This provision was previously enacted and the Department of Agriculture has accepted the amendment without any difficulties whatsoever. The House of Representatives did approve this provision when it passed H.R. 368 (S. 985) on October 24, 1979.

I am offering this amendment at this time because the problem had not been called to my attention prior to the reauthorization consideration last spring. The House of Representatives of the 10th Legislature of the State of Hawaii did enact Resolution No. 297 specifically requesting this provision in order to deal with this special problem in Hawaii. A very large part of the land which is used for farming in Hawaii involves farming on leasehold lands. In 1970, Hawaii had approximately 1,500 farmers operating on about 40,000 acres of leased lands. Under the Hawaiian Home Lands Act of 1920, much of this land cannot be sold; it can only be leased. Native Hawaiians and small farmers have great difficulty in securing adequate financing of farm improvements needed for successful farming.

Credit is especially needed because of the higher capital cost of modern technology. With inadequate credit, native Hawaiians who have eligibility to lease this land cannot develop or maintain the agricultural potential of their land. At the same time there is increasing pressure to turn farmland into other nonagricultural uses which offer higher rates of return. Much of the agricultural land which is farmed under leases—such as those leased under the Hawaiian Home Lands Act or State leases—are now underutilized because of a lack of credit assistance. In order to maintain family farms and to maintain and improve diversified agricultural productivity in Hawaii, this amendment is needed.

In particular, we need to make credit available to small farmers so they can continue to farm productively. If land can be farmed productively, it will reduce the pressure for its conversion to nonagricultural uses. The rapid rise in land values has also meant that the use of leasehold lands for farming is becoming a necessary alternative to the purchase of fee simple land in order to maintain financially feasible farming operations.

This amendment is very important to the people of Hawaii and I urge its acceptance.

Mr. President, I ask that the text of this amendment be printed in the RECORD.

The amendment follows:

SEC. . Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended to read as follows:

"SEC. 343. As used in this title—

"(1) the term 'farmers' includes persons who are engaged in, or who, with assistance afforded under this Act, intend to engage in, fish farming.

"(2) the term 'farming' includes fish farming;

"(3) the word 'insure' includes guarantee which means to guarantee the payment of a loan originated, held, or serviced by a private financial agency or other lender approved by the Secretary;

"(4) the term 'contract of insurance' includes a contract of guarantee;

"(5) the term 'owner-operator' includes, in the case of the State of Hawaii, the lessee-operator of real property in any case in which the Secretary determines that such property cannot be acquired in fee simple by the lessee-operator, that adequate security is provided for the loan with respect to such property for which the lessee-operator applies under this title, and that there is a reasonable probability of accomplishing the objectives and repayment of the loan; and

"(6) the term 'United States' and 'State' includes each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, to the extent the Secretary determines it to be feasible and appropriate, the Trust Territory of the Pacific Islands.".●

NASA AND CLEVELAND ELECTRIC ILLUMINATING COMPANY ANNOUNCE UNIQUE TURBOGENERATION FEASIBILITY STUDY

● Mr. GLENN. Mr. President, today, in Cleveland, Ohio, the National Aeronautics and Space Administration's Lewis Research Center and the Cleveland Electric Illuminating Co. are announcing their agreement to cooperate in a 6-month, $200,000 feasibility study with broad implications for both the electric power and high-sulfur coal industries.

The aid of this study is to determine if a unique plant should be built at Lewis Labs to generate heating and process steam and simultaneously produce electricity. If the study results confirm expectations, such a plant will be built. The plant would represent an attractive option for the highly efficient use of high-sulfur coal with minimal environmental impact. That development would be of tremendous importance to the State of Ohio.

If built, the envisioned plant would be the first in the world to combine coal gasification, integrated confined cycle power generation, and the generation of steam. By controlling the air or oxygen flow and temperature, the plant would convert high-sulfur coal into a clean fuel gas. Pollutants in the gas would be removed by one of a number of processes already available on the market. The clean gas would be burned to drive a gas turbogenerator to produce electric power. Waste heat from the turbine would be recovered and used to produce steam. The steam, in turn, would be used for heating or for additional electric power generation in a steam turbogenerator.

Estimates are that, during those periods when the waste heat can be used fully, the plant could approximately double the amount of energy extracted from each ton of coal, when compared with conventional methods of electric power generation.

Dr. John F. McCarthy, Jr., Director of the Lewis Research Center, and Robert M. Ginn, president of CEI, are announcing the feasibility study today. According to Dr. McCarthy, the plant being studied is envisioned as a fully working facility, not a demonstration project.

Dr. McCarthy said:

In operation, it would supply our baseload electric needs at Lewis plus steam for heating and process requirements.

Even so, the plant also would be an effective demonstration of operating techniques that might be applied broadly across the electric power industry, and other industries, for heat energy or power needs.

As Dr. McCarthy points out in today's announcement, the potential benefits of such a plant on a commercial scale could keep costs to both electrical producers and the consumer at the lowest possible levels consistent with national need and help to both improve our environment and reduce our dependence on imported energy.

Mr. Ginn pointed out in today's announcement that another highly important benefit of the plant would be the development of an environmentally sound and economically practical means of using the high-sulfur coal so abundant in the State of Ohio.

Mr. President, it pleases me very much to be able to call the Senate's attention to this cooperative study between Government and the private sector. The project in question addresses several pressing problems—economic, environmental, and energy related. I can only hope for optimistic results from the feasibility study.●

FRINGE BENEFIT REGULATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 461.

THE PRESIDING OFFICER (Mr. MATSUNAGA). The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5224) to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment on page 2, beginning with line 10, strike through and including line 23, and insert in lieu thereof the following:

SEC. 3. PAYMENT OF INTEREST WHERE LEVY HAS BEEN WRONGFULLY MADE AND MONEY RECEIVED BY UNITED STATES.

(a) IN GENERAL—Section 6343 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

(c) INTEREST.—Interest shall be allowed and paid at an annual rate established under section 6621—

"(1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

"(2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Sec-

retary) preceding the date of return by not more than 30 days."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 6621 is amended to read as follows:

"(a) IN GENERAL.—The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 4. REPEAL OF REQUIREMENT THAT TRANSFERORS OF CERTAIN PROPERTY TO EXEMPT ORGANIZATIONS MUST FILE RETURNS.

(a) GENERAL RULE.—Section 6050 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 5. REPEAL OF ADDITION TO TAX IN CASE OF JEOPARDY.

(a) GENERAL RULE.—Section 6658 (relating to addition to tax in case of jeopardy is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the item relating to section 6658.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations (or attempted violations) occurring after the date of the enactment of this Act.

SEC. 6. REPEAL OF REQUIREMENT THAT INFORMATION BE FURNISHED TO THE SERVICE IN CONNECTION WITH CERTAIN OPTIONS.

(a) GENERAL RULE.—Section 6039 (relating to information required in connection with certain options) is amended to read as follows:

"SEC. 6039. INFORMATION REQUIRED IN CONNECTION WITH CERTAIN OPTIONS.

"(a) FURNISHING OF INFORMATION.—Every corporation—

"(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option or a restricted stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

"(A) acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

"(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

"(b) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT BY EMPLOYER TO BE DETERMINATIVE.—Any option which the corporation treats as a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

"(2) SUBSECTION (a)(2) APPLIES ONLY TO FIRST TRANSFER DESCRIBED THEREIN.—A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

"(3) IDENTIFICATION OF STOCK.—Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

"(c) CROSS REFERENCES.—

"For definition of—

"(1) The term 'qualified stock option', see section 422(b).

"(2) The term 'employee stock purchase plan', see section 423(b).

"(3) The term 'restricted stock option', see section 424(b)."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6652 is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2), and

(C) by striking out "return referred to in paragraph (2) or (3)" and inserting in lieu thereof "return referred to in paragraph (2)".

(2) Section 6678 (relating to penalty for failure to furnish certain statements) is amended to read as follows:

"SEC. 6678. FAILURE TO FURNISH CERTAIN STATEMENTS.

"In the case of each failure—

"(1) to furnish a statement under section 6042(c), 6044(e), 6049(c), or 6052(b), on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, or

"(2) to furnish a statement under section 6039(a) on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so furnish the statement $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to calendar years beginning after 1979.

SEC. 7. EXTENSION OF TIME FOR FILING GIFT TAX RETURN FOR FOURTH CALENDAR QUARTER.

(a) GENERAL RULE.—Paragraph (1) of section 6075(b) (relating to due date for gift tax returns) is amended to read as follows:

"(1) GENERAL RULE.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before—

"(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or

"(B) in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter."

(b) EXTENSION OF DATE FOR FILING INCOME TAX RETURN TREATED AS EXTENSION OF DATE FOR FILING GIFT TAX RETURN.—Subsection (b) of section 6075 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXTENSION WHERE TAXPAYER GRANTED EXTENSION FOR FILING INCOME TAX RETURN.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for the fourth calendar quarter of such taxable year."

(c) TECHNICAL AMENDMENTS.—Paragraph (2) of section 6075(b) is amended—

(1) by striking out "the 15th day of the second month after" and inserting in lieu thereof "the date prescribed by paragraph (1) for filing the return for", and

(2) by striking out "the close of" in subparagraphs (A) and (B).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 8. EXTENSION OF CERTAIN TEMPORARY TAX PROVISIONS.

(a) GOVERNMENT HEALTH PROVISION SCHOLARSHIP PROGRAMS.—Subsection (c) of section 4 of Public Law 93-483, as amended, is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981", and

(2) by striking out "1984" and inserting in lieu thereof "1985".

(b) NATIONAL RESEARCH SERVICE AWARDS.—Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to national research service awards) is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers to the handicapped) is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1983".

(d) CONTROVERSIES INVOLVING WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF THE EMPLOYMENT TAXES.—

(1) IN GENERAL.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980) is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

(e) ADDITIONAL 2-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.—Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) are amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION OF ISSUANCE OF FRINGE BENEFIT REGULATIONS.

Section 1 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95-427), is amended by striking out "Decem-

ber 31, 1979" each place it appears and inserting in lieu thereof "May 31, 1981".

SEC. 2. COMMUTING EXPENSES

Section 2 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95-427), is amended by striking out "December 31, 1979" and inserting in lieu thereof "May 31, 1981".

SEC. 3. PAYMENT OF INTEREST WHERE LEVY HAS BEEN WRONGFULLY MADE AND MONEY RECEIVED BY UNITED STATES.

(a) IN GENERAL.—Section 6343 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

"(c) INTEREST.—Interest shall be allowed and paid at an annual rate established under section 6621—

"(1) in a case described in subsection (b)(2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

"(2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days."

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 6621 is amended to read as follows:

"(a) IN GENERAL.—The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 4. REPEAL OF REQUIREMENT THAT TRANSFERORS OF CERTAIN PROPERTY TO EXEMPT ORGANIZATIONS MUST FILE RETURNS.

(c) GENERAL RULE.—Section 6050 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 5. REPEAL OF ADDITION TO TAX IN CASE OF JEOPARDY.

(a) GENERAL RULE.—Section 6658 (relating to addition to tax in case of jeopardy) is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the item relating to section 6658.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to violations (or attempted violations) occurring after the date of the enactment of this Act.

SEC. 6. REPEAL OF REQUIREMENT THAT INFORMATION BE FURNISHED TO THE SERVICE IN CONNECTION WITH CERTAIN OPTIONS.

(a) GENERAL RULE.—Section 6039 (relating to information required in connection with certain options) is amended to read as follows:

"SEC. 6039. INFORMATION REQUIRED IN CONNECTION WITH CERTAIN OPTIONS.

"(a) FURNISHING OF INFORMATION.—Every corporation—

"(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option or a restricted stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

"(A) acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

"(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

"(b) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT BY EMPLOYER TO BE DETERMINATIVE.—Any option which the corporation treats as a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

"(2) SUBSECTION (a)(2) APPLIES ONLY TO FIRST TRANSFER DESCRIBED THEREIN.—A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

"(3) IDENTIFICATION OF STOCK.—Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

"(c) CROSS REFERENCES.—

"For definition of—

"(1) The term 'qualified stock option', see section 422(b).

"(2) The term 'employee stock purchase plan', see section 423(b).

"(3) The term 'restricted stock option', see section 424(b)."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6652 is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2), and

(C) by striking out "return referred to in paragraph (2) or (3)" and inserting in lieu thereof "return referred to in paragraph (2)".

(2) Section 6678 (relating to penalty for failure to furnish certain statements) is amended to read as follows:

"SEC. 6678. FAILURE TO FURNISH CERTAIN STATEMENTS.

"In the case of each failure—

"(1) to furnish a statement under section 6042(c), 6044(e), 6049(c), or 6052(b), on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, or

"(2) to furnish a statement under section 6039(a) on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so furnish the statement $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to calendar years beginning after 1979.

SEC. 7. EXTENSION OF TIME FOR FILING GIFT TAX RETURN FOR FOURTH CALENDAR QUARTER.

(a) GENERAL RULE.—Paragraph (1) of section 6075(b) (relating to due date for gift tax returns) is amended to read as follows:

"(1) GENERAL RULE.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before—

"(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or

"(B) in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter."

(b) EXTENSION OF DATE FOR FILING INCOME TAX RETURN TREATED AS EXTENSION OF DATE FOR FILING GIFT TAX RETURN.—Subsection (b) of section 6075 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) EXTENSION WHERE TAXPAYER GRANTED EXTENSION FOR FILING INCOME TAX RETURN.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for the fourth calendar quarter of such taxable year."

(c) TECHNICAL AMENDMENTS.—Paragraph (2) of section 6075(b) is amended—

(1) by striking out "the 15th day of the second month after" and inserting in lieu thereof "the date prescribed by paragraph (1) for filing the return for", and

(2) by striking out "the close of" in subparagraphs (A) and (B).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 8. EXTENSION OF CERTAIN TEMPORARY TAX PROVISIONS.

(a) GOVERNMENT HEALTH PROVISION SCHOLARSHIP PROGRAMS.—Subsection (c) of section 4 of Public Law 93-483, as amended, is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981", and

(2) by striking out "1984" and inserting in lieu thereof "1985".

(b) NATIONAL RESEARCH SERVICE AWARDS.—Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to national research srevice awards) is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) DEDUCTION FOR ELIMINATING ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers to the handicapped) is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1983".

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(1) IN GENERAL.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980) is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

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(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

(e) ADDITIONAL 2-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.—Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) are amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

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

The committee amendment was agreed to.

● Mr. ARMSTRONG. Mr. President, I rise to commend the leadership of the chairman and ranking minority member of the Senate Finance Committee in recommending to the full Senate passage of this legislation which, in part, extends to June 1, 1981, the present ban on IRS efforts to tax employee fringe benefits.

Enactment of this bill will be an important victory for the American taxpayer. IRS would like to tax some 40 employee fringe benefits which would cost the average American family an estimated $240 more each year in taxes—a burden already financially pressed Americans can ill afford. Hardest hit would be employees of airlines, buslines, and railroads who receive free transportation, and retail store workers who are entitled to discounts.

If Congress does not act, the present ban on taxing fringe benefits will expire at the end of this year, and the IRS will be free to decide which "fringe benefits" ought to be subject to taxation and at what rates.

The fringe benefit moratorium was imposed by Congress last year so that it would have time to hold hearings and write legislation on which fringe benefits, if any, would be subject to taxation. Extensive hearings have not been held, and a final bill has not been drafted. In light of IRS past eagerness to lay and collect fringe benefit taxes, this bill is particularly important and timely.

This bill is virtually identical to an amendment I offered earlier this year to the appropriations bill funding IRS operations. That amendment was adopted unanimously by the full Senate, but was dropped in House-Senate conference as an accommodation to the tax-writing committees of Congress. Because the Senate Finance Committee and the House Ways and Means Committee came through on this issue, American taxpayers have won an important victory.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

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

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5224), as amended, was passed.

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

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION ON MONDAY, DECEMBER 10, 1979, OF SENATORS PROXMIRE, LEVIN, ROBERT C. BYRD, AND TOWER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Messrs. PROXMIRE, LEVIN, ROBERT C. BYRD, and TOWER be recognized each for not to exceed 15 minutes.

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

RECESS UNTIL 10 A.M., MONDAY, DECEMBER 10, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m., on Monday.

The motion was agreed to; and at 8:02 p.m., the Senate recessed until Monday, December 10, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 7, 1979:

DEPARTMENT OF STATE

Deane R. Hinton, of Illinois, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

THE JUDICIARY

Earl Ben Gilliam, of California, to be U.S. district judge for the southern district of California, vice a new position created by Public Law 95-486, approved October 20, 1978.

HOUSE OF REPRESENTATIVES—*Monday, December 10, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, we pause in anticipation of the coming Holy Days to laud and praise You for Your mighty acts on our behalf, and Your promise of peace on Earth, good will toward all people. We thank You for the abundant gifts we have received and we are filled with adoration as we meditate on our blessings. Even as we acknowledge these gifts our hearts reach out to those who do not have opportunities to worship as we do, to gather with family and friends. We commend to You, O Lord, all people who have any need or care, and may we, by our prayers and by our acts of good will, bring a measure of hope and love to Your 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4943. An act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects; and

H.R. 5224. An act to continue through December 31, 1980, the existing prohibition on the issuance of fringe benefit regulations.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2069. An act to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities;

S. 2076. An act to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances;

S. 2096. An act to provide for a study by the Secretary of Health, Education, and Welfare of the long-term health effects in humans of exposure to dioxins; and

S. Con. Res. 48. Concurrent resolution providing for the acceptance of a statue of Mother Joseph of the Sisters of Providence presented by the State of Washington for the National Statuary Hall collection, and for other purposes.

NATIONAL GRAIN BOARD

(Mr. WEAVER asked and was given permission to address the House for 1