SENATE—*Monday, March 23, 1981*

(Legislative day of Monday, February 16, 1981)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., offered the following prayer:

Let us pray.

Father in heaven, who are able to keep us from falling, whose grace is always sufficient, protect Thy servants in the Senate from evil influences—so pervasive, so corrupting, so seductive, so relentless—that would neutralize their influence, drag them down to infamy, and destroy their families. Strengthen them against unworthy critics who have no purpose but to tear down. Sensitize them to criticism that will make them more effective at their tasks. Guard them against debilitating sickness. Keep them and their loved ones well and strong.

We thank Thee for the recovery and return of the Secretary of the Senate, William F. Hildenbrand.

Thank you, Father, for Dr. Cary and his staff who take so seriously the responsibility for the health of the Senators.

Lord God, let the mantle of Thy love and grace envelop this place. Let Thy glory be manifest here. Let Thy presence be felt and Thy will be done.

We ask this in the name of Him who in love gave Himself for us all. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

THE JOURNAL

Mr. BAKER. Mr. President, I thank the Chair. I ask unanimous consent that the Journal of the Proceedings of the Senate be approved to date.

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

CHANGE IN SEQUENCE IN ORDERS FOR RECOGNITION OF SENATORS

Mr. BAKER. Mr. President, there are a number of special orders entered this morning. I ask unanimous consent to change the sequence of those special orders as follows: Senator BAKER, Senator SCHMITT, Senator DOMENICI, Senator DOLE, Senator HELMS, Senator SIMPSON, Senator LAXALT, Senator MCCLURE, Senator ROBERT C. BYRD, Senator HATFIELD, and Senator COHEN.

My request as well includes the conditions and circumstances described in the request on Thursday last.

The PRESIDING OFFICER. Without objection, the order will be changed, and the order will be entered for the recognition of the Senator from Maine (Mr. COHEN).

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 a.m. on tomorrow.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that when the two leaders have executed the time allocated to them under the standing order, and the completion of the special orders as heretofore provided for, there be a period for the transaction of routine morning business not to exceed 1 hour in length with Senators permitted to speak therein for not more than 10 minutes.

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

SCHEDULE OF THE SENATE

Mr. BAKER. Mr. President, I wish to reiterate the schedule for the benefit of all Senators. On the completion of the time allocated to the two leaders under the standing order, the completion of the special orders, and the close of routine morning business, the Senate will return to the consideration of S. 509 and the consideration of the so-called Melcher casein amendment, the Zorinsky second-degree amendment, and other amendments and matters which might come up in connection with that bill.

The Senate will not be able to complete action on the bill today since votes have been ordered for tomorrow.

I repeat, we will not be able to finish S. 509 today in light of the fact that the Senate made provisions for votes on that measure on Tuesday next, tomorrow. But if other matters can be routinely done and by unanimous consent become available from the Calendar of General Orders or the Executive Calendar, the Senate will turn to their consideration.

The Senate will be in session tomorrow. The schedule of the Senate adopted earlier this year was meant to accommodate the requirements of committees which needed maximum time to consider new matters brought before them, and to report legislation as it became available from those committees. The policy that the Senate meet in active session on Tuesdays, Thursdays, and Fridays as necessary, ended last week. All Senators are on notice that the Senate will now be in session for the regular full schedule of the Senate Monday through Friday, and Saturdays as necessary.

It is still the intention of the leadership on this side to try to maintain the hourly schedule of the Senate to provide that if a late session is necessary in the course of the week, whenever possible every effort will be made to schedule that late session for Thursday. That will not always be possible, but the leadership will make its best effort to do so.

Since votes on this past Thursday were stacked until this coming Tuesday, there is a possibility that the Senate will be in late this Tuesday as a carryover from last Thursday. I hope not, however, and I expect not.

BUDGET RESOLUTION OF RECONCILIATION

Mr. President, it is my understanding that the Senate Budget Committee has this morning filed its report in connection with the action on a resolution of reconciliation and instructions. It is my hope that this report can be returned from the Public Printer as promptly as possible, and that we can turn to the consideration of that measure on Thursday of this week.

Mr. President, I will reserve any further comments I have, especially in connection with the budget resolution, until that time provided by special order for me to speak later in the morning.

I am prepared now, Mr. President, to yield any time I have remaining to the distinguished minority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Senator from West Virginia.

DO NOT SELL THE AMERICAN ECONOMY SHORT

Mr. ROBERT C. BYRD. Mr. President, in recent weeks there has been a great deal of discussion about the importance of a sound, vigorous, and competitive economy. To the extent the debate has resulted in the productive exchange of ideas, many of us here in the Senate

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

have welcomed it. However, some have spoken about the economy as though the sky were falling. This, I believe, is counterproductive. Politically generated hysteria cannot form a solid basis for economic policy planning.

No single ingredient is more essential to the healthy performance of a free-market economy than confidence. Confidence—from both consumers and producers—is the grease which turns our economic wheels. It promotes savings—a key to investment. And it stimulates investment—the key to future growth. Ultimately, to slay the inflation dragon, we must produce more, and increased savings and investment will help to achieve that goal.

I believe that the President and the Congress have a shared responsibility to develop confidence in our economy and in our future. Building trust, however, will mean leaving behind campaign rhetoric that portends economic disaster and military weakness. It will mean recognizing our strengths, which are ample and enduring. It will also mean seeing our problems as challenges, with a sense of perspective and a sense of purpose. Let us realistically take stock of our situation, and decide where we are and where we want to go.

Early on in his economic address to the Nation, President Reagan began using the year 1960 as the benchmark after which things began to go wrong for America. By comparing the year 1980 to 1960, the President concluded, "We all know we are very much worse off." The facts clearly establish otherwise. As a whole, Americans are better off today than they were 20 years ago. And, to some degree, people enjoy a higher standard of living because they have benefited from Government programs. This is not to say that all Government programs should be spared the budget ax. We should indeed put our fiscal house in order. But Americans are, in many ways, better off today than they were in 1960. After adjusting for taxes and inflation, average per capita income is up by two-thirds. For the population as a whole, average real disposable income has more than doubled.

The benefits of economic growth have been reasonably well distributed. The percentage of Americans living in poverty has been cut in half over the last 20 years. Today, some 1 out of 10 people are living below the poverty level; in 1960, twice as many people lived in poverty.

The most basic measure of the standard of living is the quality of life itself. Americans are healthier today than they were 20 years ago, in part because of the money that has been pumped into public health—into hospitals, medical education and research, as well as programs such as sewage treatment, rat control, and community outreach projects designed to educate the public.

The average person's life expectancy is now nearly 74 years, almost 4 years longer than in 1960. The infant mortality rate has declined by 46 percent: From 26 deaths per 1,000 to 14 per 1,000. More women are receiving medical care and proper nourishment while pregnant. And Americans in general are eating better. They eat more meat, fish, poultry, and fresh vegetables per capita than they did in 1960.

There are other reliable indicators of our improved standard of living: More Americans own their own homes today, and many more own automobiles.

The quality of housing has improved substantially. The number of families living in physically inadequate housing has declined steadily: From more than 20 percent of all households to about 8 percent. Less dramatic, but substantial progress has been made in reducing overcrowded housing units. Today, the United States has the lowest average number of persons per room of housing than any other country in the world.

Today, Americans are better educated. More people have graduated from high school, more people have gone to college, and more people have pursued graduate studies. In 1959, nearly 16 percent of the labor force had less than an eighth grade education; by 1979, less than 5 percent had not completed at least 8 years of schooling.

Americans are better protected against uncertain futures. In 1960, only 48 percent of our workers had regular health insurance; today more than 68 percent are insured. Twenty years ago, less than 58 percent of all workers had life insurance coverage; today almost 80 percent of the work force is insured.

There are other less quantifiable gains. Cleaner air, cleaner water, improved safety in the workplace, and improvements in the quality of certain goods and services all contribute to higher living standards. These economic benefits often escape traditional economic analysis. While we all have attacked heavy-handed or unreasonable Government regulation, we must remember that some regulation represents a legitimate response to meeting real needs.

Let us look at the facts. In his economic address, President Reagan said, "The percentage of your earnings the Federal Government took in taxes in 1960 has almost doubled." That is not what the facts tell us.

The total amount of Federal personal income taxes and social security taxes paid in 1960 accounted for 13 percent of total personal income. In 1980, they accounted for 15.9 percent. In 1960, the average worker with three dependents paid 9.6 percent of his or her earnings in Federal taxes. In 1980, that worker paid 12.3 percent. In large part, the tax rise that occurred during this 20-year period went to pay for social security. In 1960, Federal personal income taxes were 10.8 percent of total personal income. In 1980, they were 11.9 percent.

If we examine national income, and all Federal receipts including corporate tax revenues and various business duties, we discover that in 1960, Federal receipts were 22.8 percent of national income, and 20 years later, they were 24.5 percent.

If we examine the relationship of all Federal taxes and fees to the gross national product, we see that in 1960, they were 18.7 percent of the GNP, and 20 years later, they were 19.8 percent.

While the level of Federal expenditures has grown, we must remember that the size of the Federal work force has fallen in relation to our growing population. In 1960, we had 1,808,334 nonpostal civilian employees, or 1 percent of the population. In 1980, we had some 2,215,852 employees, or 0.97 percent of the population.

The public debt has been falling in terms of our gross national product. In 1960, the public debt stood at 56.9 percent of the GNP. Twenty years later, the debt stands at about 35 percent of the GNP. In other words, in 1960, the entire productive capacity of our economy would have had to work more than 6 months to retire the national debt. In 1980, it could—theoretically—be retired in just over 4 months. Of the leading industrial nations, the United States has one of the lowest deficits as a percentage of GNP—West Germany, Japan, and other countries all run higher deficits. France is the only industrialized country to run a comparably low budget deficit.

In his speech, President Reagan said that U.S. industry is being taxed so hard, it is "being priced out of the world market." Between 1977 and mid-1980, U.S. exports grew 35 percent. It is estimated that they were actually 22 percent higher in 1980 than in 1979. The dollar is relatively strong. Our trade balance is improving, despite massive oil bills.

President Reagan began his economic address by telling the American people that "we are in the worst economic mess since the Great Depression." During the Great Depression, 25 percent of the people were unemployed, the banks were closed, and the country was fighting deflation—an abnormal decline in prices—rather than inflation.

Today, our banks are secure. In the last decade, employment grew by 25 percent and in the last 4 years, by 11 percent. The massive influx of new workers into the labor force will slow now that the baby boom has come of age. The work force will be more mature, better educated, and better skilled, and more productive.

During the last 3 years, investment as a percentage of GNP was higher than in any other similar period in the last 3 decades. The GNP expanded at a 5-percent annual rate in the fourth quarter of 1980, a healthy jump. Assuming investment continues at a healthy rate, the ratio of labor to capital will improve, further spurring worker productivity.

In painting a realistic picture of the American economy, we must recognize that inflation is a major problem. It breeds uncertainty—people feel less able to mark their progress or gage their future needs. We cannot conquer inflation until we stop sending more than $80 billion annually out of the country for the purchase of foreign oil. I do not believe that the private sector has the capability to shoulder this burden without incentives and other assistance from the public sector. Federal spending can be pared to the bone and everyone can be given a substantial tax cut, but these actions will not end this country's dependence upon foreign oil.

Some people within the administra-

tion have suggested that our society faces an "economic Dunkirk." Some have used the fear of impending doom to urge Americans to sacrifice the economic and social progress which has set this country apart from the other nations of the world. The American economy is strong and still growing, but it needs a program for revitalization which should be developed from clear and rational public debate. Public policy should not spring from a climate of alarmist cries, which may themselves become self-fulfilling prophecies.

It is my expectation that the Congress will act on the President's economic program as promptly as prudent foresight allows.

There is broad bipartisan consensus that Congress should complete work on the President's program by midsummer. It would be unwise if the President's program were to be stampeded through Congress, with warnings of economic calamity. It is my hope that President Reagan's proposals can be examined in a realistic environment, with a steady eye on past accomplishments, present strengths, and future goals.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Wisconsin 3 minutes.

CONTEMPLATION BY A SURVIVOR ON AUSCHWITZ AND ITS REALITIES

Mr. PROXMIRE. Mr. President, I bring to the attention of the Senate a remarkable book by Jean Amery, called "At the Mind's Limits: Contemplations by a Survivor on Auschwitz and Its Realities." Jim Miller of Newsweek describes it as a collection of restrained, yet moving meditations on the nature of Jewish identity, the feelings of a homeland, and the limits of the intellect in a place like Auschwitz.

Amery was born in 1912 in Austria, the only child of a Catholic mother and a Jewish father. In 1935, he married, fled to Belgium, and joined the resistance movement. He was captured, and sent to a series of concentration camps. Despite living daily with death, Amery left the camps just as he had entered them—as an agnostic. He preserved his intellectual passions, yet suffered deep spiritual wounds and emotional displacement.

According to Miller, Amery possesses "the ear of a poet and the eye of a novelist," and "vividly communicates the wonder of a philosopher" over the horrors he sees. Amery does not pretend to make sense of the Nazi terror, or to view his experiences with full comprehension or clarity. On the contrary, he writes that "clarification would also amount to disposal, settlement of the case, which can then be placed in the files of history. My book is meant to aid in preventing precisely this."

Recollections of holocaust survivors often end this way. Amery's memoirs are especially stirring, but the message is the same: "Never forget." It implores us to confront the terrible crime of genocide directly, and not merely to consign it to the realm of the unthinkable or unmentionable.

Mr. President, how many victims must bear witness before we can get this message? The Genocide Treaty is not eloquent, or profound, or stirring, but it does get to the point. It states that all signing nations agree that genocide is an international crime against all humanity, and pledge to enact laws to prevent it. Approved by both the American Bar Association and the American Civil Liberties Union, designed not to infringe on U.S. sovereignty, supported by every President, Republican and Democrat, from President Harry Truman, when it was first approved by the United Nations, to President Ronald Reagan, the treaty still languishes before a Senate that chooses to take no action.

Jean Amery argued that the horror of torture lay both with the physical pain and with the fear that no one else in the world can help. He notes that "with the first blow from a policeman's fist, against which there can be no defense and which no helping hand will ward off, a part of our life ends and it can never again be revived."

We can begin to provide the expectation of help by ratifying the Genocide Convention. The time for this first step is long overdue.

RAOUL WALLENBERG

Mr. PROXMIRE. Mr. President, last night the story of Raoul Wallenberg, a remarkable Swede, who devoted his life to saving the lives of Jews, was told very vividly on the CBS television program "60 Minutes."

This is one of the most widely watched programs in our country on television. It was a very moving story of Raoul Wallenberg, a young Swede—not Jewish—who went behind the Nazi influence and saved the lives of thousands of Jews from being exterminated by Hitler. Mr. President, the wife of the distinguished Senator from New York, Senator MOYNIHAN, has written an article about Raoul Wallenberg and his remarkable human efforts.

I ask unanimous consent that the article from the Washington Post, dated March 22, 1981, be printed in the RECORD.

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

WHERE IS RAOUL WALLENBERG?

(By Elizabeth B. Moynihan)

It is a bitter irony that Raoul Wallenberg is becoming a symbol of injustice because of his fate when he should be a symbol of humanity because of his heroism. Wallenberg's story is as mysterious as it is tragic.

In 1944, when the Nazis defeat was certain, Adolph Eichmann madly pursued the "final solution" by deporting Hungarian Jews to Nazi extermination camps. At the request of the U.S. War Refugee Board, the Swedish government sent Wallenberg to Budapest on a rescue and relief mission. Defying Eichmann, he saved at least 20,000 people from deportation trains and another 70,000 from violent death in the ghetto. His methods were daring and dramatic, and the personal risk was enormous. But Wallenberg seemed to have a charmed life until January 1945, when the Russians entered Budapest and almost immediately took him into custody.

Although previously disclaiming knowledge of Wallenberg, in 1957 the Soviet Foreign Ministry reversed itself, stating that he had died of a heart attack in prison in 1947. Neither the Swedish government nor Wallenberg's family accepted this statement because it came without the usual documents and because his name was misspelled on the single note provided as evidence.

Most Americans who knew about Wallenberg presumed he was dead until released Soviet prisoners claimed he was still alive in the Gulag. These assertions stunned Hungarian-American Jews, among them Rep. Tom Lantos, who was saved by Wallenberg. In July 1979, Lantos and his wife encouraged Wallenberg's sister to come to the United States to seek help. Sens. Frank Church, Claiborne Pell, Daniel P. Moynihan and Rudy Boschwitz agreed to serve as co-chairmen of the Wallenberg Committee, which has operated with a small working group. As our goal was to secure the release of Wallenberg—not to generate anti-Soviet propaganda—it was felt that diplomatic and private means of resolving the mystery should be exhausted before any large public campaign was organized.

Official American support was immediate: President Carter raised the Wallenberg question, and the State Department pressed the inquiry. The 96th Congress passed a concurrent resolution honoring Wallenberg and called on our delegation to raise his case at the Madrid Conference on Security and Cooperation in Europe. In Madrid, Sen. Pell joined the American delegation led by Max M. Kampelman in an appeal for Wallenberg. When the Soviets responded to any of these inquiries, they merely repeated the 1957 statement.

As the Soviets know the prisons and cells in question, they could identify the inmates if, as a Soviet official suggested, former prisoners had mistaken their identity.

There are now active Wallenberg committees in six countries, for people everywhere seem genuinely moved by his story, and the Soviet silence fans public outrage. At international hearings co-sponsored by the International Sakharov committee in Stockholm in January, a panel reviewed evidence and heard testimony regarding Wallenberg's imprisonment. The resolution presented to the Swedish foreign minister stated there was every reason to believe he is still alive.

No public charges have been made against him, and it is not known if Wallenberg, who would now be 69, was actually sentenced. If he was, why couldn't the Soviets commute his term on humanitarian grounds because of his age? Then the world could honor him as he deserves rather than protest his fate. Why would the Soviet government allow the mystery of Raoul Wallenberg to become a divisive international issue?

Mr. PROXMIRE. Mr. President, I understand that this week a resolution will be introduced in the House to make Mr. Wallenberg an honorary American citizen, inasmuch as his efforts on behalf of European Jews was at the instigation of the United States and the Swedish Government has not been successful in getting him out of Russia.

Mr. President, I will do my best to call this to the attention of the Senate, too. I hope we will pass that resolution and certainly if we pass that resolution we should act on the Genocide Treaty. At least, I certainly hope so.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President,

does the Senator from New Mexico wish any additional time? I can yield him some of mine.

Mr. SCHMITT. No, the Senator from New Mexico does not need any additional time. I believe I have a special order.

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

RECOGNITION OF SENATOR BAKER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee, Mr. BAKER, is recognized for not to exceed 15 minutes.

SPENDING REDUCTIONS

Mr. BAKER. Mr. President, as we begin our deliberations this week, I wish to take just a moment to express my admiration of and my appreciation to the membership of the Senate Committee on the Budget, particularly, the chairman of that committee, the Senator from New Mexico (Mr. DOMENICI) and the ranking member of the committee, the Senator from South Carolina (Mr. HOLLINGS).

I do so as a citizen, as a colleague, and as one fortunate and honored to have been chosen as the Republican leader of the Senate. One of the first pledges I made to the Senate, the Nation, and myself upon becoming majority leader this past January was to have the Senate move thoughtfully, yet expeditiously, on President Reagan's economic recovery programs.

My distinguished friends, Senator DOMENICI and Senator HOLLINGS, and the other members of the Budget Committee have made me appear quite adroit in that regard and have redeemed that promise for me in this instance; and I am most grateful.

I particularly want to make note of the extraordinary leadership of my colleague, Senator DOMENICI. As much as our friends across the aisle have had to become accustomed to minority status, so have we had to come to terms with the realities and the responsibilities of majority status. In view of that, and considering the unprecedented magnitude of the President's spending reduction proposals, Senator DOMENICI has done an absolutely outstanding job.

This past year, for instance, in the final sessions of the 96th Congress, the Senate labored for more than 6½ months in an effort to reduce Federal spending authorizations and outlays. And despite the best efforts of Senators on both sides of the aisle those changes amounted to $4.5 billion. But this year the deliberations of the Senate Budget Committee has approved reductions in budget outlays totaling $86.9 billion—$2.8 billion for the balance of fiscal 1981, $36.4 billion for fiscal 1982, and $47.7 billion for fiscal 1983.

What the Budget Committee has done constitutes a unique and remarkable accomplishment, of which that committee, this Senate, and the entire Nation can be justly proud.

It will be my intention to speak on this matter again later in the week. For now, however, as we begin our consideration and discussion, I would suggest to my colleagues that we view the work of the Budget Committee, splendid as it is, not as a culmination of our labors, nor as the final crowning achievement for it is neither.

Rather, we have made a beginning, a most auspicious beginning to be sure, but still, just a beginning. Other spending reductions must follow. They will be still more wrenching and more difficult. But they must come in the months and years ahead.

We must still act this year on comprehensive tax reduction and reform legislation. We have shown in our Budget Committee and will show on this floor this week, I am sure, that we are determined to reduce Federal spending. Thus, we can and must in good conscience act this year, I believe, to reduce the crushing tax burden on this Nation.

We must still act this year and every year to strip away the burdensome and stultifying regulations which so often stifle our productivity.

All of this will come in time, I trust. But for today and for this week, we in the Senate can be proud of the Budget Committee, of the Budget Act, of Members on both sides of the aisle, and the process which has just begun.

Mr. President, I yield back any time I have remaining under the special order.

RECOGNITION OF SENATOR SCHMITT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico, Mr. SCHMITT, is recognized for 15 minutes.

TAMING THE FEDERAL BUDGET: STEP ONE

Mr. SCHMITT. Mr. President, I appreciate the remarks of the distinguished majority leader and associate myself with them, particularly in praise and compliments to the distinguished senior Senator from New Mexico, Mr. DOMENICI, and his colleague, the ranking member of the Budget Committee, the Senator from South Carolina, Mr. HOLLINGS.

Mr. President, it is obvious, if one just looks at the historical record since 1974 when we passed the Budget Act, that we have not succeeded in controlling the Federal budget. In particular, we have not succeeded in preventing an annual deficit in the range of $60 to $70 billion each of the years since that time and we have not succeeded in controlling other Federal borrowing, the so-called off-budget borrowing, of the Federal Government which now amounts to well over $100 billion total.

This borrowing, this competition by the Federal Government in the private sector for the moneys that you and I and anyone else in this country needs in order to increase their personal and business activities, has resulted not only in extraordinary pressure on interest rates—the price of which we are paying dearly today—but has underlying mechanisms that make it the principal cause of inflation.

So the problem is, Mr. President, we have not succeeded. The Budget Act, although it may have reduced the level of deficit in borrowing, nevertheless, has failed. All one has to do is look at the economy of today with double digit inflation of 12 percent at least, the prime interest rate still hovering up close to 20 percent, unemployment steady at almost 7½ percent, maybe rising, and a gross national product that is not growing one iota.

Those kinds of statistics are very dangerous, particularly since this country is the only major champion of freedom in the world today.

As we look at the problem, we must ask ourselves: Why has it not worked? I do not think we can say it has been solely the fault of the Budget Committee. They have roughly met their schedules. They have tried to give the Senate and the House, the Government in general, guidelines to follow that, had we been able to follow them, clearly would have reduced, if not eventually eliminated, the Federal borrowing.

I think, rather, Mr. President, the problem has been in the reaction of the Congress as a whole, and the committees more specifically, to the budget process.

There has been a de facto incompatibility between the actions of the Budget Committee, the Appropriations Committee, and the Finance Committee. Those three committees represent the essence of the financial control mechanism within the Congress.

As everyone will recall, almost invariably the appropriations process and the processes under the jurisdiction of the Finance Committee have followed rather than led the budget process. It is my belief that the budget process envisioned by the Budget Act of 1974 will only work if the Appropriations Committee and the Finance Committee report their actions to the Senate and to the House prior to any finalization of budget action by the Budget Committee.

As chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, I am well aware that in the past the bill under the jurisdiction of that subcommittee has been one of the last, if not the last, bill to be handled by the Senate, and usually very late in the session in each year. In fact, last year we did not even handle that bill. There was not even a markup. We are operating today on a continuing resolution dealing with that and many other important matters.

Mr. President, we cannot allow that process to continue. If it does continue, the budget process will continue to fail. With this situation in mind, the distinguished chairman of the Senate Appropriations Committee (Mr. HATFIELD) has encouraged the subcommittee chairmen and the Appropriations Committee as a whole to move quickly and vigorously to do its job in parallel and in anticipation of the actions of the budget process.

It is my belief that this is the only way in which we will ever get control in the Congress of that process.

The Budget Committee should not be expected to act either on resolutions such as is before us today dealing pri-

marily with the fiscal year 1981 expenditures, or with its normal resolutions dealing with fiscal year 1982 expenditures, without definitive, detailed judgments being provided by the Appropriations and Finance Committees in a timely manner.

This year, the Appropriations Committee began its process early, that is, late in January, through a set of oversight hearings dealing with the economy, and then the subcommittees have gone to work to understand the basic budget parameters under their jurisdiction with an eye toward providing detailed recommendations to the Budget Committee in a timely manner. This, I believe, has been done. The budget numbers that are before us today do reflect that kind of deliberation and reflect a growing working relationship between the Appropriations Committee and the Budget Committee, one which I think holds a promise of finally bringing this juggernaut under control.

Today the Senate Budget Committee has filed its report on reconciliation for spending in 1981, including its recommendations to the Senate Appropriations Committee that overall spending under the jurisdiction of that committee be reduced by $13.5 billion.

This is an extraordinary number, one which I believe is achievable, but only through continued diligent efforts on the part of the individual subcommittees of the Appropriations Committee, of that committee, itself, and eventually on the part of the Senate.

Actually, this is a very important step in enacting the President's economic recovery program and one which I am sure members of both parties will support in the final analysis, although details may be adjusted.

The Senate Appropriations Committee will now proceed to refine its activities with respect to this budget resolution and should be able to report to the Senate a rescission bill that will comply with the dates contained in the committee's instruction. That reply, of course, will be to the full Senate. It is my hope, as I am sure it is the chairman's hope, that we will be able to meet the $13.3 billion number contained therein.

This rescission effort, however, is just one step in the total budgetary process, for the Senate Budget Committee must now turn its attention to the first concurrent budget resolution, which is an advisory resolution that is only as good as the advice it has received from the various authorizing and appropriations committees.

The Budget Committee has scheduled a markup session on that resolution to take place prior to the Easter recess. I encourage them to make that schedule for they have before that committee detailed information from most of the committees of the Senate upon which to base their first set of recommendations to the Senate.

The March 15 report produced by the Appropriations Committee contains a far more substantive look at the matters under its jurisdiction than has been previously the case. I commend that report to the Budget Committee as a good basis for the recommendations that they will send to the full Senate in the form of the first concurrent budget resolution due May 15.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD that section of the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344, section 301(c), which provides the instructions to other committees in their support of the budget process.

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

(c) Views and Estimates of Other Committees—On or before March 15 of each year, each standing committee of the House of Representatives shall submit to the Committee on the Budget of the House, each standing committee of the Senate and the Joint Economic Committee and Joint Committee on Internal Revenue Taxation shall submit to the Committees on the Budget of both Houses—

(1) its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within the respective jurisdiction or functions of such committee or joint committee; and

(2) except in the case of such joint committees, the estimate of the total amounts of new budget authority and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within the jurisdiction of such committee which such committee intends to be effective during the fiscal year beginning on October 1 of such year.

The Joint Economic Committee shall also submit to the Committees on the Budget of both Houses, its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946. Any other committee of the House or Senate may submit to the Committee on the Budget of its House, and any other joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within its jurisdiction or functions.

Mr. SCHMITT. Mr. President, this year the Appropriations Committee held 4 days of economic overview hearings, from January 27 to January 30, 1981. A detailed report of those hearings was given to the Senate by Chairman HATFIELD, myself, and other members of the committee the week following those hearings. I commend that information to the Senate, not only because it contains, I think, some very good estimates on the near future of the economy, but also because it does represent a commitment on the part of the Appropriations Committee to do its part now in assisting the Budget Committee in the formulation of workable, realistic estimates of what the economy is going to do and what the impact of the economy will be on various programs and projects under the committee's jurisdiction.

The committee heard from newly appointed administration economic advisers as well as four private sector economic forecasters. These private sector economists were chosen to present a balance from a wide range of economic thought. Fortunately, several of these witnesses also brought to the Appropriations Committee the experience of previous public service, particularly what has worked and what has not worked.

One of the more prevailing recommendations that all economists made under questioning as well as voluntarily was that we should be pessimistic about the economy rather than optimistic, as has been the case in the past.

They did not advise that we look at the absolutely worst case that could happen should all things go badly for the economy, for the American people, but that we should not assume that everything is going to go as wishful thinking would devise.

In that regard, the committee's recommendations on inflation, interest rates, unemployment, and other matters related to the economy are somewhat more pessimistic than those of the administration in the budget that they have presented to the Congress.

All this means is that if the Senate follows the recommendations of the Appropriations Committee, we are going to have to find more areas for cut and we may have to adjust the timing of various cuts and tax incentives to match what is the more likely somewhat more pessimistic view of the economy for the remainder of this year and next year.

The Appropriations Committee also sought the advice of several present and former administration officials as to the controllability of the Federal budget and its impact on our committee deliberations. There was, I think, a unanimity of opinion that, unless the budget became more controllable—that is, fewer entitlement programs—we were very likely doomed to failure.

The PRESIDING OFFICER. The 15 minutes of the Senator has expired.

Mr. SCHMITT. Mr. President, I make an inquiry of the Chair: Who has the next special order?

The PRESIDING OFFICER. The Senator from Kansas (Mr. DOLE) has the next 15 minutes.

Mr. SCHMITT. Mr. President, the Senator from Kansas is not here. I ask unanimous consent that the special order that will be under the control of my colleague (Mr. DOMENICI) be transferred to my control.

The PRESIDING OFFICER. The Senator is correct. Without objection it is so ordered.

Mr. SCHMITT. Mr. President, out of the 4 days of hearings held by the Committee on Appropriations in late January, there came many important insights for the committee. One important point, supported by virtually every witness, was the significant impact that fluctuations in the basic economic conditions will have, a tremendous effect, on the Federal budget. For example, an upward change of 1 percentage point in the unemployment rate can add $5.5 billion to the cost of running the Federal Government and, in addition, will add tremendous cost to the total economy. far above this $5.5 billion figure. So you can see that a misestimate of the unemployment rate for fiscal year 1982. as with a misestimate of the rate of growth of the Consumer Price Index, or of the interest rates the Government must pay to borrow money for its various programs. will have a tremendous impact on just what the num-

bers turn out to be at the end of that fiscal year.

One of the basic problems we have had with these kinds of projections is that we have tended to be optimistic—too optimistic—and have found it necessary, late in the fiscal year, as will be necessary this fiscal year, to revise further, to provide supplementals, further to disrupt continuity of the economy. It is this Senator's recommendation that we be more pessimistic than optimistic so that that does not have to occur. If we have been overly pessimistic, then, so much the better.

I realize that no one can accurately predict all of the changes that affect the economy, nor can the budget be fully insulated from changes in economic conditions, both those that might be under our control and those which are not yet under control, particularly in the international arena. These changes, which in recent years have usually entailed more pessimistic estimates of economic performance, are reflected in significant increases in the costs of services that the Government has made a commitment to provide to the American people. Members of the Appropriations Committee, to a person, are seriously concerned about the resulting effect those demands will place upon the availability of funds for other priorities in the fiscal year should we wrongly anticipate them at this time.

The Committee on Appropriations, in its report, encouraged the review of programs which are considered uncontrollable or mandatory. We shall be making continued recommendations to the authorizing committees on what programs seem to be most desirable as candidates for increased controllability. This uncontrollability that we have today is due in large part to commitments made through prior-year budget authority and spending necessary for entitlement programs.

In addition, Mr. President, we have considered certain aspects of our national defense program as "uncontrollable." I think it is safe to say that the Defense Appropriations Subcommittee, as well as the full committee, will be looking at some of those areas very, very closely this year, as well as in succeeding years. There is no question in the mind of our committee that our national defense has deteriorated and must be repaired; but there is some question, even some disagreement, apparent with the administration's proposals on just how best that can be done and at what price.

In addition, Mr. President, recent attention has been directed to problems resulting from the automatic indexing for inflation of numerous entitlement programs. This automatic indexing is only a problem when inflation is running so out of control as it is today, but clearly is something the committee must look at. I am personally not sure whether there is a great deal to be gained by changing the indexing formula and its impact on various programs. but, still, we are obligated to look at that issue and look at it very closely. The economists who met with our committee in January were almost unanimous in saying that some revision of the Consumer Price Index formula should be made. This has not, of course, been the recommendation of the Reagan administration, but the weight of those recommendations must be considered in light of other economic and political realities.

In various ways, Mr. President, it is estimated that 77 percent of the outlays in the fiscal year 1982 budget are uncontrollable; that is, currently beyond the control of the Congress or of the administration.

Spending associated with entitlement programs explicitly indexed for inflation is estimated to make up 30 percent of the total budget outlays. The Congressional Budget Office estimates that, without including any more programs under automatic indexing, the percent of total outlays that these programs will require will be 32.7 percent in 1986, a steady, seemingly uncontrollable rise.

In addition to the programs that are explicitly indexed, other entitlement programs, such as medicaid and medicare, which are directly affected by inflation, contribute to the upward pressure of uncontrollable expenditures because of the nature of those programs and the nature of the expenses that States and other providers must endure as a result of inflation and increasing interest rates.

Even the 23 percent of the budget that is defined as relatively controllable is clearly less discretionary than it would appear. This relatively "controllable" portion of the budget includes items such as military and civilian pay.

The Committee on Appropriations, more specifically, has only 60 percent of budget authority and 62 percent of outlays of the total Federal budget for consideration within its spending jurisdiction. Of that amount, approximately 55 percent of budget outlays is uncontrollable; the remaining 45 percent is what can be technically defined as controllable. However, of the 45 percent considered controllable, 60 percent is for nonmandatory defense expenditures and 1 percent is for civilian pay items.

In this present international climate and in view of the deterioration of our national defense structure, it is hard to say that the majority of our defense expenditures are candidates for major cuts; the percentages I have just mentioned translate into only $193.3 billion, out of a total budget well in excess of $600 billion, that can be considered relatively controllable, within the jurisdiction of the Committee on Appropriations. Defense spending makes up $116 billion and pay items are $1.8 million, which leaves only $75.5 billion of the total $193.3 billion that is truly discretionary within the jurisdiction of the Appropriations Committee.

The question of whether any budget outlays are controllable by the Committee on Appropriations is a discussion for another time and forum.

But clearly in budget authority we have some work to do.

I and other members of the Appropriations Committee intend to find every economy available in both the proposed supplemnetal request and previously enacted legislation. However, overestimation as to the amounts of money that can be withdrawn without serious consequences to the operation of the Government is a serious problem, particularly when we are faced with only effectively one-quarter of fiscal year 1981 to which rescissions can be applied.

All too often the "fat" in budgets are believed to have been trimmed by economies only to find such is not the case. In trimming that so-called "fat" in previous years, programs of great national importance have suffered unduly.

The technological basis and the scientific base of this country have not grown to match the demand that is upon us in terms of our national security relative to potential adversaries and in terms of our economic security relative to our economic partners and competitors in the free world.

Recent hearings by my Subcommittee on Science, Technology, and Space of the Commerce Committee have documented, as have others, that the current annual shortfall of scientists and engineers with advanced degrees is on the order of 15,000, and that is 15,000 advance degree personnel on top of an already large deficiency of technical and scientific activities related to our national defense as well as to our national economy.

Many of these areas that are in the national interest are beyond the capacity of State and local governments to provide funds and as a result the Federal Government is going to have to be more deeply involved in the creation of this pool of renewable resources, a pool that is composed of highly trained people.

In addition, our technology base has been eroding because it has been considered "fat" over the last several years until we now find that our international competitors are beating the pants off of us.

For instance, the United States, once the leader in space exploration and now on the eve of launching the Space Shuttle, may give up its participation in international cooperative efforts such as the Solar-Polar mission and the mission to investigate Halley's comet. In the former program, 15 European institutions have invested millions of dollars in monitoring equipment for participation via the European Space Agency. A formal protest has been lodged with the State Department over this economy. The Halley's comet mission cancellation has caused the U.S.S.R. to expand its own mission with expanded international cooperation thus scoring large propaganda points at our expense.

As we go through the exercise of cutting the budget, we need to identify our national defense needs with greater clarity to include missions such as these for they do contribute not only to scientific knowledge but also to our defense effort.

But not all research efforts, even in space-related areas, should be so included. One of the administration reductions that I have supported was that I have supported was that which reduced NOAA's budget for remote sensing.

Given my specialized background, I am extremely concerned about Federal support for energy and technological advancement. Probably more than any

other Member of Congress, I have consistently advocated private sector involvement in this area, yet I realize there are certain areas where Federal support is essential. These expenditures are investments in our future. The micro-chip processors and our booming electronics industry are directly related to past Federal research and development expenditures, primarily in the space program. For instance, any delays in implementing an operational remote sensing system relinquishes U.S. leadership in the new and expanding markets of applications of space technology.

I continue to believe the private sector ought to play a major role in the establishment, management and operation of a remote sensing system. The reduced funding provides an opportunity to reexamine the role of NOAA in managing an operational system and provides an opportunity to expand private sector involvement at the earliest possible stage leading to reduced governmental cost in system development of an operational system.

During the last Congress, I introduced legislation on this point (S. 875) and will undoubtedly do so again during the 97th Congress.

Mr. President, in closing I would like to say that we have many challenges ahead in our effort to reduce Federal spending. There is no question that the Federal Government has tried to do too much. The States and local governments must accept responsibility for some of what Washington has done heretofore. At the same time, regulations which unduly complicate their efforts must be dramatically eased so that reduced Federal taxes are not absorbed in increased local tax bills issued to increase funds for programs transferred to local government units.

A new economic recovery program includes, in my view:

Reduced Federal spending, especially in the areas of transfer payments which exceed the "social safety net";

Continued Federal support for sound research and development as such expenditures are investments for the future;

Substantial deregulation of the American economy with a regulatory reform bill, including a legislative veto provision;

A revitalized national defense; and

Tax reductions which are tied to incentives to save and invest the extra money available to taxpayers.

Such a program will guarantee our success.

The PRESIDING OFFICER. The 15 minutes of the Senator from New Mexico has now expired.

Mr. SCHMITT. Mr. President, I yield the floor to the Senator from Utah.

The PRESIDING OFFICER. The next order is for the Senator from Kansas (Mr. DOLE).

Mr. HATCH. Mr. President, we are trying to get the Senator from Kansas here so he may speak.

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. HATCH. 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. HATCH. Mr. President, I ask unanimous consent that the time reserved for Senator DOLE be set aside and that Senator HELMS be recognized for his special order time.

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

RECOGNITION OF SENATOR HELMS

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

Mr. HELMS. Thank you, Mr. President, and good morning.

THE FIRST CONCURRENT RESOLUTION AND RECONCILIATION

Mr. HELMS. Mr. President, there must be major cuts. There must be substantive reductions—above and beyond the $48 billion the President has discussed. The cuts he has proposed are really not much more than holding the dollar figures the same for many problems.

Every day, there are folks who come to my office and say, "Senator, I know that we must cut, and I support the President, but there must be one or two exceptions and my program should be one of them." I will tell you, to the great credit of many of those who come to Washington to plead their case, that they will say that they are lobbying not so much to insulate their program but to minimize the size of the cuts. I recognize their views, and I believe those people are sincere. They are convinced that their pet programs are worthy ones. I also recognize that the cuts have to be spread as evenly as possible.

I recognize that the budget cutting cannot stop at the programs the President has listed. The cuts also have to go into other programs. The problems of the social security program, already a basket case, will have to be faced. The great unfunded liability of various retirement programs must be dealt with in the next few years.

But, in the process of cutting, how can our political institutions handle the two key problems of helping the truly needy, and neutralizing the lobby that has a vested self-interest in the continuation and expansion of some of these programs?

First, not many argue with the President's pledge that we should maintain the safety net for those who cannot care for themselves.

But I believe that tax-rate cuts will help us. Tax-rate cuts will help get the economy moving. The tax cuts, if they are deep enough, and if they are soon enough, will mean more jobs and more opportunities for more people: more jobs and less unemployment. More opportunities mean lessened dependence on the "safety net." A faster growing economy means that the welfare lobbyists will soon be representing a smaller constituency.

Is it not ironic, for example, that in the past 2 years, the tax-rate cuts adopted in Puerto Rico have resulted in greater economic growth in that island Commonwealth? The economic boom has meant more jobs, more opportunities. And—would you believe it—it has meant for the past 2 years that more Puerto Rican-born Americans have moved to Puerto Rico and out of New York than have come to New York.

What do you think happens to the ability of a Spanish Harlem welfare lobbyist who tries to argue for an expanded program when all his clients have flown back to jobs in San Juan?

An oversimplification, perhaps. But what happens to the ability of a community to finance its own capital improvements when we have economic growth, and its tax base expands? Why, we find that fewer cities come appealing for Federal handouts.

I could say the same about auto companies. What happens if taxes are reduced so firms can modernize, and can attract needed capital for higher productivity? What happens when people have higher real incomes to be able to afford another car? My guess is that with economic growth, you will see fewer Chrysler Corp.'s coming to the Federal trough.

Mr. President, the Budget Committee's report, as the saying goes, contains some good news and some bad news.

The good news is that its recommendations, approved by a 20 to 0 vote, represent $2.9 billion in reduced Federal spending in fiscal 1981, $36.4 billion in cuts for 1982, and $47.7 billion in cuts for 1983. Needless to say, this is considerably preferable to the action of the House Committee on Education and Labor, which has rejected the Reagan administration's efforts to cut Federal spending. That rejection borders on being total.

As the distinguished chairman of the Budget Committee has pointed out, even the most liberal members of the Budget Committee have sensed that the American people have grown weary of the business as usual policies which have produced double-digit inflation and soaring interest rates.

In 1969, when the Federal Governmental expenditures were only $184 billion, 548 million, the national unemployment rate stood at 3.5 percent, and the consumer price index rose only about 5 percent—from 104.2 to 109.8. In a little over a decade, we have grown to a proposed expenditure amounting to over 3½ times the 1969 Federal spending. Unemployment now exceeds 7 percent and inflation during the past calendar year was 11.7 percent.

In view of the massive increase in the misery index during this period, can anyone seriously suggest that our additional $500 billion represents money well spent?

The Budget Committee's recommendations represent a tentative first step toward slowing the growth of the Federal

Government and its tremendous drag on the economy.

But in the view of this Senator, it does not go nearly far enough. The President's proposal, even if it is fully enacted, will not decrease the size of the Federal Government, but will merely slow the growth of the Federal Government to a rate of 6 percent during 1982. Economist Lewis Lehrman has estimated that it would take a Federal budget cut of $100 billion to achieve the scope of economic recovery which this Nation really needs.

So what does all this mean? It means that at a minimum it is absolutely critical that this Senate perform its independent function of searching out major cuts in Federal spending which go even beyond those recommended by the President.

I mentioned the good news. Now the bad news.

The bad news in the Budget Committee's report was that, unfortunately, in many areas, it was not even able to maintain the President's recommendations.

In the area of elementary and secondary education, $653 million was added to the President's figures. There can be fewer areas in which Federal governmental efforts have been so clearly counterproductive as in the area of elementary and secondary education. While our expenditures for programs such as environmental education, health education, women's equity projects, bilingual education, population education, the arts and education, and prelegal education have continued to increase, every statistical indicator of the ability of American schoolchildren has continued to decline. We have used our Federal leverage to shift States away from the skills which really matter to our children, and instead required the States to concentrate on the latest Washington trend in education.

And that is demonstrably, Mr. President, sheer folly.

In the area of legal services, the committee has added $100 million to the President's recommendations. Ironically, this decision was made on the heels of the publication by the distinguished senior Senator from Idaho of a Legal Services Corporation memorandum laying out a massive unlawful lobbying plan on behalf of that corporation's reauthorization. That memorandum concedes that the Legal Services Corporation has lost the support of large numbers of clients and poor people. It proceeds to attempt to remedy this situation by, among other things, collecting dossiers containing data on Senators and Representatives.

Other areas in which long-overdue Reagan cuts have been overridden including funding for the Export-Import Bank, various youth job training and handicap programs which in fact destroy institutions which service the populations intended to be benefited, and the Corporation for Public Broadcasting.

And if we think it was difficult to hold the line on the Reagan budget in the Senate, this is only a fleeting premonition of the difficulties we will have when we begin to negotiate with the House of Representatives.

So I say again, Mr. President, there is good news and there is bad news. Things could be better and things could be worse. For my part, I am going to continue to work for the Reagan cuts in spending but I am going to work for further cuts in Federal spending as well.

I hope that my colleagues will be attentive to the need to think of some forgotten people in this country, the taxpayers.

Mr. President, I yield the floor and I reserve the remainder of my time.

I suggest the absence of a quorum.

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

The 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. Without objection, it is so ordered.

RECOGNITION OF SENATOR DOLE

Mr. DOLE. Mr. President, a parliamentary inquiry. We are on the special order on reconciliation?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, does the Senator from Kansas have any allotted time?

The PRESIDING OFFICER. The Senator from Kansas has 15 minutes previously allotted to him.

RECONCILIATION INTENTION

Mr. DOLE. Mr. President, I might say, first of all, that I just left the discussion with the committee chairman, the Republican chairman of the Senate on the reconciliation. I would indicate, as I did in that meeting, that we need to move very quickly in the Senate and House on the reconciliation instruction that was ordered by the Senate Budget Committee last week.

Earlier this morning, I had the privilege of speaking to an association of realtors—hardworking men and women, middle-class Americans who work and work and pay and pay their taxes. I was surprised with the speed at which they passed a resolution—and I assume there were Democrats, Republicans, and Independents in the audience—supporting the President's program. In fact, I commented that I only wish Congress would move as quickly as their association.

But they are concerned about spending. We are all concerned about spending. Everyone agrees we must make some changes. But there is disagreement when we try to determine where the cuts should be made.

I would indicate, as I will later on in the week, that I have a few areas I think should be modified. I am not totally satisfied with the nutrition instructions.

As chairman of that subcommittee in the Agriculture Committee which deals with WIC and food stamps and school lunch programs, it may be that we can make some changes there without violence to the President's efforts.

But I think it is well to point out that I watched what was sort of presented as a documentary last night on the CBS network about the student loan program.

They did not interview a single student who did not leave the impression that they were going to lose their benefits if the Reagan package were passed.

With this one-sided reporting, it is rather difficult for anybody who views that program to have anything but a biased view.

Here is a program that has gone up in cost tenfold since 1970, nearly $6 billion today as opposed to $576 million in 1970.

The President is not suggesting that we do away with the program; he is just suggesting we stop the growth and maybe reduce the total cost by $1 billion. That can be done in most cases without doing violence to any student who truly needs a scholarship, a Pell grant, or a guaranteed loan.

It is these distortions that we are finding in the press from time to time that make it very difficult to get Government spending under control. I would assume that many Americans are beginning to wonder are we, in fact, doing violence to the poor; are we in fact denying needy young Americans a college education?

I would add that if the facts are told, which is not a bad idea from time to time, that I think the American people will continue to understand the need for a change, and certainly that time has come. I think we will find Republicans and Democrats alike joining in efforts to try to stop the hemorrhaging of the economy and start an economic recovery program.

If you are satisfied with 17-percent interest rates, if you are satisfied with 12- to 13-percent inflation, if you are satisfied with 8-percent unemployed, if you are satisfied with the myriad of regulations that cover up many small business people, if you are satisfied with the monetary policy that has gone up and down—I think now it is much better and I applaud Chairman Volcker for his efforts in trying to get some help from Congress and the administration—if you applaud all the things that have brought us where we are today, then, of course, you would not want to move very quickly on the reconciliation. You would want to delay it, to pick it to death, to pick it to pieces, lose the confidence of the American people and the support of the American people.

It is the view of this Senator that it is time for all of us to take a hard look, make some hard choices, and cast some hard votes. It may impact our States, it may impact people in our States, but rather than a sacrifice it seems to me we have an opportunity to make a contribution, a contribution to an ailing economy, a contribution that might help economic recovery.

As chairman of the Finance Committee, I am not so certain that I agree with everything in President Reagan's tax package. We are free spirits in the Congress of the United States. It is his responsibility to make the proposition and it is ours to make the disposition of legislation. There will be changes made. There are bound to be changes made in the budget package. But the point is

I think we ought to try to keep an eye on the goals outlined by the President as far as budget cuts are concerned and tax reductions are concerned.

I would hope that we can convince the American people when it comes to the tax reduction that they, in fact, will invest or save what money might be coming back to them through tax reductions. Otherwise, it will be hard to persuade many of us that the tax cut is not inflationary.

The economic data of the last several months and, indeed, the last few years suggests strongly that a change in course is needed. Double-digit inflation and high unemployment have become all too, common in our country. Over the last 12 months prices have increased by 12.3 percent and unemployment has averaged 7.2.

To say that these high levels cannot be tolerated is belied by the fact that we have tolerated them for several years. In 1979, unemployment averaged 5.8 and the CPI increased by 13.3 percent; 1978 was not much better.

CAUSES OF ECONOMIC WOES

The seeds of our current economic woes have been in the soil a long time. These seeds are an explosion in Government spending, a tax system that too often penalizes incentives, work and production, overregulation and monetary policy that has sometimes been erratic. The reconciliation instruction that we are discussing today is an attempt to come to grips with the first of these problems. Our desire to change economic directions in this country will not succeed unless, in the next few months, we tackle all four.

I might say, as I said to the chairman of the Budget Committee, the Finance Committee does not wish to become a subcommittee of the Budget Committee. We have no intention of doing that. We have no intention of trading any jurisdiction with the Budget Committee. But it seems to me that they are acting within their authority, that they have acted within their authority; that they have laid out certain targets, and we will have certain options in our committee.

Controlling the growth in national spending should clearly be one of our highest priorities. During the 10-year period from 1971 to 1980, Federal Government outlays grew from $211 billion to almost $580 billion.

That is where the focus should be. It almost tripled in about 10 years. The American people, the American taxpayers, I do not believe fully understand the magnitude of the increase in spending in the last decade. That is why the taxes remain high. That is why we have inflation. That is why interest rates are out of sight. That is why Americans cannot buy a home.

Unless we are willing in a bipartisan way to turn that around, and we are going to start the reconciliation process and hopefully conclude it in the Senate Thursday or Friday of this week, then the American people will be looking at the Congress and those in this Congress who do not want to change, who want to do business as usual, who want to say, "I am for cuts but I do not want to cut any of these programs."

It just seems to me that that time has passed. We cannot have it both ways in the Congress of the United States. We have had it that way long enough and the people who have suffered have been the American taxpayers, plus, I might add, low-income Americans.

I know of no group that suffers more from inflation than those on low incomes, than those on welfare, than those on SSI, than even some of those on social security.

I would hope that we can preserve many of the programs we have and make them worthwhile and meaningful, then while we do something about spending and inflation.

In 1981, spending is estimated to reach $655 billion and even in the Reagan budget it is estimated to be $695 billion next year. By contrast to the Reagan budget, the current policy estimate for fiscal year 1982 is $735.9 billion in Federal spending. This current policy number is more than double Federal outlays as recently as 1976. During the last 2 years Government spending has grown by an average rate of 16 percent.

No one needs to be reminded that while spending has grown deficits have also been a major problem. During the last two decades we have had 1 year when our Federal budget was not in deficit. In the years 1971 to 1980 we have deficits over $40 billion five times. It is significant that prior to this 10-year period we only had a deficit as big as $40 billion during World War II. This fiscal year the deficit is estimated to run near $60 billion.

ECONOMIC EFFECTS OF SPENDING

The explosive growth of Federal spending has had an adverse effect on this country in a number of ways. It has tended to tilt the balance of power in Federal-State relationships toward Washington and away from the States, further distorting our Federal system. The growth of spending has also tended to increase the intrusion of Government into the life of every American. Every Senator has had constituents complain about seemingly unnecessary Federal regulations and bureaucratic interference.

The most pernicious effect of the growth in Federal spending, however, has been the adverse consequences it has had for our economy. The incredibly high levels of spending have added pressure to keep taxes high, thus stifling investment incentive and ultimately productivity. Federal spending has led to the huge Federal budget deficits which have fed inflation by sending the Government to the capital markets to borrow and too often, to the printing presses.

SENATE BUDGET COMMITTEE ACTION

The Senate Budget Committee is to be applauded for its work in recent years and particularly the marathon sessions that lead to its ordering reported this revised second concurrent budget resolution and reconciliation instruction. I observed some of those meetings and can testify to the hard work and determination of the chairman and ranking member as well as all the other Budget Committee Senators.

The vote was unanimous, 20 yeas and no nays being cast on the budget reduction.

The Budget Committee recommends that the Committee on Finance be instructed to reduce its direct spending by $200 million in BA and $800 million in outlays in fiscal year 1981, $4.4 billion in BA and $8.8 billion in outlays in fiscal year 1982, and $4.5 billion in BA and $10.9 billion in outlays in fiscal year 1983. These are totals that we feel we can live with, although cutting entitlement programs by these amounts will not be easy. Indeed the Committee on Finance voted unanimously to recommend similar totals for fiscal year 1982 to the Budget Committee. We, of course, are not bound to any particular proposal in arriving at these figures.

We believe we can live with these totals. In fact, I am not certain that we cannot find more areas to reduce spending in our committee. The Finance Committee has jurisdiction of about $380 billion. Over half of the budget comes to our committee. I would again point out that of this figure, about $385 billion to $390 billion that we have jurisdiction of in the Finance Committee, that we are talking, out of those hundreds of billions of dollars, of a reduction in fiscal 1982 of outlays of about $8.8 billion.

Mr. President, if you keep everything in perspective, you will understand that we are not asking to turn the clock back. We are simply trying to get a handle on spending, to reduce the rate of growth of spending for the sake of our economy and for the sake of the American taxpayer.

REVENUES IN RECONCILIATION

This Senator is pleased that the Budget Committee voted not to include a revenue reduction target in the reconciliation instruction. The purpose of reconciliation is to reduce budget deficits by recommending cuts in spending and, where necessary, recommending increases in taxes. Recommending tax cuts is wholly inconsistent with this purpose.

I might suggest that when that vote was taken in the Budget Committee it was almost unanimous not to tamper with that.

The level of revenue is set in the first and second budget resolutions but the Congress does not need to use reconciliation to cut taxes.

The Senate Budget Committee has met its responsibility to recommend a major cut in spending to the Senate. It is now up to the rest of us, both in this body and in the House, quickly to modify it where appropriate and to pass it.

The Finance Committee has already begun legislative hearings on the proposals that can implement these budget figures. These hearings will continue this week and next week. We hope to begin markups soon thereafter. If we all meet our responsibility as well as the Budget Committee did, a change in direction in this country will be inevitable.

I would just hope that we would not do this just to support the President of the United States, though that is not a bad idea either, but to do this because it is the right thing to do, to do this because it is not a Republican thing or a Democratic thing but the right thing to do.

If we work together in the Congress, there is no reason we cannot complete action on this entire package by mid-year, hopefully by not later than mid-July.

CONTROLLING TRANSFER PAYMENTS

As I have noted over the last week, the Senate Finance Committee has been holding hearings on the spending reduction proposals within its jurisdiction. One of the witnesses at our hearing, Mr. Erich Heinemann, presented an interesting analysis of Federal spending problems by breaking the budget into its two main components—purchases of goods and services and transfer payments. For the calendar year 1980, Federal purchases of goods and services came to about $108 billion in real 1972 dollars, which is roughly 6 percent below the level of Federal spending for goods and services in the first year of the Eisenhower administration. This drop, Mr. Heinemann noted, is largely owing to the drop in real military outlays. This means that over a span of almost 30 years there has been no increase—in fact a decline—in the Federal Government's demands on the human and material resource base of the economy.

The near doubling in real Federal expenditures since the early 1950's is directly traceable to the rapid rise in the level of real transfer payments. In this framework, the Federal Government's contribution to inflation comes, not from bidding scarce resources away from the private sector, but rather by shifting resources from savers to consumers and by driving the monetary authorities to excessive monetary expansion through large budget deficits.

Thus, if we are going to bring the Federal budget under control, we must act to stem the growth of transfer payments. Since a great number of the transfer payment programs fall within the Finance Committee's jurisdiction, we have a particularly pivotal role in bringing about this fundamental change in direction. I am optimistic that the committee will rise to the task.

I am hopeful that the 20 members of the Finance Committee will have nearly unanimous support for many of the efforts we make. I guess if you look at it from the straight political view, we are all in politics and most of us like to survive. I do not know of anybody who likes to go out and announce we are going to reduce the growth of any program.

Again, I would close as I started. What are the alternatives? What are the alternatives? I would hope that those in the media will take a look at the facts and not, maybe unintentionally, distort the package to make it appear in some case that everybody is going to be taken off food stamps, that no one will be entitled to medicaid, that no one will be entitled to student loans. I would hope that we will see more balanced reporting on some of these items in the weeks and months ahead as we begin the debate.

It is easy to single out some cases, and there may be some unintentionally who may be impacted by the budget cuts. But I would hope that in the final analysis the economy recovers, the economy strengthens, that inflation is reduced, that interest rates are reduced, and up and down the economic scale in this country the American people will learn that with strong leadership from the White House and strong leadership and hopefully bipartisanship in the Congress, we can stop the hemorrhaging of the economy, that we can help those low-income Americans and all other Americans turn this economy around for the good of our country.

It is a new beginning. It is time we started now. The die has been cast. The President has sent us the proposal; it is our responsibility now to make some rapid disposition of that proposal. If we do not agree with everything, we can change certain things, but let us not forget the goals he has set forth.

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

The PRESIDING OFFICER (Mr. LAXALT). The Chair suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BUDGET RECOMMENDATIONS OF THE COMMITTEE ON VETERANS' AFFAIRS

Mr. SIMPSON. Mr. President, I am most pleased to report that President Reagan's program for economic recovery will encounter no significant obstacles in the critical area of veterans affairs. The Committee on Veterans' Affairs, which I chair, has issued budget recommendations in harmony with the administration's recommendations and the Budget Committee has agreed to accept those recommendations.

Now that the committee has acted in that fashion, I trust that this body will proceed with the same dedication and singleness of purpose to back those actions.

President Reagan's belief, one that I most certainly share, is that we must begin to balance the Federal budget. To do so, Congress and every single committee must make significant cuts in programs that affect all of us—veterans and non-veterans alike. The popular mandate that catapulted President Reagan into office and changed the numbers in the Senate reflects a very real and pervasive mood of national self-restraint. It is now our duty as legislators—not just out of political whim or some sadistic budget-cutting pleasure—to give prompt effect to that mandate by making appropriate cuts as equitably as is possible.

Of course, Mr. President, we do not lose sight of the tremendous debt that this country owes to its 30 million veterans, their 58 million family members, and the 4 million survivors of deceased veterans. With respect to the most deserving of our veterans, any cut in vital benefits or services would clearly be unconscionable. We have avoided that result. We have taken care to preserve and protect the compensation and pension benefits of all of those veterans with service-connected disabilities, as well as those of truly needy wartime veterans who suffer non-service-connected permanent and total disabilities or those who are over age 65. These described programs, in fact, will enjoy full cost-of-living increases, currently estimated to be 11.2 percent by the Office of Management and Budget and 12.3 percent by the Congressional Budget Office.

Nor will we diminish the level of services offered by the VA health care system. To indicate otherwise is certainly an erroneous assumption, since those health care services are crucial to the continued protection and maintenance of our most deserving veterans.

To accomplish these important goals, Mr. President, President Reagan has proposed a total VA budget for fiscal year 1982 that is significantly higher than that projected for 1981 by President Carter. To be quite specific, President Reagan's proposed 1982 budget calls for $24.2 billion in budget authority and $23.6 billion in outlays, as compared with President Carter's 1981 projections of $23.2 billion in budget authority and $22.5 billion in outlays. That is a very evident increase.

What is lost in the process of discussion is that we have a $1.1 billion increase in the Veterans' Administration budget. That is substantial. But it still falls a bit below the level of funding that would be required to maintain each and every single existing VA program, while still taking on the full and necessary cost-of-living increases. It falls short of that full funding level by $744 million in budget authority and $831 million in outlays. As a consequence, the Veterans' Affairs Committee and this Congress must find further cost savings in major construction projects, general operating expenses, and a number of yet unspecified areas. On that latter item, we have our work cut out for us in every respect.

Obviously, Mr. President, although all of us on this floor know, deep in our hearts, that we must trim this budget in every reasonable way, it is inevitable that, for every single such cut recommended, there will rise up a corresponding outrush of pain and anguish from those most directly affected. There is no doubt that these proposed cuts in VA spending will require a certain degree of reemphasis and possible sacrifice.

Quite naturally and historically, the national veterans' organizations may feel compelled to speak out. That is as it should be. But I am confident that individual veterans, in their capacity not just as veterans as I am, and also a lifetime member of the VFW, but as citizens of this proud country in a time of national economic distress, will recognize that the greatest possible good for all veterans and for all Americans can only be achieved with the restoration of a vigorous economy and that they and their national organizations will be willing to accept limitations upon the growth of certain less essential programs. Truly, Mr. President, we are in this one together, soldiers in the fray.

Mr. President, the Veterans' Affairs Committee has made and the Budget Committee has, by its actions, endorsed the following recommendations. First, we have accepted President Reagan's

March recommendations for each appropriation fund or account that is unchanged from President Carter's January recommendations wherever we found such an appropriation or fund account was not based upon any specific legislative proposal.

Second, we have neither accepted nor rejected President Reagan's assumptions concerning the appropriate eventual cost-of-living rates of increases as to compensation and pension benefits. We directly recommend that the Budget Committee compute its own assumptions to assure the appropriate cost-of-living increases in pension and compensation without adversely affecting any other veterans program in the event that the President's economic assumptions might be inconsistent with current economic estimates.

Third, we believe that the President's recommended cut for general operating expenses may be based upon an inadequate saving assumption and that it might otherwise prove to be incapable to fund certain critical veterans benefit programs.

I should note that the committee rejected the administration's proposal to cut $45.4 million in 1982 by suggesting a centralization of certain benefit services. The committee endorses the centralization as a savings concept but does not feel that such centralization or any corresponding savings may be realized until fiscal year 1986.

Indeed, we shall ask the Veterans' Administration to prepare a benefit services centralization plan for the Budget Committee's review before fiscal year 1982. Such a plan would effect centralization of specific benefit services into one or more locations by the end of fiscal year 1985 and would incorporate the necessary features to take full advantage of the implementation of the TARGET computer system.

We also recommended the restoration of $2.7 million in order that the VA might update the vocational rehabilitation program mandated by Congress in Public Law 96-466. The Committee on Veterans' Affairs does, however, recommend an overall $16.4 million reduction in the Department of Veterans' Benefits, $3 million of that amount through the consolidating of insurance operations in Philadelphia, and other administrative changes alone, and $8.8 million through decreasing payments to the State approving agencies, which is a reduction that was rejected in the appropriations process last year.

Fourth, we endorse the President's request for a $96 million reduction in outlays for veterans life insurance programs. To accomplish this, the Veterans' Administration will increase from the present 5-percent rate to 11 percent the interest rate charged to individuals who borrow on the cash value of their veterans' life insurance. Such an increase in interest rates will be accomplished without legislative action and will result in a most significant reduction in borrowing activity and a tremendous protection to the insurance beneficiaries who are denied the full proceeds of the policy because of the loan.

Fifth, the committee felt that the $6.653 billion in outlays proposed by the administration for medical care in fiscal year 1982 is inadequate to provide an appropriate level of health care for eligible veterans. The committee is particularly concerned about the personnel staffing level proposed by the administration. The committee, therefore, is recommending outlays of $6.762 billion to fund medical care in fiscal year 1982. That is an increase there of $109 million. This funding will allow the Veterans' Administration to maintain nearly the same medical staffing levels as authorized by Congress for fiscal year 1981, and not any rumored reduction of 7,000 medical trained personnel. Included in this amount is $8.8 million that the committee feels is required by three essential programs, the hospital based home care program, urodynamic laboratories, and staff augmentation to rehabilitation centers for catastrophically disabled veterans.

Also included in the committee's recommendation is $25 million to fund the continued operation of the VA's readjustment counseling program, the so-called "storefront" counseling centers for Vietnam veterans, in anticipation of legislative extension of the eligibility period for entry into the program.

I think all of us have read what I have come to respond to as unfortunate misinformation about the taking away of that particular program and the essence of determining its real worth by the Veterans' Administration. There is some problem in determining that worth and we find that many of those centers, although most are acceptable, and appropriate, some have become small cliques of support groups funded by the Federal Treasury. There is nothing wrong with that, but let us admit that that is where we may be headed when those persons with those problems, at that age of their lives, are simply relying on a support system, when true professional care is available through the existing Veterans' Administration health care system. We must assist them in breaking the support system umbilical cord—and do that in a way which contributes to their worth and self-esteem.

The committee endorses the President's recommendations for other medical accounts, with the sole exception of medical administration and miscellaneous operating expenses. For this account the committee recommends outlays of $60.2 million which includes a restoration of some $1.8 million in order to assure adequate funding for development of the computerized health care information system.

Sixth, the Committee on Veterans' Affairs has indicated that President Reagan's recommended $91 million reduction in outlays for major construction projects should be modified. This will be accomplished by canceling a new hospital construction project and by postponing an unspecified number of other major projects.

One of the curious things that occurred in my freshman year here was the discussion of the construction budget. We were presented with one authorization for $16 million for a veterans hospital, and I thought that would be actually quite adequate, finding then, later, that that was only for the engineering studies and the survey costs and that the hospital itself would cost 265 million bucks.

The committee accepts the need for a reduction of $80 million but considers such a proposed reduction simply as a target and not as a specific recommendation concerning any one particular construction project. The administration recommendations concerning specific project cancellations and postponements are still under review by the Veterans' Affairs Committee. The President's proposal to reduce funding for minor construction by $8 million was accepted by the committee.

Finally, our recommendations are also based upon some major assumptions:

First, that Congress may enact legislation at a cost of no more than $25 million in fiscal year 1982 to provide certain benefits for former prisoners of war.

Second, that Congress will enact legislation which will provide for $325 million in additional and, as yet, unspecified cost savings in order to achieve the full spending levels proposed by the President for fiscal year 1982. Here, now is a very important fact upon which this entire matter hinges. It is important to observe that the President, for good and valid reasons, has not yet nominated an Administrator, a Deputy Administrator, or an Inspector General of the Veterans' Administration. Obviously, then, we cannot yet expect the Veterans' Administration to be able to effectively develop or even consider specific cost savings proposals until these appointments have been made, and that of a General Counsel also. Clearly, however, it is not unreasonable to expect that these reductions can be made without impairing the ability and the mission of the Veterans' Administration to adequately meet the needs of our Nation's veterans. Indeed, the $325 million savings is only about 1½ percent of the VA's total annual budget of nearly $24 billion.

The Committee on Veterans' Affairs is aware of and in its minutes and hearings has discussed several areas in which those reductions can be made but does not choose at this moment in time to make any specific recommendations for the reasons I have previously noted.

It should also be pointed out that the committee feels that it should not consider any further cost-savings legislation that would result in reductions below the President's recommendations, unless all other authorizing committees are required to undertake similar such reductions.

Regarding accounts shared with other committees, the Committee on Veterans' Affairs agrees with the President's request, and the committee does wish to indicate that the Disabled Veterans Outreach program (DVOP) has been an extremely successful program as administered by the Department of Labor's Veterans Employment Service.

That program is specifically designed to assist disabled and the Vietnam-era veterans in finding suitable employment.

The committee strongly urges that the integrity of this program be maintained without reduction from the levels mandated by Public Law 96–466.

Those are the committee recommendations, recommendations to assist this new administration. We Members all recognize that budget matters affecting veterans are historically an extremely sensitive issue and in these times of particular economic woe, the political pressures associated with these matters can be particularly intense and they only make it harder to arrive at the tough decisions that should be made. Was it ever thus? It is true in this area of responsibility as in any other.

We have reached that moment of truth in our Nation's history as was so well expressed in the President's address. He stated: "We can no longer afford things simply because we think of them."

I trust that the full Senate will accept our recommendations and in the spirit in which they were hammered out, with an equal concern for the ever-compelling interest for our Nation's fine veterans and for the swift and lasting economic recovery that this Nation now cries out for, knowing also that every single one of us in this Chamber and in this land must surely recognize that economic recovery is indeed a goal of the very highest national priority.

Thank you very much, Mr. President.

RECOGNITION OF SENATOR LAXALT

The PRESIDING OFFICER (Mr. RUDMAN). Under the previous order the Senator from Nevada is recognized for a period not to exceed 15 minutes.

Mr. LAXALT. I thank the Chair.

RECONCILIATION—ECONOMIC RECOVERY

Mr. LAXALT. Mr. President, as we begin our historical debate today for the reconcilation bill—in essence, the President's proposed Federal budget reductions—I wish to outline for a few moments what we are truly undertaking under the course of this debate and the assumption of this program.

The hot political rhetoric over details that will fill this Chamber over the next few days may obscure the broad picture as so often is the case here.

But it seems to me that by keeping the important issues in focus I believe that only one outcome to the vote on the reconciliation is possible. By that I mean an overwhelming endorsement of the President's program for economic recovery.

No one can question that for the first time in decades we have a President who has rejected "politics as usual," and I think it has been a source of great mystery and surprise particularly here in this cynical town to have a President who is actually going to carry out his campaign promises.

Whether you look at foreign affairs or domestic policy, it is obvious that President Reagan is not tied to the failures and dogmas of the past. He has shown his willingness and enthusiasm to look for a new approach.

As a matter of fact, I think that he considers his election last November to be a mandate for a new approach, a mandate for fundamental change.

So as a result of all of that, he is stepping out boldly, concerned not with past policies or special interests, but only with that which is best for the American people. And the American people are responding, confident that at last the occupant in the White House is a creative, dynamic individual with the welfare of the whole Nation as his guiding principle.

Now, within the last few days we have been informed here that there is a devastating Gallup poll to the effect that this President is receiving, in terms of opposition, more opposition at this point in his career than preceding Presidents over a long period of time.

That is not surprising to this Senator at all. What is surprising to me is really that the percentage of opposition is not even stronger, because when you consider that this President during these few days in office has stood for more fundamental change, for more redirection in basic policies in relation to this Federal Government, coalescing at an early point those who are opposed to change Washington style, it is truly amazing to this Senator, as I have indicated, that that degree of opposition is not even more severe.

Nowhere has this willingness to break with the failures of the past been more forcefully demonstrated than in the President's program for economic recovery.

The President's program abandons the shopworn traditions that threaten the economic well-being of our Nation. It focuses, I think, on the right problem. It tackles the problem in a comprehensive way by proposing sound, social, and economic alternatives and, if enacted by this Congress, it will provide an economic foundation of prosperity that every American will share.

I believe the President has provided Congress with a framework for a better tomorrow. The choice is now up to each of us. Do we really want to be part of a better tomorrow?

Do we want to guarantee the economic future of our children's children? Or do we want to see our Nation sink into a sea of Government-induced, massive stagflation? Do we want to maintain "business as usual" with all that that implies: High inflation, high unemployment, crumbling economic markets, and increasing Government burdens on individual freedom? Mr. President, I do not see that we have much of a choice.

The President's program for economic recovery will be a success because it focuses on the right problem.

Our economic difficulties primarily stem from the past policies of our Federal Government. Our problems cannot be solved if the Government continues to overregulate, overspend, overtax, and overprint money, and then point fingers at private industry, wage rates or international factors as the cause of our difficulties.

This President refuses to do that. Instead he has boldly asserted that he will first tackle the problems with Government, knowing full well that once our own house is in order, others will fall into place.

The Federal Government is the primary cause of inflation in this country. For those of us who participate in hearings, particularly with the money committees, we hear a lot of phony, esoteric theories setting forth the reason why we have that, and we are told about OPEC, and told about this factor, and told about that factor. The fact is that the principal and fundamental cause of inflation in this country is excessive spending on the part of this Government. This President sought to change this for a long time. He talked about this when I was a fellow Governor with him back in the 1960's, when it was not fashionable to do so, when the fashion at that time was to come here to Washington and look for new Federal programs, look for additional spending of money, and hope eventually the problems out in the private sector and elsewhere would dissolve.

Well, they did not. He spoke to these matters back in the 1960's, when a lot of people felt that he and others who spoke in this fashion, like Senator GOLDWATER, were products of a Neanderthal era, and simply were not with it.

High taxes have soaked up resources into nonproductive uses. They have destroyed the incentive to produce, and have driven millions of Americans into the underground economy. All over our country, small groups of taxpayers are organized, and refusing to pay taxes. If anyone mistakenly believes that taxes can be continually raised without difficulty, he or she is absolutely wrong. We should realize that if only 5 percent of our Nation's taxpayers refuse to pay what is asked of them, our tax collecting system would be in chaos. One squeeze too many from the Federal Government may result in a widespread tax rebellion with untold consequences.

Skyrocketing Federal spending levels have caused massive deficits while fostering waste, fraud, and unnecessary programs.

It has been indicated in the press the last few days that this is going to be fraud-and-waste week here in Washington in terms of this administration, with this President leading the charge. Deficits, in turn, force massive borrowing which drains our capital markets. Resources are forced to flow from productive uses to nonproductive ones, as the economic foundations of our economy erode. Deficits also cause the Federal Reserve to print more money to pay them, forcing billions of dollars into our economy and causing inflation.

Overregulation causes businesses, both large and small, to place still more resources into nonproductive uses, and to raise their prices in order to cover the increased costs of compliance. Some studies estimate that up to $100 billion is needed each year to comply with Government regulations. Those costs, in turn, are paid for by every consumer. That is, I think, the underlying reason why we had this tremendous cry from all sectors of our economy, irrespective of region,

crying out for regulatory reform, because while all of us would love dearly to have 100 percent safety conditions, 100 percent clean water, and clear air, it is now becoming quite apparent to millions of consumers in this country that it costs billions of dollars to maintain those levels, and that is why we have had the great pressure exerted on this Congress through this administration to institute massive regulatory reforms to lessen the burden upon not only business and industry, but to lessen the costs eventually to consumers.

These are the causes of inflation that the President's plan will eliminate. The President is not seeking to hide behind finger-pointing rhetoric. He is tackling the No. 1 cause of inflation—Government, the Federal Government—head on. And once the monster of Government is back in its cage, I think we will discover that the other blamed causes of inflation will not turn out to be as serious as we have been led to believe.

The President's program for economic recovery is a comprehensive set of policies designed to solve these problems. It is a farsighted approach, designed to attack all the aspects of governmental mismanagement of the economy. It is not just a program which piecemeals one failed half-measure after another, but rather a logical, consistent plan of action moving toward a clear goal.

It is important, it seems to me, for those of my colleagues who are listening over their various speakers in their offices today that we focus on the fact that this is comprehensive and that its impact, its effectiveness, will determine whether or not it is truly comprehensive, because it appears to me that while we could be successful in one of the many aspects of this campaign and not in others, the whole will fall.

So it seems to me in terms of the overall effectiveness of this program that we are all seeking to achieve we must, in fact, pass a comprehensive program.

The overall program for economic recovery on the part of the President rests on four major ingredients: First, a comprehensive tax cut, which is going to be hotly controversial around this town and in these Chambers because it has been often said, and repeated to me, "How in the world can you consider declaring a dividend when we are going broke?" That is not the theory at all. The theory is that the money is best spent in the real world, in the private sector, much better than it is here by the bureaucrats in Washington.

Admittedly, as we grind through this process in the weeks and months to come, that is going to be hotly controversial, a hotly controversial issue, and I suspect probably in terms of its passage will be more difficult than, perhaps, the spending reductions.

In addition to the tax cut, we will have the spending reductions, we will have regulatory reform, and we will have close cooperation between the executive branch and the Federal Reserve.

This Senator, along with many other colleagues, is constantly being told, "Why in the world does not the Federal Reserve decrease pressure because these inflationary rates, the high interest rates, that are now being posed in the economy are causing severe stress on the part of just millions and millions of small-business-type people who simply do not have the resources to even floor their inventory these rates?"

The plain fact of the matter is, in justice to Mr. Volcker of the Federal Reserve, that until recently they have been the only game in town, the only inflationary deterrent we have had here in town.

I hope now that this President has moved as aggressively as he has toward attempting to do something meaningful in the inflationary areas, coupled with a firm resolve on the part of Congress, that that will be a clear enough signal to the Federal Reserve, independent agency that it is, to be responsive and, perhaps, cause some easing in terms of our interest rates.

Today we are considering the first part of the President's package—the spending cuts. While each prong is essential, I believe that the spending reductions are the most essential component. Spending cuts signal most clearly to the American people an end to "business as usual." By voting for the reductions, Congress will show its commitment to the American people, and not to Capitol Hill special interests. We will show, by our votes, how responsive we are to the common good that unites our country.

It is important, at the same time, that everyone understands just what the cuts entail. We are not advocating the dismantlement of the basic core of programs, which today make up what the President has referred to as our social safety net. The needs of the poor, the sick, the aged, the handicapped, and the disadvantaged will continue to be met. In fact, even the size of the overall budget will continue to grow. The Reagan budget for fiscal year 1982, after all the cuts, is still $40 billion more than the budget for fiscal year 1981. It is hard to give any credence to claims that a budget of $695.3 billion is inadequate to meet our Nation's needs. To claim that the Government needs an additional $48 billion, as President Carter proposed, is to surrender to fiscal madness.

Mr. President, we are meeting the social needs of our Nation, and we will continue to do so under the Reagan administration. In the long run, we are doing much more. We can only meet our social obligations when our economy is strong enough to provide for everyone in our economy. How long would those in need be cared for if inflation was allowed to continue and push our economy over the brink? Not very long, I would bet. The best investment for the needy in our society is a strong economy producing enough goods and services to provide for all.

The American people understand this. They are way ahead of us in these areas; way ahead of us. If you do not believe it, just read our mail. They know that the choice is a simple one. Either we must use our resources in productive ways so that everyone can share in the benefits, or we will continue to divert resources from production to nonproductive Government uses, leaving less and less for everyone. The economy is not static. Either the economy is growing or it is shrinking. And if we allow it to shrink, we are dooming our children to a lower standard of living. That is the decision, it seems to this Senator, that we must face. If we allow Government spending to continue to swell, then we are sacrificing our future for today. On the other hand, if we do curb our current appetite and simply slow the growth of Government spending, we insure for our children a healthy, prosperous future.

In short, Mr President, any rhetoric stating that the President's program for economic recovery will hurt the American people is false. We are providing for all the legitimate needs of our people today, and we are providing for a better tomorrow. "Business as usual" will no longer work. By continually increasing Federal spending, we limit our future options. I do not believe it is humane to increase benefits to Americans, only to have them devoured by inflation. Instead, I favor an investment in our national economy.

Mr. President, I am exceedingly pleased by the actions of the Senate Budget Committee. I will be frank to say that I would have been delighted the other day by a 12-to-8 vote or a 16-to-4 vote, anything indicating a fairly clear majority. But to have a 20-to-0 vote come out of that committee is the most reassuring thing, I think, we have seen in this Congress since the Presidential inauguration. Under the sound leadership of Chairman DOMENICI and Senator HOLLINGS, the ranking minority member, the committee has handled a tough political issue, and done an outstanding job. They demonstrated that we can act not as parochial-minded individuals, but rather as concerned legislators trying to serve the whole country. I am confident that the entire Senate will act in a like manner. Together we will put "business as usual" to rest forever, and we will join together with the administration for a new beginning.

RECOGNITION OF SENATOR McCLURE

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized for a period not to exceed 15 minutes.

THE NEED FOR A BOLD NEW COURSE OF ACTION

Mr. McCLURE. Mr. President, 1 month ago the President of the United States came to Capitol Hill and spoke to the Members of this Congress a simple truth we have all known, but for one reason or another have been unable or unwilling to face up to as a body for far too long. In President Reagan's own words that truth is—

> We can no longer procrastinate and hope things will get better. They will not. If we do not act forcefully, and now, the economy will get worse.

Really, Mr. President, little else needs to be said as we begin what I am sure will be a most historic week of deliberation and action in the Senate of the

United States. "If we do not act forcefully and now, the economy will get worse." That is the simple truth. So we must begin to work on a bold new course of action to rescue our Nation from economic and social ruin.

Later this week, we will take up on the Senate floor a concurrent resolution reported by the Senate Budget Committee instructing the committees of the House and Senate to cut $36.4 billion from the size of increased spending for the fiscal year ending September 30, 1982. And I want to emphasize that it is not a reduction in spending as much as it is a reduction in the increase in spending. If enacted, it will result in the most massive single reduction in spending in our Nation's history, even though the budget will continue to rise in total. It is a proposal of historic magnitude and unprecedented importance.

I certainly wish to commend the members of the Senate Budget Committee for their diligent work in reporting this package so expeditiously. To have been able to accomplish this task in such an efficient manner is, again, unprecedented in the Halls of Congress, and I hope the rest of us will learn from their example that it can be done, and that we will move ahead on the timetable we all know is so critical—while the American people still have confidence we can get the job done. That is, Mr. President, essentially the point I would hope to make today. It is that we must pass this legislation intact and in time.

I have never felt that it is or ever should be our role as Members of Congress to merely rubberstamp what the President wants to have done. Regardless of the political party to which a President belongs, to do so would, in my judgment fail to meet our constitutional responsibilties as the policymaking branch of government.

But I am without doubt that the first item on the national agenda—and the second, and the third as well—is to stop inflation; and I am also without doubt that these sharp spending cutbacks the President has called for are essential in order to reduce the Government's excessive demands on this Nation's resources. Again, I want to emphasize that it is not a reduction in spending as much as it is a reduction in the size of the increase of spending.

Inflation, as measured by the Consumer Price Index doubled within the single decade of the 1970's, and would have doubled again within only a half decade if the pace of early 1980 had been maintained. No one can deny the close connection between the doubling of prices and the upsurge of deficit financing over the past decade. The combined Federal deficits of the 1970's reach $315 billion—about the same as the total of all deficits recorded in the Nation's entire earlier history. In fiscal year 1980, the deficit reached a near-record $59 billion. Can there be any doubt that year after year of multibillion dollar deficits have had a negative effect on our economy?

It has got to stop, Mr. President. I cannot say it forcefully enough—we must bring the Federal budget under control.

We all know what the economic situation is doing to our Nation and to our people to their ability to earn a living. We have all heard the statistics, but no statistics can tell of the misery of workers who have lost their jobs. No statistics can explain the fear of senior citizens whose life savings are gone. Ten years ago, in 1970, the median income of American families was $9,750. In 1980, it was $19,950. But if you subtract from that the effect of inflation, and remove the trebled payroll taxes, and the automatic increases in taxes of all kinds caused by inflation, the real, take-home pay of that family actually dropped by about $912 in 1980 dollars. That is a cut in real after-tax wages of about 5 percent.

Is there any wonder working men and women across this Nation are asking for a change? And I am speaking now especially to my colleagues on this side of the aisle that frustration with our Nation's past course is in large part responsible for putting many of you in office and our party in the majority in this body. I fear for the future of our Nation if we should not be able to stand together to bring about the change in direction we have led the American people to expect from us. There is, of course, no guarantee the President's program will work. But we know very well what has not worked, and we have seen no plan better than the President's offered from any other quarter. And given the clear failure of past thinking, it is refreshing to have an idea that offers hope for recovery. The big question now is whether or not we will have the nerve to carry it out. Whether we will be motivated by petty political consideration, or whether we will at last, with new purpose and confidence in our ability to lead, look to the long view as the Senate was intended to do.

All of us have our favorite programs, our own ideas and priorities about how Federal dollars should be spent. There are aspects of the President's spending proposals with which I personally do not agree. The Budget Committee has, in fact, made my own task even more difficult than the administration would have by virtue of its actions with regard to the strategic petroleum reserve, and I am not sure how that will be resolved. But the bottom line is that I am ready and willing to support the President fully at this time, in order to see what I consider to be an absolutely essential economic program enacted. I know it will be difficult, but I admonish and encourage my colleagues on both sides of the aisle to do the same.

Even before President Reagan revealed the details of his planned budget cuts, the chorus of special pleading from various interest groups fearful of finding themselves among his targets began. I suspect that was only a mild foretaste of what the next few weeks will be like. The charge inevitably arises that these spending cuts will favor the rich at the expense of the poor. But that is, Mr. President, nothing but consummate nonsense. Even if it were true that these cuts would really hurt the truly needy, a failing economy and raging inflation would be harder on the poor than anything the administration has suggested. And those who stand to lose specific Federal subsidies for business, labor, or welfare have a very real chance to recoup their losses, and more, from an economy restored to health.

The truth of the matter is, Mr. President, that the increase in expenditures for so many of the social welfare programs our friends on the other side of the issue argue are so essential to the Nation are often rooted as much in political expedience as in genuine increase in human need. They are essential not to the Nation but to their own political well-being as they perceive it.

Take, for example, the AFDC program. Total expenditures for aid to families with dependent children increased from something under $2 billion in 1967 to nearly $8 billion in 1981. The President has proposed a number of changes in the AFDC program which are designed to determine welfare needs more accurately, improve the administration of the programs, reduce fraud and waste, and decrease Federal and State costs. For example, the income of a child's stepparent would be used in determining the child's eligibility for benefits.

I have heard many comments to the effect that virtually all of the families whose AFDC payments would be reduced or eliminated are below the poverty line and should be considered truly needy. But in fact a majority of the families affected are not poor. Fifty-seven percent of the families that will no longer be eligible and 58 percent of the families whose benefits will be reduced have incomes above the poverty line. By way of contrast, only 13 percent of current AFDC families that will continue to receive benefits are above the poverty line. Among the families below the poverty line that will be reduced, nearly three-quarters will be affected by two proposals that are designed to remove people who are not needy from the rolls. Most of those cases are AFDC families that live with step-parents or with other providers of income. Such families would not be poor if the resources of the whole household were considered. The other families have 18-, 19-, and 20-year old students who will no longer be covered by AFDC.

Another example of an idea gone totally out of control is the food stamp program. Expenditures for food stamps jumped from under $100 million in 1967 to nearly $11 billion in 1981. On November 8, 1979, Senator EAGLETON, as chairman of the Appropriations Subcommittee on Agriculture, asked the investigations staff of the full committee to review the food stamp program. The findings of this study were published in November, 1980. Although copies of the report were not well circulated, some of the findings are shocking. Among them was that fraud by recipients, errors by program workers, and loopholes in food stamp regulations resulted in waste of as much as 20 percent annually, or about $1.8 billion in 1980. That is precisely the amount President Reagan has asked us to save in the food stamp program. And people are still arguing that it spells disaster for poor people. Baloney. Frank-

ly, I think we could go much deeper and still not hurt the truly needy, but it is at least a beginning in bringing under control a program which has run absolutely wild and unchecked.

Mr. President, recent history shows us Government-run welfare programs have not and cannot work. They do not help the people they are intended to help with the kind of help they need. The basic idea behind them—that Government should intervene in our lives for our benefit through regulations, social agencies, and spending programs—creates serious inequities. I note that my distinguished colleague from New York (Mr. MOYNIHAN) has been quoted on the Budget Committee's action in the Wall Street Journal, charging that they have, "undone 30 years of social legislation in 3 days." Certainly those who have been responsible for the last 30 years of legislative history have had good intentions. Those who promote or have promoted Government welfare programs have acted out of concern for others, but noble objectives do not necessarily bring noble results. Using Government to achieve the "noble objectives" of welfare programs means trying to do good with someone else's money, and nobody spends somebody else's money as carefully as he spends his own, and you cannot do good with someone else's money unless you take it away from him first. The result has been more and more people paying more and more money in taxes for more and more waste. The end result is the welfare state in which the government tries to take care of everybody, with loss of initiative, independence, and personal liberty for all.

The point is, Mr. President, that we should not think of this exercise in terms of hardship and loss, but rather optimistically in terms of revitalizing our Nation's energies and making Government work better for all of us. We were not elected to repeal the New Deal—we were elected because we are united behind the only strategy that can get this country on track and moving again.

We have the opportunity to achieve, once again, a healthy, growing economy and full employment without inflation. The issue today is not capital versus labor, rich versus poor, black versus white, consumer versus producer, or conservative versus liberal. The issue is getting this country moving again, restoring the American dream, not just for some but for all. We should all be anxious to get on with the job at hand.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, might I inquire of the Chair, are there remaining unexecuted special orders?

The PRESIDING OFFICER. The Chair advises the majority leader that there are, in fact, two, the minority leader, who is in the Chamber, and the chairman of the Appropriations Committee (Mr. HATFIELD).

Mr. BAKER. I thank the Chair.

Mr. President, I am advised that the distinguished chairman of the Appropriations Committee, Senator HATFIELD, has indicated that it is not possible for him to be on the floor at this time. He may wish to speak during morning business, which will follow on after the special orders.

Mr. President, I ask unanimous consent that the special order in favor of the Senator from Oregon (Mr. HATFIELD) be vitiated.

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

(The remarks of Mr. HATFIELD, delivered during the period for routine morning business, are printed at this point, by unanimous consent.)

THE RECONCILIATION PROCESS

Mr. HATFIELD. Mr. President, the reconciliation process is a painful one. Not only are we called upon to make sacrifices in truly worthwhile programs, but the function of reconciliation significantly diminishes the responsibility of the authorizing and Appropriations Committees for setting their own priorities. In these unprecedented economic times, reconciliation has been a necessary procedure. However, I do not expect this process to repeat itself. I am confident that our committees will exercise the restraint necessary to avoid reconciliation in the future.

The Appropriations Committee is responsible for and fully capable of scrutinizing its share of the budget and putting into effect a sound fiscal program of spending cuts which will improve the economy. Title 10 of the Budget Act establishes a procedure for rescission of budget authority and making spending cuts. It is with this traditional tool that such cuts could be accomplished. However, because of the uniqueness of this budget year and the urgency for implementing the President's program, I agreed with the majority leader that the Appropriations Committee should be instructed.

Our instructions are to cut $13.3 billion in budget authority for fiscal year 1981 and $1.5 billion in outlays. That is our goal and the Appropriations Committee will make every effort to meet that target, reporting those savings to the Senate floor by the June 5 deadline. However, I must warn the Senate that the goal will be difficult to achieve. The level of reduction in current year outlays called for can put unrealistic constraints on a budget that is already very lean. I think we will learn that some of our favorite projects will have to be cut, if not eliminated, and so be it.

Mr. President, I must observe that one committee escapes reconciliation. It is certainly no secret that the Budget Committee has recommended zero reductions in funded authority for the armed services in fiscal year 1981, 1982, or 1983.

I am greatly concerned that such lack of instructions will produce a cavalier disregard for achieving necessary savings in military spending. The administration plans to more than double the Pentagon's $171 billion annual budget to $368 billion in fiscal 1986. For fiscal 1982 alone, budget authority would rise $25.8 billion. That increase in defense authority consumes more than 50 percent of the decrease in some 300 Federal domestic programs that the Budget Committee has instructed other committees of the Senate to carry out.

In his recent State of the Union speech, President Reagan rightfully decried the mounting Federal deficit which is approaching $1 trillion. He illustrated how large a sum this was by saying it constituted a stack of thousand-dollar bills 67 miles high. It might be pointed out that a similar stack equal to the Reagan defense expenditures in the next 5 years would reach 100 miles high.

This enormous commitment to weapons and personnel poses profound questions, and some potentially enormous dangers.

Mr. President, I fear we are ignoring an excellent chance to build a more efficient defense establishment. Instead, we have fallen prey to the same mistakes we have made with social problems. They cannot be solved just with sums of money.

In examining the package proposed by the Budget Committee, I also must note my disappointment and very serious concern over the lack of emphasis on entitlements.

Just weeks ago, the Appropriations Committee held a series of overview hearings in which nationally renowned economists with views ranging from the more traditional laissez-faire theory to the extreme of the Keynesian viewpoint gave their versions of the Nation's economic ills. I have found, Mr. President, as you may have, that these authorities rarely agree. However, they were in accord, in fact, adamant, that to ignore the issues of indexation and entitlement is foolhardy. If we are truly serious about controlling Federal spending, we must come to grips with that increasingly uncontrollable portion of the Federal budget.

As the entitlement portion of the budget continues to escalate, our options in Congress shrink. We no longer have the flexibility to respond to the changing economic circumstances and changing national priorities. We are bound by automatic indexation and rigid formulas. I urge my colleagues to consider the serious ramifications of the failure to confront this issue.

Those concerned with the flexibility of Federal spending should also be concerned with the outyear reductions in funded authorization levels. Substantial reductions are called for in discretionary programs, except for defense. These reductions could amount to as much as $23 billion in fiscal year 1982. That is money Congress spends on health research, park maintenance, space exploration, agricultural research, water projects, veterans hospitals, fish hatcheries, and the like.

If it is the decision of Congress to reduce Federal spending by eliminating discretionary programs rather than controlling the so-called uncontrollables, then so be it. But I do not believe the mechanism for that decision should be a provision in this resolution calling for funding reductions in the outyears. Such a procedure is not contemplated by the

Budget Act. Reconciliation was designed to bring spending in line with the budget ceiling for a particular year, not future years. We can achieve the reductions necessary in fiscal year 1982 and fiscal year 1983 by lowering the total budget ceiling for those years when we enact the budget resolutions. Attempting to force those reductions now, prior to consideration of the budget resolution for those years, does violence to the Budget Act and robs Congress of the flexibility it must have if Federal spending is going to be controlled and fiscal policy be manageable.

I would hope we could demonstrate more confidence in ourselves and our commitment to reduce Federal spending, and not resort to a budgetary straitjacket in our eagerness to support the President's program. I support that program, but I do not wish to totally sacrifice the authority of the authorizing and appropriations committees in the procedure to do so.

Thank you, Mr. President.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I will inquire of the distinguished minority leader if he intends to speak pursuant to his request.

Mr. ROBERT C. BYRD. Mr. President, I do not intend to speak, and I am ready to yield back the time if no Senator asks me to yield. I see no such indication. I yield back my time.

Mr. BAKER. Mr. President, I believe this morning I may have asked for a special order in favor of the distinguished Senator from Maine (Mr. COHEN) in an abundance of caution.

I ask unanimous consent that any special order in favor of the Senator from Maine (Mr. COHEN) be vitiated at this time.

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

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 1 hour, during which Senators may speak for up to 10 minutes each.

JAPANESE AND GERMAN DEFENSE POLICY

Mr. EXON. Mr. President, there is a growing consensus that our national level of effort for defense must be increased in view of the potential threats we face and I endorse this need. Indeed, here in the United States, we are in the process of dramatically realining the Federal budget to reduce the overall rate of spending increases while significantly increasing the defense budget.

However, the United States cannot and should not shoulder the burden of protecting Western interests alone. As the leader of the free world, I concur that the United States must set the example in this regard and I believe that we are so doing. However, it is disturbing to me that our NATO and Japanese allies are not, in my view, meeting their end of the bargain.

Recently I have heard statements to the effect that Japan cannot spend greater than 1 percent of its gross national product on defense and that the Federal Republic of Germany is not allowed to deploy its armed forces outside of the prescribed NATO area. The question arises as to whether these statements are based on constitutional prohibitions, legal restraints, or political realities. Therefore, I requested that the Law Library of the Library of Congress evaluate these issues and report to me. This has been accomplished and I request at this time that their study be printed in the RECORD at the conclusion of my remarks, so that my colleagues, the administration, our allies, and all other interested parties may have benefit of this professional analysis.

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

(See exhibit 1.)

Mr. EXON. Mr. President, in addition to evaluating the constitutional, legal and political issues involved in the level of effort which may be expended on defense in these two countries, this study also reviews those aspects in relation to the possible deployment of forces overseas and prohibitions on the development of certain types of weapons. This analysis speaks for itself; however, the key point is that there seem to be no constitutional or legal prohibitions in either Japan or the Federal Republic of Germany which would hinder either nation from increasing their defense efforts in the manner which most of us would like to see—for example, enhancing their efforts in their own areas of the world so that U.S. forces can increase our capabilities in areas of mutual interest where we are uniquely capable of doing so.

According to the Secretary of Energy, Japan, and Western Europe rely on Persian Gulf oil for about two-thirds of their oil imports while the United States relies on that region for about one-quarter of our oil imports. The Secretary also predicted that the free world's dependence on Persian Gulf oil is unlikely to change significantly during this decade. While the United States is making great strides in insuring that this oil supply remains uninterrupted, our allies must assist in this effort in a mutually agreed division of labor.

Deputy Defense Secretary Frank Carlucci made this point at the recent Verkunde Conference in Munich when he said that:

> In this situation, the United States cannot be expected to improve and strengthen U.S. forces in Europe, unless other allies increase their own contributions to the combined defense effort. Nor can the United States, unaided, bear the burden of promoting Western interests beyond Europe.

Mr. Carlucci also said that Congress and the American people will be asking what new accompanying sacrifices the allies are going to make while the United States embarks on massive new defense increases. I should like to underscore these points, as I have ever since coming to the U.S. Senate.

Recent reports of West Germany reducing its long-term military spending goals and Japan's lower-than-expected defense increases appear to me to be unacceptable in light of the current world situation. I certainly hope that the new administration's plans for increased consultation with our allies will lead to an enhanced and improved mutual defense effort. For surely if we cannot work better together in a harmonious spirit, we will all suffer greatly together. If history tends to repeat itself, then a new direction is of the utmost importance.

EXHIBIT 1

THE JAPANESE CONSTITUTION AND SELF-DEFENSE FORCES

INTRODUCTION

By virtue of the so-called no-war clause of the Constitution of 1947,[1] Japan is prohibited from maintaining armed forces as well as from developing a war potential. Article 9 of the Constitution provides:

> Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as a means of settling international disputes.
>
> In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

The outbreak of the Korean War in June 1950 and the establishment of the Japanese National Police Reserve Force in July of that year, however, raised the question of whether Japan should again arm herself for self-defense. Several Japanese groups demanding rearmament indicated the advisability of restudying the Constitution to determine whether it perhaps needed to be revised.[2]

In June 1954, the Police Reserve Force was renamed the Self-Defense Forces (hereinafter referred to as the SDF) pursuant to the enactment of the Self-Defense Forces Law.[3] At the same time, the Defense Agency, headed by a civilian Director-General, was established as an external organ of the Prime Minister's Office under the Law Concerning the Establishment of the Defense Agency.[4]

The SDF's mission is spelled out in Article 3 of the Self-Defense Forces Law, which states that they are charged with guarding "the nation's peace and independence" and defending "the nation against both direct and indirect invasion in order to preserve the safety of the nation." However, the main activities of the SDF have been relief and rehabilitation tasks in local communities stricken by natural disasters.

Japan's SDF exists today in spite of Article 9 and without revision of her Constitution. The principal political parties opposing the government consider the SDF to be unconstitutional, but successive governments have taken the position that Article 9 of the Constitution cannot take away Japan's inherent, sovereign right of self-defense. Successive governments have also interpreted Article 9 as not prohibiting the establishment of a minimum force necessary to sustain the right of self-defense, and that a defense force in excess of the minimum considered necessary for such purposes would constitute "war potential" which is banned under Article 9.[5] It is upon this interpretation that Japan's present self-defense system has been built.

Footnotes at end of article.

JAPANESE DEFENSE POLICY AND RESTRICTIONS ON DEFENSE SPENDING

Japan's defense policy is based on the Basic Policy for National Defense adopted at a Cabinet Meeting in May 1957. This basic policy calls for (1) the promotion of international cooperation and efforts for peace, (2) the establishment of a basis for national security through domestic political stability, (3) the gradual establishment of an effective defense capability, and (4) the maintenance of security arrangements with the United States.[6]

Utilizing the 1957 Basic Policy, the Japanese Government formulated four consecutive defense build-up plans for a period of three to five years, from FY 1958 (April 1958 to March 1959) to FY 1976. These plans are as follows: The First Plan (FY 1958–60); the Second Plan (FY 1962–66); the Third Plan (FY 1967–71); and the Fourth Plan (FY 1973–76). These plans were designed to gradually enhance the nation's defense capability commensurate with Japan's strength and position.

With the completion of the fourth defense plan during FY 1976, the government adopted the National Defense Program Outline at the Cabinet meeting on October 29, 1976. Unlike the previous four defense plans, the Outline does not set any fixed period during which to improve defense capability, but lays down the guidelines for Japan's future defense plan and provides the basis of administration and operation of the SDF. Thus, from FY 1977, the defense build-up as structured along the 1976 Outline, is designed to be planned on an annual basis in order to determine what is needed each year. After the temporary suspension of the previous five-year build-up plans, the government again proposed to prepare a new five-year plan from FY 1980 through FY 1984.[7]

Neither the Constitution nor any specific law contains provisions stating that a specified percentage of the Gross National Product (GNP) is to be spent on defense. From FY 1961 and thereafter, the percentage of defense spending, however, was set on a five-year basis as outlined in the defense build-up plans. During this period, the Defense Agency Director-Generals argued before the National Defense Council and before the Cabinet for an increase in defense expenditures of up to 2 percent of the GNP. Their requests for a larger portion of the GNP were based on the economic growth of Japan, the extremely low levels of defense spending, and the reduction in the United States' forces in and around Japan.[8]

On several occasions, the Defense Agency was opposed by the Ministry of Finance, the Ministry of International Trade and Industry, and the Economic Planning Agency on the grounds that the present rate of defense spending was not necesary and might interfere with their plans for economic growth. On each occasion, economic planners prevailed and the Defense Agency Director-Generals were unable to convince the Prime Ministers and Cabinet Ministers that 2 percent, rather than 1 percent of the GNP was necessary to build-up and maintain the SDF. It has been difficult for the Defense Agency to make a stronger case for a larger share of the budget.[9]

In the Cabinet meeting held on November 5, 1976, the Miki Cabinet decided to keep Japan's defense-related costs for each fiscal year at 1 percent of Japan's GNP.[10] Since then, succesive Cabinets have made it clear that they would continue this policy. In FY 1980, the total defense budget was 2,230.2 billion yen, wnich was 0.9 percent of the initially estimated GNP and 5.2 percent of the General Account Budget[11] (for previous figures, see Appendix).

As the FY 1981 defense budget is currently being prepared, there has been a growing demand within the ruling Liberal-Democratic Party and in business circles, as well as in the United States, for expansion of defense spending to more than 1 percent of the GNP. On November 12, 1980, Prime Minister Suzuki told the Special Committee on Security, Okinawa and Northern Territory Problems, that his government will hold Japan's defense spending is within 1 percent of the GNP.[12] On November 28, 1980, the Prime Minister again told foreign correspondents at his official residence that Japan will not expand its defense spending to more than 1 percent of the GNP. He pointed out that the desire to maintain defense expenditure at 1 percent was a national consensus and that "any further expansion of the spending beyond this limit would touch off fears among the members of the Association of Southeast Asian Nation."[13]

OVERSEAS DEPLOYMENT OF THE SELF-DEFENSE FORCES

On numerous occasions,[14] spokesmen for the Japanese government have reiterated the view that an overseas assignment of the SDF in excess of the limit of the right of self-defense would not be permissible under the Constitution. In their view, overseas deployment for the purpose of conducting military action within the territorial confines of other states—whether conducted by ground forces, ships or planes—would exceed the limit of the right of self-defense, thus contravening the Constitution.

In reply to the question of whether or not the SDF's participation in a UN force would be constitutional, a government spokesman stated in 1961 that Japanese participation in a UN action such as occurred in Korea would violate the Constitution, but that a role for Japan in a situation such as occurred in Lebanon would be permissible.

The Korean case was characterized as one wherein each participating nation fought as a sovereign nation although nominally under the UN flag. In the case of Lebanon, in which action was taken by the UN in response to a crisis in that country, the situation was describe as one wherein actions were taken at the command of the Secretary-General in supporting the internal security of Lebanon and these actions did not constitute involvement by sovereign nations. Participation by Japanese nationals as individual volunteers in UN actions would not raise constitutional questions unless the will of the state were in some way involved, e.g., any supportive actions taken by the government.[15]

In 1966, however, another spokesman stated that although Japan's participation in a UN action such as was taken in Lebanon would be permissible under the Constitution, it would still be repugnant to the existing SDF law.[16] According to a more recent pronouncement of the government (1978), it would not be possible to deploy the SDF overseas to participate in a UN force without revising the existing SDF Law and that at present the government did not intend to amend the SDF law for such purposes.[17]

On October 28, 1980, a similar government view was expressed to the extent that under the Constitution, Japan is allowed to send the SDF personnel overseas for non-military purposes. The government also stated that it is constitutional for Japan to participate in the UN peace-keeping forces if the SDF are not engaged in military actions; however, the existing SDF law neither allows Japan to deploy its forces overseas nor permits them to join UN peace-keeping activity.[18]

RESTRICTIONS ON THE DEVELOPMENT OF WEAPONS

The government has long maintained that the possession of offensive weapons such as ICBMs, IRBMs, MRBMs and SLBMs and long-range bombers (B–52s) would be a violation of the Constitution. The basic assumption is that any weapons, nuclear or not, which are designed primarily for attacking purposes are prohibited. On the other hand, F–86 fighter-bombers, F–4 phantom jets, Nike ground-to-air guided missiles, and HAWK missiles are considered to be defensive weapons and thus permissible under the Constitution.[19] In February 1978, the government justified the purchase from the United States of F–15 interceptor-fighter and P–3C anti-submarine warfare aircraft States on the grounds that they were defensive weapons.[20] The government has not published a list indicating what constitute offensive and defensive weapons. Some of the above distinctions were made in the Diet when pressed by members of the opposing political parties.

Government officials have conceded that war potential is banned by the Constitution. They have stated, however, that defensive needs are determined by the international situation, the nature of contemporary technology and various other factors. Thus, in the view of the government, the concept of a self-defense capability is flexible and changing, and there are no objective or constant criteria. The guiding principles have always been the minimum degree of military capability necessary for self-defense.

With respect to nuclear weapons, government officials have stated repeatedly since 1957 that the Constitution does not ban all types of nuclear weapons, but only those which are deemed to be offensive weapons.[21] In the view of the government, the possession and/or production of nuclear weapons is not forbidden. However, such possession and/or production of nuclear weapons would contravene the Basic Atomic Energy Law which provides that "the possession, development and utilization of atomic energy shall be limited to peaceful uses" and that the results of such atomic energy shall be limited to peaceful uses" and that the results of such atomic energy-related activities must be made public.[22]

Apart from the legality of the problem, government officials have consistently stated that Japan would not possess any nuclear weapons as a matter of policy; this policy is based on the "three nuclear principles." According to these three principles, Japan would not produce, possess, or permit the stationing of nuclear arms on Japanese soil. When Japan became a signatory country of the Nuclear Non-Proliferation Treaty in 1976, the government also cited this treaty as banning the possession and deployment of any nuclear weapons.[23]

It should be noted that the government tends to explain the limitation regarding offensive nuclear weapons in terms of the Constitution itself, the Atomic Energy Basic Law, the government policy and treaty, rather than as stemming from the scope of the right of self-defense.

Footnotes at end of article.

APPENDIX

CHANGES IN DEFENSE EXPENDITURES (ORIGINAL BUDGET)

[Unit: Y 1 billion, percent]

	GNP (initial forecast) (A)	General account (original) (B)	Growth from previous year	Defense budget (original) (C)	Growth from previous year	Ratio of defense budget to GNP (C/A)	Ratio of defense budget to general account (C/B)
Fiscal year:							
1955	7,559	991.5	0.8	134.9	3.3	1.78	13.61
1960	12,748	1,569.7	10.6	156.9	.6	1.23	9.99
1965	28,160	3,658.1	12.4	301.4	9.6	1.07	8.24
1970	72,440	7,949.8	17.9	569.5	17.7	.79	7.16
1971	84,320	9,414.3	18.4	670.9	17.8	.80	7.13
1972	90,550	11,467.7	21.8	800.2	19.3	.88	6.98
1973	109,800	14,284.1	24.6	935.5	16.9	.85	6.55
1974	131,500	17,099.4	19.7	1,093.0	16.8	.83	6.39
1975	158,500	21,288.8	24.5	1,327.3	21.4	.84	6.23
1976	168,100	24,296.0	14.1	1,512.4	13.9	.90	6.22
1977	192,850	28,514.3	17.4	1,690.6	11.8	.88	5.93
1978	210,600	34,295.0	20.3	1,901.0	12.4	.90	5.54
1979	232,000	38,600.1	12.6	2,094.5	10.2	.90	5.43

FOOTNOTES

[1] The Constitution of Japan, Nov. 3, 1946; came into force May 3, 1947.

[2] For this purpose, the Commission on the Constitution was established from 1957 to 1964.

[3] Law No. 165, June 9, 1954, as last amended by Law No. 87, July 5, 1978.

[4] Law No. 164, June 9, 1954, as last amended by Law No. 97, Dec. 27, 1977.

[5] Japanese Defense Agency, *Summary of Defense of Japan,* Tokyo, Foreign Press Center, 1980, p. 11.

[6] *Ibid.*, p. 10.

[7] *Ibid.*, p. 13–14.

[8] Martin E. Weinstein, *Japan's Postwar Defense Policy, 1947–68,* New York, Columbia University Press, 1971, p. 126.

[10] Boeicho [Defense Agency], *Nihon no boei* [Defense of Japan], Tokyo, 1979, p. 81.

[11] *Ibid.*, p. 234.

[12] *Asahi shimbun,* Nov. 30, 1980.

[13] *Foreign Broadcast Information Service, Daily Report, Asia & Pacific* [hereafter: *FBIS*], Nov. 28, 1980, p. C7.

[14] The government interpretations and views were expressed during the Diet debates in response to interpellations by opposition parties.

[15] Shuglin Gaimu Iinkai Chosa Shitsu, *Shuglin Gaimu Iinkai Yosan Iinkai ni okeru ampo rongi* [Security Debates before the Committees on Foreign Affairs and Budget], Feb. 1967, p. 365–369.

[16] *Ibid.*, p. 453–455.

[17] *Boei nenkan, 1979* [Defense Yearbook, 1979], Tokyo, Boei Nenkan Kanokakai, 1979, p. 90–99.

[18] *FBIS,* Oct. 28, 1980, p. C5

[19] *Boei nenkan,* p. 127–131.

[20] *Ibid.*, p. 169.

[21] *Ibid.*, p. 123.

[22] Law No. 186, Dec. 19, 1965, as last amended by Law No. 86, June 5, 1978.

[23] *Nihon no boei,* p. 64.

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FEDERAL REPUBLIC OF GERMANY

I. CONSTITUTIONAL LIMITATIONS ON TROOP DEPLOYMENTS OUTSIDE THE FEDERAL TERRITORY

A. Issue: What limitations exist in German law on the permissibility of troop deployments outside of the Federal territory, in particular, outside the NATO region, as described in article 6 of the North Atlantic Treaty?

B. Conclusion: The Constitution of the Federal Republic of Germany contains no specific provision that prohibits the deployment of German troops outside the Federal territory. The authorities agree that such deployment would be constitutional within the limits foreseen in article 6 of the North Atlantic Treaty, but it can be argued that a historical interpretation of the Constitution and an interpretation of its articles 26, 87 a, paragraph 2 and 115 a–115 1 prohibit a deployment of German troops ouside the German territory and the NATO region, unless such deployment is undertaken to defend an attack on Germany or its NATO partners. However, these provisions could also be interpreted to the effect that they contain no such general prohibition, and that such deployment is constitutional, unless undertaken in a manner apt to disturb the peace or prepare for an act of aggression and with specific intent of achieving these goals.

C. Analysis:

1. Arguments in support of unconstitutionality.

Statements made in the second half of 1980 by Chancellor Helmut Schmidt [1] that it would be unconstitutional for German troops to be deployed in the Persian Gulf have not included an analysis of these Constitutional issues; however, the following arguments can be made in support of his position: [2]

Historical interpretation

When the Constitution was drafted in 1948, it excluded the issue of defense almost entirely.[3] Aside from certain provisions touching on the military, such as the right of individuals to be conscientious objectors, it contained no legislative or executive powers over defense and no system for the formation of armed forces. These omissions were in keeping with both the intent of the population and with the will of the occupying powers. The Constitution's preamble contains a peace-loving ideology, and article 26 renders acts of aggression and their preparation, in particular a war of aggression, unconstitutional and mandates the legislature to make such acts a punishable offense. Constitutional provisions for the reconstruction of a defense system were only included in 1954 and 1956,[4] as a consequence of Germany's accession to the North Atlantic Treaty. The legislative history of the Constitution reveals the pacifist ideology of some of its drafters,[5] and a strictly historical interpretation of the Constitution might severely limit the capacity of the German Government to engage in military activities. The legislative materials show particularly, in the discussion of article 26 of the Constitution (see below), that some of its drafters considered that anti-military safeguards as going well beyond the inclusion of a provision that prohibits the waging of war.[6]

Article 26 of the Constitution

Another argument for the unconstitutionality of troop deployments outside of the NATO region can be made from article 26,[7] paragraph 1, of the Constitution. It provides as follows:

Acts tending to and undertaken with the intent to disturb the peaceful relations between nations, especially to prepare for an aggressive war, shall be unconstitutional. They shall be made a punishable offense.

A rigid interpretation of this Article could justify doubts on the constitutionality of troop deployments aside from the defense of the German territory and that of its NATO partners.

Support for such a position is contained in a statement by Karl Hernekamp.[8] In discussing article 87a, paragraph 2, of the Constitution he states:

Article 87a, paragraph 2, prevents the *Bundestag* [9] from deciding the occasion for a deployment of troops at its own discretion. Instead, this power is reserved to the constitution-amending legislature. Because of the absolute barrier of the prohibition of aggression (article 26 in conjunction with article 1, paragraph 2, and article 79, paragraph 3) such authorization can concern only international mandates to establish order (for example, German participation in United Nations troop contingents) or deployment possibilities within the territory.

Also, there is no doubt that acts that could touch on the prohibitions of article 26, paragraph 1, are subject to judicial review by the Constitutional Court. Menzel, the renowned constitutional scholar, states this view as follows: [10]

The ascertainment of whether an endangerment of the peaceful coexistence of the nations—not purely of peace—lies within the free judicial determination which, however, must be exercised under consideration of the practice of foreign states.

In interpreting article 26, paragraph 1, Hernekamp characterizes the peaceful coexistence envisioned by this provision as a coexistence characterized by the absence of any military force. He further states that the mandate to keep peace does not go beyond the prohibition to use force found in the Charter of the United Nations.[11]

Article 87a, paragraph 2, of the Constitution

Yet another argument for the unconstitutionality of German troop deployments outside the NATO region can be made on the

Footnotes at end of article.

basis of article 87a, paragraph 2, which provides:

Apart from defence, the Armed Forces may only be used to the extent explicitly permitted by this Basic Law.

This provision was included in the Constitution by an amendment in 1968 that primarily provides the acceptable occasions when a state of defense or of tension may be declared in Germany and outlines the concomitant issues of power of command, declaration of war, and the entering into effect of emergency powers.[12] Whereas most commentators agree that the primary purpose of article 87a, paragraph 2, looks inward, i.e., to refer to the permitted uses of the Armed Forces inside of Germany in the manner permitted by various constitutional provisions,[13] a limitation of the peacetime deployment of troops abroad may be found in the term defense.

One constitutional scholar, E. Klein, investigated this issue on the occasion of a potential German participation in armed peacekeeping missions of the United Nations.[14] He examined the meaning of the term defense in this constitutional provision; and, since there is no legal definition in the Constitution itself, he rejected a very restrictive interpretation that would permit defense measures only after a state of defense is declared (article 115a, see below). But, he also found that the term defense cannot justify participation in military operations anywhere in the world outside of a direct relationship to territorial defense or the defense of an ally.

Article 115a of the Constitution

Article 115a of the Constitution provides that a state of defense is to be declared in a formal parliamentary proceeding, and only upon its declaration may certain measures described in sections 115a through 115l enter into effect. (These measures include a transition of the command over the armed forces from the Federal Minister of Defense to the Federal Chancellor.) A state of defense can be declared only if the Federal territory is being attacked by an armed force or if such an attack is imminent.

This provision clearly aims at establishing when a transition from peacetime law to emergency law can take place, and there is a consensus that measures of defense as envisioned in article 87a, paragraph 2, can be undertaken without such a declaration.[15] However, in analyzing the possibility of German participation in UN peacekeeping missions, Klein found such participation at least politically questionable; it might violate the intent of article 115a that stresses parliamentary participation, since such peacekeeping actions might lead to more serious involvements of the Federal Republic without the parliament ever having been involved in the decision-making process.[16]

2. Arguments upholding the constitutionality of troop deployments.

a. A recent analysis of the issue:

Chancellor Schmidt's statements on the constitutional limitations with regard to a potential troop deployment in the Persian Gulf have been criticized in several recent newspaper articles. One very interesting analysis of the Constitution was undertaken by G. Gillessen, in an article in the Frankfurter Allgemeine Zeitung, entitled "The Basic Law does not mention the Indian Ocean."[17] His conclusion that a participation of the Federal Republic in an international armed endeavor outside the NATO region is permitted under the Constitution is based on the following reasoning:

Historical interpretation

He concedes that a historical interpretation of the Constitution reveals that the provisions dealing with defense were issued primarily under the assumption that they will deal only with territorial defense, but he rejects a historical interpretation as the proper ultimate analysis.

Article 115a

He then proceeds to examine the provisions of article 115a, i.e., the formal declaration of a state of defense as a prerequisite for emergency powers; however, he sees the exclusive purpose of this provision in deciding when a peacetime system of government has to be replaced by emergency measures.

Article 87a and 26

In analyzing article 87a of the Constitution, Gillessen finds that its concept of defense is limited only by the prohibitions of aggressive acts according to article 26. To determine the content of article 26, he relies on some statements made in a very authoritative commentary to the Constitution, i.e., that published by Maunz, Dürig, Herzog, and Scholz.[18] He summarizes their comments as follows:

The Basic Law prohibits the Federal Republic from taking an attitude hostile to peace. In a crisis the organs of state retain considerable leeway in judging the political situation. Whether their political, diplomatic, or military measures hope to prevent a crisis development in the individual case or whether they deliberately contribute to its occurrence because they are convinced that it is inevitable in view of the malice of the other side, remains of no consequence as long as they themselves are free from a malicious intent bent on disturbing the peace. Therefore, in judging actual defense policy from the point of view of constitutional law, the intent is decisive, not the form of military measures or their preparation. In this context, defense is to be understood as the opposite of a war of aggression.

Article 24

Gillessen then proceeds to find in the German participation in NATO and its constitutional authorizations in article 24 of the Constitution proof that defense can mean more than mere territorial defense. Article 24, paragraph 2, provides as follows:

For the maintenance of peace, the Federation may enter a system of mutual collective security. In doing so it will consent to such limitations upon its rights of sovereignty as will bring about and secure a peaceful and lasting order in Europe and among the nations of the world.

He finds that the Constitution would not prohibit the Federal Republic from instigating an expansion of the NATO operational region in the NATO Council, and it would not prohibit the Federal Republic from making a political show of its Armed Forces outside the NATO region, as long as this action is undertaken with a peaceful intent. He also mentions German troop deployments that have been undertaken within the NATO regions, i.e., in North Norway and near the Greco-Turkish border. The constitutionality of these deployments was not questioned.

Issues of international law

From the point of view of international law, Gillessen equates the blocking of maritime straits for the delivery of oil to a maritime blockade of a European port. He considers measures to overcome these problems as permissible under international law.[19]

Furthermore, he states that since the NATO region is not a constitutionally defined term, deployments outside the area are also permissible.

Political versus legal decision

Gillessen concludes by finding that statements on the constitutional prohibitions for overseas troop deployments shift the discussion from the political forum where it belongs to the legal forum, thereby cutting off a desirable political debate.

b. Other considerations:

Historical interpretation

Whereas the Constitution as originally enacted in 1949 contained no provisions for a system of defense, shortly after its enactment both the German Government and the occupation powers found it desirable that the Federal Republic be rearmed in order to contribute to the defense of Western Europe. Originally it was envisioned that this be accomplished within the framework of the European Defense Community. This project ultimately failed because France did not want to relinquish the amount of sovereignty called for in this proposal. Ultimately, the Federal Republic of Germany acceded to the North Atlantic Treaty in 1955.[20]

The proposed German defense contribution led to an intense constitutional struggle during which the Constitutional Court was invoked several times; and numerous briefs, responses, and advisory opinions were written. This well-documented constitutional dispute showed clearly that at that time, i.e., 1950–1954, the opinions of scholars and politicians were sharply divided on how pacifist and opposed to a system of defense the Constitution actually was.[21]

2. Judicial review of foreign policy decisions.

In the above described dispute, it is interesting to note that the Constitutional Court, when called upon to decide the issue, which according to German law was justiciable, in fact delayed rendering a substantive decision until the issue was resolved politically.[22]

The Constitutional Court was again, thereafter, called upon to review a foreign policy decision, i.e., the constitutionality of the Saar Agreement. The Court confirmed the policy of the Government.[23] A similar occasion arose in 1958 when the issue of the permissibility of nuclear weapons on German soil (within NATO) was at stake. In this case the Court acted very quickly to help the Government by prohibiting an informal phebiscite planned in some of the laender. These decisions may justify the general statement that the Court will tend not to interfere in the Government's conduct of foreign policy. Whereas some scholars criticize the positions that the Court took,[24] others find its self restraint commendable.[25]

Article 26

Since the interpretation of article 26 of the Constitution is a key issue in deciding the constitutionality of troop deployment abroad, whether it is considered as the only criterion or in conjunction with other constitutional provisions, a closer look at the very perceptive analysis of this provision as contained in the Maunz-Durig Commentary to the Constitution is of interest.[26] This analysis is remarkable since it investigates article 26 in the light of political realities.

These comments stress that article 26 must be interpreted in a restrictive manner, since otherwise the very broad wording contained therein would bring it close to an absolute prohibition of war, which was not the intent of the framers. This commentary points out the difficulties of distinguishing a war of aggression from a defensive one in international law, and the even greater difficulties in deciding which actions outside of war should be characterized as disturbing peaceful relations. It continues to state that:

Without doubt hardly any act is conceivable that could not lead in some way to international discord. If a methodology adopted in its interpretation that, in accordance with the wording, takes into consideration all possible results and this were coupled with the principle of causation of condition sine qua non, almost any public and private activity would become unconstitutional.

The Commentary then proceeds to interpret the provision as considering the war of aggression as the main and typical example of a prohibited act and that the Constitu-

Footnotes at end of article.

tion does not prohibit any use of international means of pressure, but only a malicious kindling of the flames.

In analyzing the hostile motive required to make policy decisions unconstitutional, the Commentary states that the Constitution merely prohibits an attitude that is opposed to peace. But the Constitution does not prohibit otherwise neutral acts merely because hostile states could make them the occasion to start a dispute. As long as the state organs of the Federal Republic lack the peace-disturbing intent, their actions remain constitutional, even when a crisis is deliberately brought to a climax, if this is considered as inevitable in view of the conduct of the opponents.

Article 87a and 115a

A convincing opinion on the meaning of defense as stated in article 87a, paragraph 2, is given by K. Ipsen.[27] He represents the view that defense measures do not necessarily require a state of defense according to article 115a or a state of tension according to article 80a, since this is not stated in the Constitution. He shows the absurdity of the opposite view by describing a hypothetical case: If a naval vessel of the Federal Republic were attacked on the high seas, this would not constitute a state of defense, yet defense measures to counteract it would be needed. In his opinion, external defensive measures are permissible if they do not violate article 26, when an attack according to article 6 of the North Atlantic Treaty is given, and the attack makes collective or individual defense permissible according to article 51 of the United Nations Charter.

He then notes that the power to set such defensive acts lies with the executive branch of government. From the legislative history of article 115 a and its predecessor, article 59 a (now repealed), he derives that the lack of parliamentary involvement in the setting of external defensive acts according to article 87 a, paragraph 2, was not an oversight of the drafters but intended.

3. Political outlook:

Whereas there is considerable room for dispute about the existence of constitutional limits for an involvement of German troops in the Persian Gulf, most German politicians consider such an involvement as politically unwise. For instance, the German candidate for Chancellor of the Christian Democratic Union and Christian Socialist Union in the 1980 elections stated in September of 1980 and in January of 1980 that the protection of the oil deliveries from the Persian Gulf region was of concern to Germany, but that these interests should be protected by major maritime powers. He felt that Germany should not engage itself outside the NATO region but perhaps assume additional NATO responsibilities to compensate [28] for its lack of action in the Persian Gulf.

II. LIMITATIONS ON THE DEVELOPMENT OF WEAPONS BY THE FEDERAL REPUBLIC

Limitations concerning the production of weapons exist in the Federal Republic in the Constitution, in statutory law, and through international treaties.

A. Constitutional Limits:

Article 26, paragraph 2 of the Constitution provides the following:

Weapons designed for warfare may not be manufactured, transported, or marketed except with the permission of a Federal Law. Details shall be regulated by a Federal Law.

B. Limits by international agreements:

The Federal Republic of Germany is bound by international agreeemnt to refrain from manufacturing in its territory nuclear, chemical, and biological weapons. The Federal Republic is also bound by international agreement to refrain from producing certain other weapons such as warships and long-range missiles. This latter prohibition, however, is subject to modification of the parties to the agreement.

These restrictions came into force in the course of Germany's accession to the Brussels Treaty and the North Atlantic Treaty and it was accomplished in a series of Protocols and Appendices that were signed in Paris on October 23, 1954.[29] In Appendix I to Protocol No. II., the Federal Chancellor of the Federal Republic declared that the Federal Republic will refrain from manufacturing in its territory atomic, chemical, and biological weapons as described in Appendix II. He also declared in Appendix I that the Federal Republic will refrain from manufacturing in its territory the weapons described in Appendix III, including long-range missiles, influence missiles, and warships, with the exception of smaller ships for defense purposes, and bomber aircraft. Modifications concerning these armaments, however, can be made by the Council of Western European Union. In Protocol No. III the contracting parties, i.e., the members of the Brussels Treaty, accepted the declaration of the German Chancellor.

The armaments described in Appendix III have been modified several times in the manner foreseen by the agreement.[30]

Further limitations on the production of weapons are also found in the following treaties to which the Federal Republic is a party:

Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction in the Sea-Bed and the Ocean Floor and in the Subsoil thereof; [31]

Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water; [32]

Treaty on the Non-Proliferation of Nuclear Weapons.[33]

C. Limits of Statutory Law:

In compliance with article 26, paragraph 2, of the Constitution, the Statute on the Control of War Weapons was enacted in 1961.[34] It describes as war weapons those listed in an Appendix to the Statute. Part A of the Appendix describes the weapons covered by Protocol III modifying the Brussels Treaty (see supra page 16), and Part B contains a detailed and exhaustive list of other substances and objects that are considered as war weapons in Germany. The statute further provides the administrative framework for the authorizations required for any production, marketing, or transportation of the listed weapons within the territory of the Federal Republic.

III. CONSTITUTIONAL LIMITS ON SPENDING LEVELS FOR DEFENSE

Like all expenditures of the Federation, the expenditures for defense purposes are subject to the general budgeting provisions of articles 104a–115 of the Constitution. Article 110 provides that all expenditures of the Federal Government shall be included in the budget that must be enacted into law by the Federal parliament. The budget may be enacted either for one year or for longer periods. Once enacted, the budget is binding on the executive department as statutory law. However, articles 111 and 112 contain provisions enabling the Government to continue spending if the budget is not passed in a timely way and that permit Government to incur overruns. A constitutional limitation of expenditures foreseen in the budget is contained in article 109 of the Constitution and provides that the fiscal planning of the Federation must take due account of the requirements of overall economic equilibrium.

In addition to these general provisions concerning the budget, the Constitution contains a specific provision for the manner in which the armed forces must be reflected in the budget. Article 87a, paragraph 1, provides that the numerical strength and the organizational structure of the armed forces shall be shown in the budget.

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FOOTNOTES

[1] Interview with Helmut Schmidt, *Issues and Answers* (Sunday, November 16, 1980), ABC News.

[2] Due to the limited time available for preparing this report, no exhaustive review of the literature bearing on this issue could be made. Also, at least one up-to-date source on German Constitutional Law had to be ordered especially for this report and has not arrived to date: T. Maunz, G. Dürig, and R. Herzog, *Grundgesetz. Kommentar*. 5. Auflage, (München, 1980). However, the reviewed sources are representative of the different possible interpretations. Should a more detailed analysis be required, this can be done if sufficient time is provided.

[3] Grundgesetz für die Bundesrepublik Deutschland vom 23, Mai 1949, *Bundesgesetzblatt* [BGB1., official law gazette of the Federal Republic of Germany] p. 1.

[4] Gesetz zur Ergänzung des Grundgesetzes vom 26. März 1954, BGB1. I, p. 45. Gesetz zur Ergänzung des Grundgesetzes vom 19. März 1956, BGB1. I, p. 111.

[5] H. Rumpf, *Der ideologische Gehalt des Bonner Grundgesetzes* 24 (Karlsruhe, 1958).

[6] Menzel in *Bonner Kommentar* [BK] p. 3 to article 26 (Hamburg, 1950–).

[7] A translation of the provisions of the Constitution that deal with defense as contained in *Basic Law of the Federal Republic of Germany* (Press and Information Office, Government of the Federal Republic of Germany, 1974) is included as *Appendix I*. Included are in particular: arts. 17 a, 24, 26, 35, 45 a, 45 b, 65 a, 73, 80 a, 87 b, 110–115, and 115 a – 115 l.

[8] Karl Hernekamp, in 3 *Grundgesetz-Kommentar* [GG–K] 325 (München, 1978).

[9] Representative Chamber of the German Parliament.

[10] Menzel, in BK, at p. 8 of the comments to art. 26.

[11] 2 GG–K, at 149–150 (München, 1976).

[12] Siebzehntes Gesetz zur Ergänzung des Grundgesetzes vom 24. Juni 1968, BGB1. I, p. 709. This amendment also added the provisions on emergency powers contained in arts. 80 a and 115 a—115 l. (*See Appendix I.*)

[13] BK, p. 18 of the comments on art. 87 a (22. Lieferung, January 1969).

[14] E. Klein, "Deutsche Beteiligung an UN-Streitkräften," in 34 *Zeitschrift für ausländisches und öffentliches Recht* 429 (1974).

[15] Knut Ipsen, "Die rechtliche Institutionalisierung der Verteidigung im atlantisch-westeuropäischen Raum," 21 *Jahrbuch des öffentlichen Rechts* (1972).

[16] *Supra* note 14, at 440.

[17] *Frankfurter Allegemeine Zeitung*, October 3, 1980, p. 6.

[18] *See supra* note 2. However, in the first edition of this work, published as: T. Maunz, and G. Durig, *Grundgesetz* (Munchen, 1963–), comments to art, 26, contain similar if not the same statements.

[19] The constitutional scholar, E. Klein, expressed agreement with Gillessen's opinion that blockage of the transportation of oil is the equivalent of an aggressive blockade according to international law. Whereas he finds that Gillessen goes too far in subordinating to defense any act that is not an aggression, he finds that the blocking of the maritime traffic of essential goods constitutionally justifies a deployment of German troops: E. Glein, "Deutsche Streitkrafte am Persischen Golf," *Fankfurter Allgemeine Zeitung*, 6 November 1980, p. 11.

[20] A short account of these events is contained in M. Bathurst *and* J. Simpson, *Germany and the North Atlantic Community*

163–172 (London, 1956), which is included as *Appendix II.*

[21] *Der Kampf um den Wehrbeitrag* (München, 1952, 1953).

[22] A good analysis of these cases and the events leading to them may be found in Karl Loewenstein, "The Bonn Constitution and the European Defense Community Treaties," 64 *Yale Law Journal* 805 (1955), included as *Appendix III.*

[23] Decision of the Bundesverfassungsgericht of May 4, 1955, 4 *Entscheidungen des Bundesverfassungsgerichts* 168 (1955).

[24] Loewenstein, *supra* 21.

[25] H. Laufer, "Politische Kontrolle durch Richtermacht," in *Verfassung, Verfassungsgerichtsbarkeit, und Politik,* 103 (Frankfurt, 1976); also, H. Laufer, *Verfassungsgerichtsbarkeit und politischer Prozess,* 397–446 (Tubingen, 1968).

[26] *Supra* note 18.

[27] *Supra* note 15.

[28] *Frankfurter Allgemeine Zeitung,* January 19, 1980, p. 1 and September 29, 1980, p. 2.

[29] Protocol Modifying and Completing the Brussels Treaty, Protocol No. II on Forces of Western European Union, Protocol No. III on the Control of Armaments, including Appendices, I–IV, Protocol No. IV on the Agency of Western European Union for the Control of Armaments, Treaty between Belgium, France, Luxemburg, the Netherlands, and the United Kingdom of Great Britain and Northern Ireland, i.e., Brussels Treaty as Modified by the Protocols of 23 October 1954, 211 UNTS 342. These agreements were promulgated in Germany in BGBl., II 256 (1955). A copy of this promulgation that contains the English text is included as *Appendix IV.*

[30] Now in effect in the version of Bekanntmachung vom 6. Juli 1972, BGBl. II, p. 767. (*See Appendix V.*)

[31] Signed in Washington, 11 February 1971, 23 UST 701: TIAS 7337; ratified by the Federal Republic 12 March 1972 BGBl. II, p. 325.

[32] Signed in Moscow, 5 August 1963, 14 UST 1313; TIAS 5433; 480 UNTS 43; ratified by the Federal Republic 29 July 1964, BGBl. II, p. 906.

[33] Signed in Washington, D.C., 1 July 1968, 21 UST 483; TIAS 6839; 729 UNTS 161; ratified by the Federal Republic 4 June 1974, BGBl. II, p. 785.

[34] Ausführungsgesetz zu Artikel 26, Abs. II des Grundgesetzes (Gesetz über die Kontrolle von Kriegswaffen) von 20, April 1961, BGBl. I, p. 444, as last amended by Gesetz vom 31. Mai 1978, BGBl. I, p. 641.

PERCENTAGE ANNUAL CHANGES IN DEFENSE SPENDING IN REAL TERMS [1]

	Average, 1966–75	1976	1977	1978	1979	1980 [2]
Belgium	4.6	6.8	2.6	6.7	2.2	----------
Canada	−.4	2.6	3.8	−.2	−.9	----------
Denmark	.5	1.7	3.7	4.1	.2	----------
France	[3]	[3]	[3]	5.2	2.4	3.5
Germany	1.4	.2	−.6	3.1	1.7	2.8
Italy	2.4	−.9	4.5	2.6	6.0	----------
Luxembourg	3.9	7.1	−2.4	7.9	3.5	----------
Netherlands	1.6	−1.0	11.0	−5.3	5.0	----------
Norway	1.8	.4	1.6	7.7	1.9	----------
Portugal	3.3	−18.4	−7.2	1.7	2.7	----------
United Kingdom	−1.6	−2.1	−2.4	−.6	3.0	2.5
United States	−2.1	−3.6	.5	1.6	3.4	3.8

[1] Based on the NATO definition of defense spending. (For the United States, this includes military assistance, outlays for the Coast Guard, and weapons programs funded by DOE.)
[2] Data for 1980 are estimated.
[3] No data.
Source: Defense Department.

QUORUM CALL

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AT LAST A NEWSPAPER REPORT GIVES THE DAIRY FARMER HIS DUE

Mr. PROXMIRE. Mr. President, after more than 20 years in this body I have learned that many of the most important fights are won or lost—not on their merits and not necessarily on who does the best lobbying job—by who gets there fustest with the mostest, to paraphrase General Forrest's observation. No, often the big fights are won in the press, the media, by the perception the American public gets from what they read in their morning paper and see on their evening TV news.

And on this bill—this dairy price adjustment bill, I have despaired because until one story appeared one day last week the media had been relentlessly, brutally, unanimously unfair to the dairy farmer. The New York Times, the Washington Post, even Wisconsin papers had run one grossly unfair, one-sided story after another reporting that the 80-percent price support was too costly to the taxpayer and the consumer and that it was making the dairy farmer rich. CBS news did a classic one-sided hatchet job on the dairy farmer. And that pained me because the CBS morning news is one of the most competent and fairest on the air. The only farm CBS showed in their report on the dairy price support milk fight was a New York State farm with 300 cows. Three hundred! That happens to be exactly 10 times as big a herd as the average dairy farm in this country on which there are 30 cows.

You will not find 1 dairy farm in 100 or in 1,000 that has 300 cows.

The impression the TV viewer received was that all dairy farmers are rich and prosperous and producing too much milk because the price is so high.

And then last week, a story appeared, not in a Wisconsin publication, or a farm publication, but in the Wall Street Journal—the Wall Street Journal, Mr. President—that told the truth about the dairy farmer—how very hard and long he works, how remarkably efficient he is, what an investment he makes, and what a unique sacrifice he already makes at present prices to make a living.

Mr. President, I had been prepared to come on the floor and challenge the newspapers or the TV to send a reporter out to a typical dairy farm, to get up with the farmer at the crack of dawn and out to a cold barn, to watch the remarkable effort of the farmer, his wife and his kids as they do the hard, tough, skillful job that dairy farming requires. I was intending to point out how papers send reporters to Afghanistan or El Salvador to cover controversial stories far removed from our borders. But here is a great story right here in America that no one had told.

Last Friday, Lawrence Ingrassia of the Wall Street Journal told the story.

Mr. President, that story is so impressive that I do not intend simply to put it into the RECORD but to read it verbatim so Members of the Congress will get some taste, some smell, some understanding of why the dairy farmer deserves and needs a break.

I point out that this story reports on a dairy farmer who happens to disagree with me on the basic issue in the pending bill—the continuation of the 80-percent price support level. We obviously will lose on that issue tomorrow, the bill will, unfortunately, pass, but the story I am about to read indicates why this action cutting a third of the dairy farmer's income will be a mistake.

The bill will probably pass overwhelmingly, maybe by a voice vote.

The story I am about to read indicates why this action cutting one-third of the dairy farmer's income will be a mistake.

The story, as I say, is written by Lawrence Ingrassia, a reporter I do not know. I do not know his work, but he did a bangup job here, and if I had any Pulitzer Prize, I would give it to him.

The report is from Jim Falls, Wisc.

DESPITE THE DRUDGERY, A MIDWEST DAIRYMAN STICKS WITH HIS COWS—CALVIN MAIER LOVES THE LIFE, BUT MANY OTHERS FORSAKE ETERNAL DAILY MILKINGS—BAD NEWS FROM WASHINGTON

(By Lawrence Ingrassia)

JIM FALLS, WIS.—Calvin Maier milked his first cow in 1940, when it was done by hand. Fields were plowed with horses, and manure was shoveled out of the barn.

Machines do all this today, but one thing hasn't changed. The cows must still be milked morning and night, seven days a week, 365 days a year. Even with modern conveniences, Mr. Maier is tied to his farm just as his father was.

He has had one vacation in 15 years and usually gets away for only a couple of weekends a year. The 45-year-old dairyman spends so much time with his cows, he says matter-of-factly, that "you could blindfold me and sit me beside a cow, and if I felt her udder I could very likely tell you her name."

Despite laboring long hours, often in bone-

chilling cold or sweltering heat, in a dreary and pungent barn. Mr. Maier loves dairy farming. But fewer and fewer dairy farmers are up to this daily drudgery, especially when they see many of their country cousins—farmers who raise only grain, for instance—heading to Florida for fun in the sun each winter and jetting to farm conventions now and then.

Farmers have been getting out of dairying in droves. There are currently about 170,000 U.S. dairy farms, down 35% since 1969, and a proposal by the Reagan administration to hold down dairy price supports could hasten the departure of more dairymen.

That doesn't mean that the children of America will go without milk. Although fewer, the remaining dairymen have become so efficient that they produce more milk than Americans drink. Rising farm productivity in the U.S. is well known, but perhaps nowhere is it more evident than on dairy farms. The average bossy produced 11,813 pounds of milk last year, up from 5,842 pounds in 1955, because of improved breeding and feeding.

That is more than doubling the production per cow of milk, from 5,842 pounds to 11,813 pounds in the last 25 years because of improved breeding and feeding.

That is not just automatic. That is because the dairy farmer is smart, because he is efficient, because he has done a great job.

For all the complaints about sagging farm income, dairymen have prospered. Increased productivity and higher prices helped raise the average profit before taxes of Wisconsin dairy farmers to $19,635 in 1979, up 76 percent from 1977, according to Truman Graf, a University of Wisconsin agriculture economist.

Mr. President, I hesitate on that point. They say prospered. We should put that in quotes. Nineteen thousand dollars is a nice income. Most people in America do not make $19,000.

Mr. President, this is not the income of one person. This is the income of about six people who work very hard, who work an average, according to the University of Wisconsin, of 130 to 150 hours per week for that.

They make an investment of $250,000. The return on that investment is nil.

Their income is $2.89 per hour of work, skilled work, hard work, tough work.

WATCHING WASHINGTON

But President Reagan's plan to eliminate a scheduled April 1 increase in dairy price supports would skim the cream off the farmers' profits. Under the program, the price of milk rises with inflation because the government offers to buy milk at the support price—which lately has been increased twice a year—and thus forces other buyers to meet that price.

Forgoing the April price-support increase would cost Wisconsin dairymen, for example, an average of $5,850 a year, Prof. Graf estimates.

I want to point out that $5,850 a year is a one-third cut in their income. No other group in America is being asked to take a one-third cut in their income because of the budget cuts this year. It is a one-third cut in their net income. They will drop $2 an hour for the hours they put in.

But it also would save money for shoppers. It's estimated that if Congress rejects Mr. Reagan's proposal milk prices will rise about 7½ cents a gallon, cheese 9 cents a pound and butter some 10 cents a pound. Despite heavy dairy-lobby opposition, the proposal is moving through the House and Senate and is expected to be approved by April 1. The House Agriculture Committee approved the Reagan plan yesterday.

In the past, any threat to price supports would have touched off intense lobbying by the politically potent dairy industry. But this time the protests have been somewhat muted, at least in some segments of the industry. With high prices encouraging dairymen to produce too much milk. "Most dairy leaders in the country recognize that some adjustments must be made," concedes Hollis Hatfield, director of the American Farm Bureau Federation's dairy department.

Mr. Maier reluctantly agrees. President Reagan's plan won't so much reduce his income as keep him from making up to $7,000 more in 1981 (his milk production is a little higher than average). "I'd like higher prices, sure, but I won't go out of business because of it," he adds.

Mr. Ingrassio is wrong. It will reduce his income. As the economist from the University of Wisconsin pointed out, his analysis shows it will cut his income by $5,850 a year.

PAST 2 YEARS WERE GOOD

Indeed, 1979 and 1980 were two of Mr. Maier's best years, with net income of about $24,000 a year.

I shall point out in a minute that this is not a typical farm. This is a farm which has 50 cows, which is about one-third more than the average dairy farm in Wisconsin and two-thirds more than the average dairy farm in the country.

Out of Maier's total sales of about $127,000 last year (including $103,000 from the sale of milk and $24,000 from the sale of cattle for meat and milk production) come all his cash operating expenses, plus depreciation on everything from the barn to the family pickup truck.

That is important. Anybody who has ever been in a business knows that you do not take your gross and figure that that is your net. You have to pay for your equipment over time. You have to pay your taxes, you have to pay all kinds of expenditures. When the dairy farmer is through with that, as I say, he has a very, pitifully small hourly income.

In addition, like any small businessman, Mr. Maier can deduct from taxable income the costs of such combined business-personal expenses as trips to state fairs, part of his telephone and electric bills and $110 a month in allowances his children get for their work. "I guess we make a little money," Mr. Maier says, "but we're entitled to it. It isn't a get-rich-quick scheme. I got ahead because I'm out here doing a man and a half's work all the time."

Mr. Maier bought his farm here in 1966, after saving enough money by working in dairies as a foreman and later as a government inspector. He confesses to being a country boy at heart. "A $100,000 salary wouldn't be enough to get me to live in Chicago," he says.

Mr. Maier paid $39,000 for 160 acres, an aging farmhouse, a barn, a machine shed, a small silo and 30 black-and-white Holstein cows, to which he added five cows that had been kept for him on his father's farm nearby. The Maiers now milk 50 cows and farm 240 acres; they have plowed nearly all their earnings back into their farm. It's worth about $350,000 today, Mr. Maier figures. His debt is $70,000.

For the Maiers, and for many farmers here in the rolling dairy country of northwestern Wisconsin, dairying isn't just a way to make a living; it's a way of life. In Jim Falls, a hamlet of about 150 and home of Falls Dairy Co., such evening activities as Lion's Club dinner meetings and school parent-teacher conferences never start before 8 p.m., so farmers have time to finish their chores.

Mr. MOYNIHAN. Will the Senator from Wisconsin yield on that point?

Mr. PROXMIRE. Yes, Mr. President, I am delighted to yield.

Mr. MOYNIHAN. The distinguished Senator knows that my home in New York is on a milk farm. I may, in some formulation, be thought the only dairy farmer in the Senate. I am not a dairy farmer; I am privileged to live among them in Delaware County. The farm we bought years ago, which has been the base of our family ever since, is used by my neighbor, Bernald Briggs. I met young Mr. Briggs just at a time, just after President Kennedy's assassination, that we went up and bought this place. He was just starting out in business, in farming. He asked if he could rent our farm for a nominal fee, which he did. He uses the barns, he uses the fields.

He was a young man, then. He is a young man now, in some respects. He soon thereafter married and went for a honeymoon in Niagara Falls. That would be, I believe, 1964. That was the last vacation, to my knowledge, Bernald Briggs has ever had. It may have been the last day he has had off. It has to have been the last day he had off, because he milks every day. He milks on Christmas morning, he milks on New Year's Eve.

He has five wonderful young boys who help him now, who can begin to drive tractors and do things like that. His wife works in the fields alongside him, doing the hard labor in those fields.

The winters in upstate New York are not any milder than those in Wisconsin. They are bitter. At 6 o'clock in the morning, it is bitter cold. And you milk; you make your way, you break your way. The ice is in the pails. You milk at 6. You feed all day, work all afternoon, then milk again and finally get to bed in order to get up at 5:30 in the morning. It never stops.

Bernald Briggs has never taken a penny from any one, not a nickel from any one. He has a fine family to show, a good family to show. But, my Lord, the work that goes into milk farming. No other work in America is the same. Nobody—coal miners have Sundays off, steeplejacks get down from the top sometimes. Even Senators have an occasional recess. Milk farmers never get a day. I do not think anybody appreciates how that work is done. I wanted to share that.

Mr. PROXMIRE. Mr. President, I want to thank my good friend from New York. This is a facet of the Moynihan personal experience I did not know about. I am glad to hear it. I know, of course, that he has been a great diplomat at the United Nations, he has served in various capacities with great distinction in the executive branch; he is a superlative U.S. Senator, a great professor. I had no idea he had a dairy farm. He rises even higher in my estimation.

You are now at the apex, PAT.

Mr. President, I think what Senator MOYNIHAN has reported to us is the truth. Anybody who has been out to a dairy

farm, who has worked on a dairy farm, knows this. I had the privilege, a few years ago, of working on a dairy farm in Marathon, Wis., the biggest dairy farm in the country. It was an experience, believe me, an experience I shall never forget. I have worked at a foundry all day; that is tough. But working on a dairy farm is so unrelenting, so steady, so constant.

I want to go on to make that point.

The Maier children belong to the Junior Holstein Association, not the Boy or Girl Scouts. Instead of golfing in the little spare time they have, Mr. Maier and his friends gather at meetings of the Dairy Herd Improvement Association.

Running the farm is a family affair. About 6 o'clock each morning, a bleary-eyed Mr. Maier shouts upstairs to get Tom, 16, Shari, 14, and Steve, 13, up and out to the barn. (Mary, nine, and Tim, five, get to sleep longer, but they will help later.) Tammy, 19, goes to college but has to pitch in on weekends when she's home. Mr. Maier's wife, Eunice, 42, handles the household chores. She worked in the barn too when the children were younger.

The Maiers spend endless hours in the musty, cramped barn, which never gets above a nippy 48 degrees or so in winter and always smells of cowhide and manure. The Holsteins are waiting patiently every morning in their narrow, straw-filled stalls. Dairy cows must be milked twice a day at about the same time. Otherwise their udders, engorged with milk, hurt and they bellow for relief.

They also dry up, of course, and you lose your producer.

SOAP AND WATER

Even with automatic milking machines, the task is tiring and time-consuming. Tom, who helps Mr. Maier with the milking, first washes each cow's udder to meet strict sanitation standards. Each milking machine (the Maiers have four) has four stainless steel suction cups that must be attached individually to the cow's teats. The milk is pumped through plastic tubes into overhead pipes, which carry it to a refrigerated tank in a separate clean room in the barn. It takes five to ten minutes to milk each cow, or a minimum of about two hours in both the morning and evening.

All the while, Steve and Shari lug 50-pound bales of hay to feed about 60 calves and heifers that are raised as replacements. The children head into the house at 7:30 to get ready for school. Their evening chores start at 4:30 and last till about 9, with an hour off for supper at 5:30.

The Maier children sometimes grumble about their never-ending duties. "It makes me mad," Shari says. "After school some of my friends go swimming or work out at the gymnasium. They go to movies all the time." Tom and Steve play football in the fall, and Shari is the manager of a girls' basketball team in the winter, but they don't get out of their chores. They just end up working later.

And there's more to dairy farming than milking and feeding cows. The barn must be cleaned, calves checked, machines fixed, new straw bedding put down and fields plowed, planted, fertilized and harvested. Each winter morning Mr. Maier spends a bone-numbing hour on his tractor spreading manure on his fields. Inside the barn a conveyer belt in a gutter, placed strategically behind the cows, carries it to the spreader.

ARTIFICIAL BREEDING

Like most dairymen, Mr. Maier has spent years improving his herd through breeding. His cows average 17,070 pounds of milk a year, compared with 12,500 pounds in 1970. To keep track of production and for help in breeding, Mr. Maier gets a computer printout each month (for $75) showing such statistics as how much milk and butterfat each cow is producing, the day it last calved and its age.

Each cow is bred every year, by artificial insemination. Mr. Maier selects from a list put out by vendors the bull semen he thinks will produce the best calf out of each cow. The cows are milked until six to eight weeks before calving, when they are allowed to "go dry" so they can build up their strength before delivery.

About three-fourths of Mr. Maier's cows are four years old or younger, but his oldest cow, 10-year-old Flec, is one of the best; she yields more than 20,800 pounds of milk a year. And one of her granddaughters, Fancy, a five-year-old, is the best producer of all.

Mr. Maier sells about 25 percent of his cows each year, replacing the poorer producers with offspring of his better cows. One hamburger candidate this spring; Gail, who's producing about 14,000 pounds of milk a year. But Faith, a two-year-old great-granddaughter of Flec who is producing at a rate of 11,600 pounds a year, will be given another year to improve. "When a cow's got a good family, you don't kick her out without giving her a chance," he explains.

HOME EVERY DAY BY 4

Modern equipment enables the Maiers to run a bigger farm now with the same amount of work it took before. But the size also makes it hard to get away because it would take several outsiders to run the farm. This rankles Mrs. Maier, who grew up in Colfax, about 30 miles west of here. Usually a jovial woman, she talks glumly about the year-round demands of dairying.

"When we get together (with my family) for the holidays, we have to come home at 4 o'clock to milk the cows," Mrs. Maier says. "My sisters (who aren't married to farmers) have a different kind of life. Two of them just came back from weekends in Las Vegas."

Since buying the farm the Maiers have taken just one vacation, to Colorado in 1978 as chaperons for a group of 4H children; Tammy stayed home and ran the farm with two relatives. Most years the Maiers get away for just a couple of weekends to the Minnesota and Wisconsin state fairs, usually leaving Tammy and Tom behind.

For Mr. Maier, who says he has few interests outside of dairying, this life is worth enduring the austerity. He cherishes being his own boss and watching his children grow up. Five-year-old Tim, for example, faithfully follows his father throughout the day, craning to see Mr. Maier help a cow deliver her calf one moment and tossing hay with a pitchfork the next. "I'll know my boy better than any father in town ever will," he says proudly.

Mr. Maier's zest for dairying has rubbed off on Tammy and Tom, who plan to dairy farm, the grueling schedule notwithstanding. For them, going into dairy farming is natural." "I never had very much free time when I was a kid, so I don't think I'll miss it when I'm older," says Tom. "I would rather be doing something in the country than sitting behind a desk." Tammy adds, "I don't know anything else but dairy farming."

Mr. President, that story by Lawrence Ingrassia in the Wall Street Journal is a tribute to the Wall Street Journal and to Mr. Ingrassia.

As I have said many times we have the best newspapers in the world, and there is no question about it. I am still working on my doctoral dissertation which I started more than 30 years ago on developing standards on evaluating the political content of the American newspaper, and I have learned that the newspapers have been improved enormously in this country in the last 100 years, and they are far better than they are in any other country in the world, but they are very far short in reporting stories of this kind.

So, for the life of me I cannot understand why it took so long with all the reports they have on this dairy bill before us before we finally found a newspaper and a reporter with the ingenuity to go out to a dairy farm and see what it is, see how tough that life is, how hard those people work and how enormously efficient they are.

Talk about intellect and capital. When we lose these people who understand equipment, and believe me that equipment is hard to maintain, who understand animals and the health of those animals is the very lifeblood of their operation, who understand soil chemistry and understand how to operate a farm, how to manage a farm, how to keep books, we lose something that is very precious in this country and very vital.

There is a great difference between this country and the Soviet Union. The difference is not in our factories, it is not in our commerce; it is in our agriculture. We have 4 percent of our population on farms and the Soviet Union has 30 percent.

It is because these people own the farm. They own their animals. They own their equipment. They have this marvelous motivation and are doing a superb job and simply not getting the kind of recognition or the kind of support they deserve.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a comment?

Mr. PROXMIRE. I yield.

Mr. MOYNIHAN. Mr. President, the gentleman, Mr. Maier, who the Senator was describing, seems to be getting about 17,000 pounds a year out of his herd, his milkers. If I am not mistaken, a decade ago a good farmer, as he obviously is, would have been getting about 12,000 pounds.

Mr. PROXMIRE. That is exactly right. He got about 12,000 a decade ago.

As I said earlier, the typical farmer in 1950 was getting between 5,000 and 6,000 pounds, and today the typical farmer—this is an exceptional one—gets a little over 11,000 pounds. So there has been more than a doubling in the efficiency of our dairy farmers. But this farmer is doing quite well but doing well because he is extraordinary. If he were in business with this kind of skill, there is no telling what he would be doing.

Mr. MOYNIHAN. How many evenings have we spent in the Chamber in the last 4 years talking about the decline in productivity in America? And here is one of the most elemental of all efforts. I mean there is no more ancient enterprise in the agrarian, be they in the Ganges Valley or northern Wisconsin, than looking after cattle and living off the milk, meat, and hide. There is this most spectacular change and improvement in productivity in the American economy in this whole period. These people are superb technicians as well as great farmers.

One has to like those cattle and we also have to understand their biology.

Mr. PROXMIRE. I thank my good friend from New York very, very much.

I once again pay tribute to Lawrence Ingrassia and the Wall Street Journal. I think they are doing a real service. I think if the people of this country were told this story more fully they might have had a chance to maintain 80-percent price supports. I think one can make a devastating case on that issue, but it is gone. The Agriculture Committee has acted on it. There is no point in me trying to blow smoke. We are going to lose on that issue.

I hope when we come to the big bill, the major agriculture bill and decide on what kind of a price support system we are going to have for the dairy farmers that we recognize this is the program that has been in effect since 1949. It has worked and worked extremely well.

The Federal Government does not do everything wrong. They do many things wrong but not this. The farm credit program, the technical assistance program, the county agent program, the research programs, and the farm price support programs make it possible for family farms to remain. These are good programs that deserve our support in the longrun.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, as there appears to be a moment's pause in the Senate's discussion today of the milk price support question, I shall continue some of the remarks I was making in an exchange with my distinguished friend the senior Senator from Wisconsin.

It may indeed be the fact that I am the only dairy farmer in the Senate at this point. It is also the fact that I would be presuming on the credulity of the Chamber to suggest that I actually deserve so honorific a title. But it is the case that for almost 20 years now, our home has been a dairy farm in Delaware County, in the State of New York.

This was bought with the purpose of spending such time as we could get out of the city into the country. Its great attraction to me was that there was an old, one-room schoolhouse on the corner of McDougal Road and Prosser Hollow Road which had been built in 1835 or so, with the understanding that when it ceased to be used as a schoolhouse, it would revert to the farm from which a little snippet of land was taken. It was used as a one-room schoolhouse until 1945, when the central school was built in Davenport.

So everything a person could ask in the way of peace and quiet, to read and to write, was there at the crossroads, and that was an attraction to me. To my wife, the attraction was the herb garden she was soon able to plan, as well as the glories of the wild flowers and the birds and the life generally.

To our children, the glory of that farm were the cows, which continued—as they have done for a century and a half at least—to use the meadows and to go up the hillside in the morning, to come back down at night, and to be fed not only from the grass that grows naturally but also from the corn and silage that is grown in the meadowlands by the farmers using this land.

In the course of what is now almost 20 years, I have come to know that hollow very well, I think. I am listed in the Congressional Directory as living at Pindars Corners, but more than once I have made the point that that is where I vote, which is about a mile away, and where I live is in Prosser Hollow.

The whole of the life of the hollow is the milk farm—some of it a very simple family operation, some of it much more extensive.

I have described the work of my friend and neighbor, Mr. Bernald Briggs, who, from the day he married some 18 or 19 years ago, has worked his farm and the land of our acres 365 days a year, and raised four wonderful young boys. But with what effort, with what extraordinary attachment to an enterprise.

I do not believe that an urban American can have any idea either of the pleasures or the labors of that work: A February morning in Prosser Hollow, at 5:30 a.m., up before breakfast to feed 60 cows and milk 60 cows in the icy wind and blasting cold, is something most Americans have no conception of. The idea of doing it 365 days of the year, in one circumstance or another, and every year of your life, is something I think few Americans could contemplate.

It is no longer the case that the whole of one's life is taken up with this labor. Mr. Briggs is the son of Mr. and Mrs. Mahlon Briggs, who also live in the valley. As they came to retirement age, social security, among other things, and their own savings from a lifetime of work have enabled them to take off a few months in the winter to go south and avoid the rigors of the New York winter. But come spring and the plowing, they are back, all through the summer, into the haying, which starts in June and never stops until the corn crop starts coming in, in late September and early October; and then there is plowing again, to be ready for the spring.

We have another neighbor across the hill who uses a part of the Banner farm, as we describe a second property we bought some years ago. The value of this land is very little, and only persons of heroic enterprise could make a living out of it. These men do. In this case, Mr. Meyerhoff, a farmer of the most enterprising and dynamic kind, has built himself, from very small beginnings, large herd, has installed the most advanced machinery—such as Senator PROXMIRE spoke about earlier today—the most careful computer analysis of the production and productivity, which is the ratio, of his herd.

This is a service provided by Cornell University, one of the great centers of agricultural research, particularly dairy farming research.

If Mr. Meyerhoff were to liquidate—as they say in business—his property, sell off his herd, sell his farm, and his machinery, he could realize a very considerable sum of money, such that I would not be surprised that if invested in Treasury bonds, it would insure him higher annual earnings than he has now; and yet, he would not consider such a move.

It would seem to him altogether inappropriate not to be working, not to be saving, because he is a man of some substance today, not through inheritance but through the steady accumulation each year of a little saving, a little more saving, reinvestment, reinvestment, saving, and reinvestment and technology and keeping up and working hard the days that milking starts as early for him as anyone and the day's chores end as late as for anyone.

He does it because it is a way of life that embodies those things which matter most to him, which is industry and husbandry, and fathering. One of his sons is with him on the farm and I gather he hopes to stay with him and one day take it over. It is an extraordinary sight, those two, as it is to see the Briggs children with their parents and to see the Meyerhoffs on monster machines, never stopping a task until finished, never leaving anything half done, never thinking to come back later and work it all out, but rather roaring through their work from the earliest glimmer of light until the solid darkness of the day, never pausing, never relenting, and taking such a huge joy in it such as to make you realize you are in the presence of very special persons, part of a very special aspect of American agriculture.

It is the element, agriculture, since we ceased to be a nut-and-berry-gathering species. The first of the animals to be domesticated, no doubt, was the dog. And the purpose of the dog was, as much as anything else, to look after the cow.

I can remember over in Ireland my grandfather's brother—getting very ancient, this would be 30, 35 years ago—going back, as the Irish say, such that he was lapsing into Gaelic which was his native language and the only one on the farm who understood Gaelic was his old dog. And he would talk to him and go out and send the dog running around after the cows.

The cultivation of cattle, their care, and their association with civilized nations is as old as the agriculture civilization itself. It precedes planting. It is the first fact of a human economy as against simply a human ecology. It stays with us; it is deep in us.

I had the privilege for several years of living in India, from whence the Aryan race, as it is called, originates. There the sacredness of the cow is a matter which one has to see to understand how humane and how normal and how natural an attachment there is to this animal. It is, as I say, from the first human economy as against the mere ecology and was one in which we raised herds, milked, butchered, tanned, and became something more than beasts of the field in the company of this most extraordinary creature, with which anyone having the least association—as I say, I have all these years now lived on a dairy farm—cannot but become involved with.

Any nation as fortunate as we in the dairy farmers of this country ought to take the greatest care to see that they prosper and to see that they continue in their extraordinary development of an industry as old as man itself, but only in

our time coming into the extraordinary productive levels of American herds.

We are dealing with a problem today that is the problem of the success of our farmers in increasing by 50 percent in two decades the amount of milk produced per cow in our herds. We would do well to attend to that extraordinary efficiency and enterprise that brought it about.

I think it is important, Mr. President, also to note that in the State of New York, certainly, which I believe is the third largest dairy State in the country, the President's proposals not to have an April adjustment in dairy price supports are not opposed in principle by farmers and they are not opposed by any organization which I am aware of, the statement being made that if this is something the economy requires, it is something the dairymen can sustain.

I have been in public life long enough and sufficiently long in this body to recognize the implacable drive of the self-interests that verges all too often on selfishness on the part of economic interests everywhere. Without exception, economic interests are self-interests. And it is really quite extraordinary to see the dairymen of my State, or their representatives, stating that if this is something that has to be done, we will live with it; not bellowing, not charging, not complaining, and not asking that they be exempted from anything else than what would be required of everyone else.

It is an example that ought to be called to the attention of others, because it is an example that can most usefully be emulated.

Mr. President, I see that the distinguished chairman of the Agriculture Committee is on the floor. He has risen and, in his characteristically generous way, has not chosen to interrupt, but rather patiently wait until the end of this discourse. I am happy at this time to thank the Chair and thank the chairman for his patience in hearing out his friend the dairy farmer from New York.

Mr. HELMS. Mr. President, I thank the Senator.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86–380, appoints the Senator from Tennessee (Mr. SASSER) to the Advisory Commission on Intergovernmental Relations.

MILTON D. STEWART

Mr. NUNN. Mr. President, I want to call attention to the fact that one of our most dedicated and competent public servants, Mr. Milton D. Stewart, has left Government service to pursue a career in private industry.

Mr. Stewart served as the first Chief Counsel for Advocacy of the Small Business Administration with a vitality and enthusiasm few persons bring to any job. As the first head of a newly created office, his task required the definition of the role of that office as much as the execution of formal duties.

Mr. Stewart took the initiative to actively pursue better relations between small businesses and Government. Primary among these initiatives was his development of the White House Conference on Small Business, which served as a forum for all parties interested in the health and continued success of individual enterprise in America.

During his tenure as Chief Counsel for Advocacy, he made over 200 speeches to over 40,000 small businesses and women. Two themes ran throughout those speeches. First, the importance of small business to the American economy; and, second, the need for small businesses to get involved in the Government and the legislative process.

Mr. Stewart, who testified over 30 times before Congress on legislative matters, worked hard to increase the reponsiveness of the Federal Government to the small business community. Those efforts paid off. During the past Congress five major pieces of legislation on regulatory flexibility, paperwork reduction, patent reform, equal access to justice, and small business economic policy were all enacted into law to make the 96th Congress the most important small business Congress ever convened. One of these bills—the Regulatory Flexibility Act—grew from a concept Milt Stewart developed 12 years ago.

Mr. Stewart's pursuit of coordination between Federal, State, and local governments, along with activities with regional small business groups, was a farsighted effort to use a Government office to reduce redtape and other obstacles at all levels for innovative firms in energy, environmental, and other fields.

The Office of Advocacy, which now handles over 100 individual cases for small business per month in the areas of health, energy, environment, transportation, media, agriculture, housing, and labor, has developed under Stewart's leadership into a viable and valuable link between Government and small business.

Working with businesses, the Office of Advocacy, has held hearings and thoroughly studied problems pervasive throughout the small business communities. The subjects of these indepth studies were economic stability, innovation, mergers, Government operation, and small business continuity, many of which directly resulted in the more than 50 publications issued by the Office of Advocacy during Mr. Stewart's tenure.

When Congress created the Office of Advocacy, there was some doubt as to whether the Office could function as Congress intended. Clearly, the role of the chief counsel was to act as a strong independent voice for small business both within the Congress and within the administration. On numerous occasions the Office has taken various positions on legislation and regulations that were contrary to those of some Government officials. Each time Mr. Stewart testified before Congress, he came forward with hard facts, data, and comments which represented the views of small business. We are pleased to report that after a 2½-year experiment, the chief counsel has allayed those earlier doubts. No one could have set a better example for chief counsels to follow.

Mr. President, I think that not only small business and the Congress, but also the American people are grateful to Milton Stewart and his staff for the outstanding job they did in unifying the small business community and ascertaining the interests of small business within the Federal Government.

Mr. Stewart's tireless efforts to improve relations between all areas of Government and small business, his spirited search for ways to assist the general public, and his unswerving dedication to his office are all worthy of special recognition. We wish Mr. Stewart well in his new role as editor of Inc. magazine.

MILTON D. STEWART

Mr. MOYNIHAN. Mr. President, the distinguished Senator from Georgia, Mr. NUNN, has called attention to the Senate today of the departure from Government of Mr. Milton D. Stewart, one of the distinguished public servants of our time.

Mr. Stewart served as the first chief counsel for advocacy of the Small Business Administration and, as Senator NUNN recounts, did an extraordinary job in that role.

I would simply like to add my own appreciation to Mr. Stewart's work. It happens that we have been associated in one way or another through a quarter century of public affairs in America. Mr. Stewart was assistant counsel to the Governor of the State of New York, Averell Harriman, at the time I was assistant secretary to the Governor. In those roles, we knew each other closely and have known each other since.

No one that I know of his talent and ability has so devoted himself to the role of small business in this country as a matter of principle and of national concern. His judgment in small business was not that it was simply an area of activity in which American profits may be made and losses sustained, but rather that it is a form of activity which is essential to American life.

It is the proven experience over how many generations now that technological innovation in the American economy, as in other economies like ours, in the greatest measure emerges from small firms. There is something the matter with bigness that kills off creativity.

You may only look at those every time a giant corporation announces that it has produced a research laboratory and engaged the most trendy architect of the age to build them, you may be pretty sure that not much research will be done any longer by that corporation. Ideas come out of back rooms and garages and basements. Even in an advanced technological nation, they continue to. This conception of Milton D. Stewart has sustained him in what is now more than two decades of effort in this field.

I join Senator NUNN in wishing Mr. Stewart well in his new role as head

of INC magazine, and we remind him of our old days in putting our publications for the Democratic Party in the State of New York which were not nearly so successful.

He has distinguished his post and he leaves behind him a standard of performance which I hope and I am sure his successor will maintain.

THE NATIONAL ECONOMY

Mr. MOYNIHAN. Mr. President, the administration has repeatedly challenged critics of the President's economic program to suggest a plan of their own. In his speech on February 18, Mr. Reagan said:

(M)ay I direct a question to those who have indicated unwillingness to accept this plan for a new beginning: an economic recovery? Have they an alternative which offers a greater chance of balancing the budget, reducing and eliminating inflation, stimulating the creation of jobs and reducing the tax burden?

At least one organization has an alternative; it is the AFL–CIO. The union described its plan recently in a policy statement about the national economy. The AFL–CIO executive council issued the statement 3 weeks ago, after its midwinter meeting in Bal Harbour, Fla.

I invite everyone with an interest in the economic policy debate to read it. The statement is well written. It is full of ideas.

I should say that the union and the administration differ little over objectives. Both want to reduce unemployment and to control inflation. But the union would do it differently, in part because it believes that the poor have little room for additional sacrifice, in part because it prefers to direct resources to specific industries and to specific areas rather than to provide a general stimulus.

Mr. President, I ask unanimous consent that the statement—"The National Economy"—be printed in the RECORD.

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

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL ON THE NATIONAL ECONOMY

America needs economic policies that deal effectively and equitably with the causes of inflation and the weaknesses that prolong unemployment.

Such policies must base any sharing of austerity in the fight against inflation on the ability to sacrifice, and not demand even more sacrifice from those who know only austerity. They also must include adequate resources to provide needed investment in specific industrial and geographic sectors within an overall employment program.

Based on these key principles, the AFL–CIO supports economic policies that:

First, reduce interest rates. The high cost of money spreads throughout the economy and is built into the cost of all goods and services. High interest rates choke the economy and prevent expansion. High interest rates and high unemployment are the major contributors to a high budget deficit.

Second, dampen actual inflationary forces directly rather than attempting to depress demand in the hope that this generalized approach may eventually cool the causes of inflation as the entire economy is thrust into a deep freeze.

Cutting federal expenditures to balance the budget is not a cure-all for inflation. Budget cuts will not protect the economy from spiraling energy and food costs, nor will they bring down housing costs.

At a time like the present, when large portions of plant capacity stand idle and when a big segment of the labor force is unemployed, federal budget cuts will only aggravate already sluggish economic conditions. When both labor and capital resources are fully used, then a balanced budget makes sense.

Third, reduce unemployment by providing training and job opportunities for those specific population groups that have neither and encourage the rebuilding of the economy, especially in industries and geographic areas hardest hit by unemployment. The ranks of the jobless will not be diminished by undermining the wages, standards and safeguards of those who already hold jobs. Rather, there must be a policy that improves the ability of American industry to compete in the world economy by modernizing outdated plants and equipment and by modernizing outdated foreign trade policies.

Reducing unemployment is the most effective method of reducing the federal deficit. Yet, the current unemployment rate is 7.4 percent, a level that was surpassed in the post-World War II years only by the 1975–76 recession. Each one percent decline in joblessness increases federal revenues and decreases social costs a total of $30 billion. Putting one million jobless workers back to work would balance the previous Administration's proposed fiscal 1982 budget.

Fourth, use an effective combination of targeted taxing and expenditure programs to reverse the damage caused by inflation and unemployment. Individual tax cuts should be used to restore consumer buying power. Business tax cuts should be used to stimulate investment where it is needed the most. Government revenues should be used to sustain consumer spending during periods of unemployment.

A tax cut that fuels inflation by encouraging the wealthy to buy more luxuries or speculate in commodities is not an answer to the nation's economic woes. A general across-the-board business tax cut or depreciation speedup would provide large windfalls to sectors of the economy that are already prosperous while ignoring critical industry and area investment capital needs.

Today's problems of unemployment and inflation cannot be measured by "averages" or solved by aggregate across-the-board policies. The impact of unemployment and inflation are distributed unevenly across different sectors, regions, and demographic groups. The solution to these problems, therefore, does not lie in macroeconomic policies that are applied in an unfocused manner. The nation needs to address its problems in a manner that alleviates the underlying forces pushing up inflation and unemployment.

As we have said in the past: if an overall program of price and income controls becomes necessary to fight inflation, we are prepared to cooperate provided controls are fair and equitable and applied to all prices and all forms of income.

Specifically, the AFL–CIO calls for adoption of the following program:

I. LOWERING HIGH INTEREST RATES

Credit controls should be authorized by the President and instituted by the Federal Reserve Board. Funds and credit should be targeted to certain sectors of the economy for productive industrial development and needed housing expansion. Existing credit control procedures should be used and new tools developed to tighten credit for speculative activities and made available to productive uses.

II. ANTI-INFLATION POLICIES

To reduce inflation in energy

Mantain controls on natural gas to moderate price increases.

Continue presidential authority to control oil prices and invoke rationing in time of need.

Expand development of alternative sources of energy to prevent short-term and long-term shortages that artificially increase prices.

Assist utilities to convert from high-priced oil to coal.

Equalize utility rate structures to end the subsidy consumers are providing for large industrial users and institute peak-load pricing.

Expand energy conservation programs, especially the weatherization of schools, hospitals, public buildings and low-income housing.

Establish a U.S. oil import agency to purchase and distribute oil imports, thus assuring the nation an adequate supply of oil at a fair price.

To reduce inflation in housing

Expand the supply of low- and middle-income housing to alleviate the housing shortage that is driving up prices and rents.

Reduce mortgage interest rates by expanding the use of so-called "tandem plans" that provide below-market interest rate mortgages for low- and middle-income buyers.

Encourage home mortgage financing by union pension funds invested in long-term, fixed-payment mortgages guaranteed by the government.

Discourage the conversion of rental housing structures to condominiums in tight housing markets.

Restrict the export of logs which is causing shortage-induced domestic price increases for lumber.

To reduce inflation in food

Restrict the export of commodities in short supply.

Remove restrictions on the planting of crops.

Limit price support programs to small- and moderate-sized farms that are owned and worked by resident farm families.

Establish a National Grain Board, similar to the Canadian Wheat Board, to handle foreign sales of U.S. grain.

To reduce inflation in health care

Enact hospital cost containment.

Encourage expansion of Health Maintenance Organizations, which have a proven record of lower health care costs.

Use cost-reducing practices, such as second opinions before elective surgery and support for health planning to eliminate duplication of costly equipment and services.

Provide medical care for Medicare and Medicaid recipients under HMO programs using per capita payments for total health care services rather than more costly fee-for-service payments.

Reform health insurance practices to eliminate cost-plus reimbursement of hospitals and nursing homes by using prospective reimbursement and negotiated fee schedules.

Reform the health care system through national health insurance.

III. REDUCING UNEMPLOYMENT AND REBUILDING THE ECONOMY

Reindustrialization

Business, labor and government should participate in a Reindustrialization Board. Under this Board, a Reconstruction Finance Corporation would invest public and private funds in necessary reindustrialization projects.

The RFC should have authority to allocate $5 billion in depreciation allowances, investment tax credits, or other business tax

changes targeted to where they are most urgently needed.

The RFC should be allotted an additional $5 billion to: encourage new industries that have difficulty obtaining necessary financing; and assist older industries with special capital needs for modernization, expansion and restoration of their competitive position. The RFC should also direct its resources to specific geographic areas of the country that are most in need.

The nation's transportation network needs to be upgraded for people and goods to move more efficiently. Railroads, highways, port facilities and airports are in desperate need of rehabilitation. Urban mass transit systems need to be extended and modernized.

The urban infrastructure of sewers, water systems, streets and bridges needs to be renewed. Public investment of this nature would greatly improve economic efficiency and potential output of goods and services.

There should be a thorough review and analysis of existing investment tax "incentives" in the light of reindustrialization goals. The capital gains exclusion, rapid depreciation, oil depletion allowances, and investment tax credits have all been enacted as tax "incentives" to investment. Tens of billions of federal dollars are lost through these provisions, and it is time to restudy their value to the economy.

The multi-billion dollar tax subsidies available for overseas operations—such as the Domestic International Sales Corporation, foreign tax credits and the deferral of taxes on overseas profits are in direct conflict with national needs and restrict the availability of needed capital at home. They should be repealed. The Overseas Private Investment Corporation should also be ended, as it encourages U.S. firms to invest abroad by insuring such investments against political risks.

The tax benefits of state and local industrial development bonds should be curtailed and integrated into the overall approach to reindustrialization.

Employment and training programs

The unemployed men and women who cannot find jobs in the private sector should be put to work on the various public service and public works projects that expand the services and facilities needed for a healthy economy. The skills and abilities of the unemployed must be put to productive purposes and not go wasted. These programs can be targeted to increase supply and economic efficiencies in key areas, thereby moderating price increases, while reducing unemployment.

There should be expanded training programs for adult workers and youth. Training programs should provide new job skills and lead to employment opportunities.

Direct, targeted jobs programs tailored to the specific needs of unemployed workers are two to four times more effective in creating jobs than generalized tax cuts.

IV. RESTORING BUYING POWER

Federal taxes

The AFL-CIO calls for enactment of a refundable tax credit equal to 20 percent of the employee's and 5 percent of the employer's Social Security tax. Thus, the benefits would be concentrated on middle and low-income wage earners, those who have suffered the most from high inflation. It would more than offset the recent increases in Social Security taxes on workers and have no adverse effect on the financial stability of the Social Security trust fund.

Under such a tax program, a four-person family with a $12,000 per year income would receive a $160-a-year tax reduction compared with $92 under the first year of the Kemp-Roth proposal. At $25,000, the cut would be $332 compared with $305 under Kemp-Roth. At $30,000, relief is about the same, and above those levels, the maximum relief is limited by Social Security payments and, thus, would not provide the open-ended, ever-growing windfall to the wealthy that Kemp-Roth would provide.

This individual Social Security tax credit would cost the Treasury approximately $16 billion, or about half of the first-year cost of Kemp-Roth. The employer Social Security tax credit would cost the Treasury about $4 billion, and benefit employers in labor intensive industries.

Income support programs

Basic income support programs for the unemployed, the poor and the elderly must be maintained and improved to restore buying power lost to inflation.

When people are jobless, a minimum level of buying power is sustained by basic income support mechanisms such as unemployment insurance, trade adjustment assistance and food stamps. When inflation is high, the elderly and the poor, who are forced to rely on government, also need their income protected by Social Security, welfare and Medicaid.

In order to curb inflation, reduce unemployment and solve fundamental problems, the resources of the country must be redirected. Additional capital investment is needed in many, but not all industries and areas. Tax burdens should be lightened for many but not all individuals. The problems of the poor in our society must be solved, not aggravated.

BUDGET COMMITTEE MARKUP SESSIONS

Mr. MOYNIHAN. Mr. President, I rise to note in the Saturday edition of the New York Times a commentary on the recent markup, as we say in the Budget Committee, of the reconciliation instruction, that in the 4 days in which that process required, I was absent one evening and during that evening nine votes were cast, some of them tie votes, and these were described as also being key votes.

Mr. President, I wish first to establish the record here. There were eight rollcall votes that evening of which there was only one with a tie and that was a motion by my good friend, Senator EXON, of Nebraska, that would have eliminated Saturday urban mail delivery. It failed. Being a tie vote it failed, and I would have voted against it, which also means it would have failed.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD a letter from Stephen Bell, staff director of the Budget Committee, which describes those facts.

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

U.S. SENATE,
Washington, D.C., March 23, 1981.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MOYNIHAN: There were eight roll call votes taken during markup of the reconciliation instruction Tuesday evening (March 17, 1981). Only one of them was a tie: an Exon motion increasing the authorization cut for the Governmental Affairs Committee by eliminating Saturday urban mail delivery which failed 6/6.

Sincerely,

STEPHEN BELL,
Staff Director.

Mr. MOYNIHAN. Mr. President, I also ask unanimous consent to have printed in the RECORD a list of the actual votes that did take place on the evening of Tuesday, March 17.

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

VOTES

ENVIRONMENT AND PUBLIC WORKS

(1) Domenici, reductions in direct spending. Passed, voice vote.

(2) Metzenbaum, restore part of EDA cut and all of Regional Commissions cut. Failed 2 to 15.

(3) Riegle, restore part of EDA cut. Failed 8 to 9.

(4) Domenici, President's proposal. Passed, voice vote.

ENERGY

(5) Exon, restore DOE Alcohol Fuels cut. Failed 4 to 12.

(6) Hart, restore half of Solar Bank cut. Failed 4 to 13.

(7) Quayle, restore part of DOE Alcohol Fuels cut. Failed 8 to 9.

(8) Kassebaum, cut federal expenditures for Strategic Petroleum Reserve and further cut payments in lieu of taxes. Passed 13 to 4.

GOVERNMENT AFFAIRS

(9) Domenici, reductions in direct spending. Passed, voice vote.

*(10) Exon, eliminate Saturday urban mail delivery. Failed 6 to 6.

(11) Grassley, eliminate October 1, 1981, federal pay raise. Failed 5 to 7.

(12) Domenici, President's proposal. Passed, voice vote.

Mr. MOYNIHAN. Mr. President, finally, in that regard, I wish to observe that I was indeed absent on that occasion and, in a situation which is all too well known to the Members of this body, I was supposed to be in more than one place at one time.

During the middle of the day on Wednesday, in point of fact, I was absent as I am vice chairman of the Select Committee on Intelligence, and a matter of very urgent nature came up and we were required to meet in the Senate dome as we do and I, accordingly, left the proceedings in the Dirksen Office Building.

On Tuesday evening, the simple fact is that our new U.S. Permanent Representative to the United Nations was giving the first dinner that she has given at the U.S. mission residence in the Waldorf Towers and asked me to be present as the guest of honor. Invitations were extended to a wide number of persons in the political corps.

This was meant to be a statement of a certain kind, as these occasions invariably are, and I was torn between the duty to be in the Budget Committee and the duty to be at the Ambassador's dinner. I chose the latter, for the very simple reason that it is a rule that the Budget Committee invariably observed under all of our chairmen to date, that until the final action upon a reconciliation instruction or a budget resolution any member may ask that any vote once taken be taken a second time and for that matter a third, fourth, or fifth time until finally the committee has reached an agreement on its outcome and we are ready to vote on final passage.

*Tie vote.

Had there been any vote taken Tuesday evening which my vote might have reversed, it would have been a most elementary move on my part Wednesday morning simply to ask that the vote be reconsidered as it would have been done.

As the distinguished Presiding Officer, who is a member of the Budget Committee, will recall, on one occasion Thursday afternoon I did ask that the whole of the votes on the Veterans' Administration affairs be reconsidered, as indeed they were, and to no one's great surprise the outcome the second time was the same as it was the first time.

I make that point simply that it be understood that it is not always possible for us to be on hand at these committee meetings. It is, accordingly, the practice of most committees of which I am a member to allow matters to be reconsidered until a final measure is reported by the committee.

I further note, Mr. President, that this was March 17, and I missed the St. Patrick's Day parade in New York in order to be at the committee during the day. That strikes me as perhaps an even more grievous transgression, but I will not go further into the matter.

I thank the Chair for his courteous attention.

THE ANNUAL REPORT OF THE OFFICE OF TECHNOLOGY ASSESSMENT

Mr. THURMOND. Mr. President, as the President pro tempore of this body, I have received the annual report of the Office of Technology Assesssment for the calendar year 1980. This report, which has been submitted pursuant to the Technology Assessment Act of 1972, is available for review in my office.

CONCLUSION OF MORNING BUSINESS

Mr. HELMS. Mr. President, is there further morning business?

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

ADJUSTMENT OF PRICE SUPPORT FOR MILK

The PRESIDING OFFICER. Under the previous order, the clerk will state the pending business.

The legislative clerk read as follows:

A bill (S. 509) to amend section 201 of the Agricultural Act of 1949, as amended, to delete the requirement that the support of price of milk be adjusted semiannually.

The Senate resumed the consideration of the bill.

AMENDMENT NO. 8

The PRESIDING OFFICER. The clerk will state the pending amendment.

The legislative clerk read as follows:

Amendment No. 8. Proposed by the Senator from Montana (Mr. MELCHER) for himself and others.

The amendment is as follows:

On page 1, after line 5 insert a new section 2 as follows:

"SEC. 2. (a) Congress finds that milk protein products, including but not limited to casein, caseinates, lactalbumin, and whey protein concentrates or mixtures containing 5 percent or more of these products, are being imported into the United States in such quantities as to render or tend to render ineffective, or materially interfere with, the dairy price support program conducted by the Secretary of Agriculture under the Agricultural Act of 1949.

"(b) To ensure that the entry into the United States of milk protein products will not render or tend to render ineffective, or materially interfere with the dairy price support program conducted by the Secretary of Agriculture under the Agricultural Act of 1949, the President shall by proclamation impose, under the authority of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), a quota limiting the amount of milk protein products including but not limited to casein, caseinates, lactalbumin, and whey protein concentrates or mixtures containing 5 percent or more of these products, that may enter the customs territory of the United States in any calendar year after 1980. The quota so proclaimed by the President shall be in an amount equal to 50 percent of the average of the total imports of such milk protein products into the United States during the five-year period 1976 through 1980. The proclamation shall be considered a proclamation issued by the President under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) meeting the requirements of that section.".

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, the imports of subsidized casein have sharply increased in the last few years, interfering with the operation of the dairy price support program and needlessly costing the U.S. Government millions of dollars. There are a couple of points I would like to make in that regard.

Once casein was imported as an industrial chemical. Casein is now used to produce highly fabricated foods which are stealing the traditional markets of American dairy farmers.

In other words, those of us who have been led to believe that casein is for industrial uses, and that is its principal use, simply have to catch up with the facts, which are that casein now is used to produce fabricated foods.

Let me give one or two examples.

In 1980 we imported 36,749,000 pounds of casein that went into making imitation cheese. We imported, in the same year, 1980, almost 17 million pounds of casein that went into coffee whiteners, and an additional 11 million pounds of casein that went into frozen dessert toppings.

That adds up to over 64 million pounds of casein that we imported in 1980 for food purposes.

There is another group of products that uses casein that is also a food group. What are these? They are bakery products and breakfast foods, and that totals over 15 million pounds of casein.

What does this mean to the dairy program?

What it means to our domestic dairy program is, that all of these foods I have mentioned—imitation cheese, coffee whiteners, frozen dessert toppings, the bakery products, and the breakfast foods—could have used skimmed milk produced in this country instead of casein.

If we are going to operate a price-support program for domestic milk products, we have to defend the integrity of that program. What we are doing with casein is importing it in such quantities it is interfering with the program right now.

If the pending amendment, which would reduce the amount of casein that would be imported into this country by 50 percent of the past 5-year average, is agreed to, we would take a step forward to defend the integrity of a dairy program for domestic milk producers.

If that seems rather vague or if that does not grab you, let me tell you what it would mean in saving taxpayer dollars. It would save $230 million, approximately, in Federal outlays every year. Why? Because, instead of the imported casein for these food products, domestic skim milk would be used, and that would take it off the market and the dairy farmers would not be selling it to processors to process as nonfat dry milk, which would go into storage after purchase by the Government, and become part of the Commodity Credit Corporation stocks.

I think it is rather obvious, then, that a casein amendment is in the best interest of national fiscal responsibility, rather than S. 509, which is before us, just curtailing the price increase for domestic producers and saving, as the President's advisers claim, $147 million. We would add over $200 million in additional savings.

When we are asking all of our citizens to tighten their belts because of the urgent need to cut back the cost of the Federal Government, we must remember to sacrifice equally. The old, the poor, the indigent, and the children in this Nation are all asked to forego important Federal programs which have helped to sustain them. Dairy farmers have been reasonable in their acceptance of S. 509. It is only reasonable that foreign dairy producers take their cut as well.

I want to enlarge on some of these points a little bit. The administration currently is asking for a reduction in medicaid. Congress is asked for a reduction in the arts and humanities. The President's budget is asking for a reduction in Federal aid to education. And there are all sorts of other programs that are being suggested by the President and by the Budget Committee of the Senate to be cut, including student loans.

I would like to go on quite a while on those various programs that the administration is asking us to cut, and which the Senate Budget Committee is recommending that the Senate cut, but I have to echo what I know to be the case with my constituents, and I think rather generally, with all the citizens of this country, that we are intent on reducing Federal expenditures, attempting to reach a balanced Federal budget.

When S. 509 was in the Senate Agriculture Committee, where it was approved by a vote of 14 to 2, a rather lopsided vote, the amendment to reduce casein imports was defeated by a tie vote of 8 to 8. Since then we have improved

on the amendment in the hope of gaining a majority vote here on the floor.

What we are telling the dairy farmers of this country in S. 509 is that they are going to have to forgo a price-support increase. Is there anything wrong, then, in tying in with that a notice to dairy farmers in other parts of the world, to tell them that the United States has to make a reduction in the market for the milk product that they are producing to sell here in the United States, to tell them that that market is going to be reduced in the case of casein by 50 percent?

It seems to me that that is not an unreasonable position for the United States to take.

It would affect those dairy farmers who have been sharing this market in the United States, producing milk in their own countries and having it manufactured into casein and selling it to the United States, where it is made into food products here. It seems to me it is not unreasonable to tell those dairy farmers in various parts of the world, in other countries, that they are not going to have as much market for their product in the United States as they have enjoyed in the past because the United States has a surplus; the United States has to protect its own dairy price-support program.

The United States has currently in stock $1.5 billion worth of dairy product, and it is projected by the Department of Agriculture that before the year is out we are likely to have $2 billion worth of dairy stocks in storage, purchased by the U.S. Government and stored by the Commodity Credit Corporation in their warehouses.

If we do not do anything about this amendment, we are indeed going to see an increase of substantial proportions in the purchases by the Federal Government to support the U.S. dairy program, the domestic dairy program, the domestic industry.

So what the amendment is attempting to do is say we are going to forgo, we are going to prevent some of that Federal outlay. We are buying up milk here, in the United States, and having it processed into dry nonfat product and then stored and purchased by the U.S. Government. We are going to forgo some of that; we are going to make some savings in Federal outlay, and we are going to reduce some of the product that is imported—that is, casein—that goes into food products in this country, in order to accomplish that, thereby saving $200 million, perhaps $230 million per year in Federal outlay.

It is obvious that there is another point to be made, too. Every time we spend $1 on unnecessary imports—and this is surely an unnecessary import, the amount of casein that we are importing right now, since it can be offset by skim milk produced here—every dollar that we spend on imports that we really do not need depreciates the value of the dollar abroad and increases the amount of product we must import, further adding to inflation.

This does not undermine the President's effort to trim the budget. It helps it by saving the Government and the American taxpayer the $200 to $230 million a year that I have mentioned.

This amendment clearly saves money, increases greater activity through the private market, and boosts our economy. That is everything that President Reagan has called for in his program in budget cuts.

Mr. President, the argument is made that the casein amendment is somehow going to interfere with GATT. Let me put that to rest. This amendment is compatible with the intention of the U.S. policy on GATT agreements and with all the legal precedents that we can find. Let me point out that section 22 of the Agricultural Adjustment Act was enacted by Congress to limit imports of agricultural products which interfere with price support programs.

Second, the contracting parties to GATT agreed to a waiver recognizing the superiority of section 22 to trade agreements.

Third, precedent for section 22 actually is found in the Trade Agreements Act of 1979 and the Agricultural Act of 1956.

To emphasize that, Mr. President, I ask unanimous consent to have printed in the RECORD this list of precedents that establish the procedures, normal section 22 procedures, which, when used, create no additional opportunity for retaliation to other nations, the precedents I have referred to.

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

The proposed directive regarding the use of Section 22 presents no violation of U.S. obligations under the General Agreement on Tariffs and Trade than use of normal Section 22 procedures, creates no additional opportunity for retaliation by other nations, and is supported by precedent.

(1) The Section 22 waiver approved by Contracting parties to the General Agreement is confined to a waiver of U.S. obligations under Articles II and XI. It is not a waiver of the rights of affected parties to retaliate.

(2) Through a series of amendments and revisions, the Congress has made it clear that Section 22 stands in a superior position to any trade agreement or other international agreement to which the United States is a party. The Congress has expressed this principle in broad terms as it applies to the laws of the United States in general.

(3) The Congress has made it clear that its actions on international trade issues and passage of legislation dealing with these questions do not constitute approval of the General Agreement on Tariffs and Trade.

(4) Precedent for legislation directing Presidential action under Section 22 of the Agricultural Adjustment Act is found in the Trade Agreements Act of 1979 and in the Agricultural Act of 1956. The latter instance is identical to the present situation.

(5) The intent of Congress expressed in Section 22 has been frustrated by inaction and delay. The present amendment is necessary to overcome this failure of action.

(6) The threat of trade retaliation against the United States would be neither increased nor decreased as the result of this proposed action. The waiver afforded Section 22 under the General Agreement does not remove the retaliatory capability under any circumstance. Further, retaliation can be brought even in the absence of a violation of the General Agreement.

Mr. MELCHER. Mr. President, I think it is important that we lay to rest as many arguments used against this commonsense amendment as possible. I think this one clearly has been overemphasized by those who oppose the amendment.

Other arguments are, why not wait for administration action on this matter? There have been promises of studies and section 22 administrative action. They are just delaying tactics. The dairy farmers have been waiting for relief from unfair casein imports through four Secretaries of Agriculture. The message the American dairy farmer is getting is that there is a do-nothing policy by the Federal Government. To explain this a little more clearly, I ask unanimous consent to have printed in the RECORD an article recently prepared by the National Milk Producers Federation, which describes how long they have been waiting, and why there is no use in waiting any longer.

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

THE MELCHER AMENDMENT MUST BE PASSED—CASEIN IMPORTS MUST BE CONTROLLED

PLACING A LIMIT ON CASEIN

In recent years, imports of casein have increased sharply from the historical level of 100–115 million pounds annually. At the same time, there has been a sharp increase in use for food and animal feed products and a decline in industrial uses such as the production of paints, paper coatings, plastics and adhesives. Over 80 percent of the casein used in the U.S. now goes into food and feed products compared with less than two percent in the 1950s.

Casein Imports, 1976–80, 1,000 lbs.

1976	112,141
1977	114,245
1978	137,134
1979	150,827
1980	151,226

In many of these food and feed uses, casein replaces domestically produced milk. This milk, in turn, is processed into nonfat dry milk which is sold to the Commodity Credit Corporation under the Dairy Price Support Program. The imports, therefore, have a two-fold impact. They take away markets for domestic production and they increase government costs under the price support program.

Based on data developed by the International Trade Commission, National Milk Producers Federation has estimated that in 1980 64.6 million pounds of casein went into food products which definitely displaced domestic milk production. This included products such as imitation cheeses, coffee whiteners, frozen desserts and whipped toppings. Another category of products where there is probably displacement of milk utilized 30.1 million pounds of casein. This includes such things as bakery products, breakfast foods and other food items.

An additional 56.9 million pounds of casein were used in industrial products and food and feed uses where displacement of milk likely did not take place.

But the 94.7 million pounds of casein that did displace milk represents the equivalent of 3.4 billion pounds of skim milk. This volume of skim milk, made into nonfat dry milk and purchased by CCC under the Dairy Price Support Program, represents almost 315 million pounds of nonfat dry milk and CCC outlays of over $295 million.

A SOLUTION IS AVAILABLE

The dairy industry has petitioned the last four Secretaries of Agriculture to place limitations on these imports under Section 22 of

the Agricultural Adjustment Act. That law requires such action if imports of a product interfere with the operation of a domestic price support program. No action has been taken to meet this directive.

Senator John Melcher of Montana has been joined by 13 other Members of the Senate in sponsoring an amendment to S. 509 that would place a Section 22 limit on these imports at 50 percent of the past five year average—about 69.5 million pounds per year.

S. 509 is legislation which would eliminate the scheduled April 1 adjustment of the dairy price support level. The Melcher amendment would provide an import level more than adequate to meet the needs for products where casein is essential. It would also provide substantial government savings through reduction in CCC costs under the Price Support Program. Conservative estimates place these savings at $200 million a year, more than the $147 million savings the administration projects from eliminating the April 1 price support adjustment.

THIS DOES NOT VIOLATE U.S. TRADE AGREEMENTS

A major argument made against the Melcher amendment is that it would be a violation of the U.S. trade agreements. A careful review of the situation indicates that it would not be a violation of the General Agreement on Tariffs and Trade (GATT). The following points must be considered.

(1) Section 22 itself states that the law must not be superceded by any international agreement entered into by the United States.

(2) There is precedent in the Trade Agreements Act of 1979 and the Agricultural Act of 1956 for Congressional action directing the establishment of Section 22 import restraints.

(3) The U.S. has never ratified the GATT.

(4) There is a waiver under the GATT for the operation of Section 22.

(5) The right of other countries to retaliate against the U.S. for actions under Section 22 is not waived. This is the specter raised if the Congress takes this action. Actually, the GATT allows countries to retaliate in instances where there is no violation of trade agreements, and in ". . . any other situation."

WHY WE MUST NOT WAIT AND GAIN THIS ACTION BY ADMINISTRATIVE MOVES

USDA is presently conducting a study into casein use and its effect on the Dairy Price Support Program. It has been suggested that it would be better to wait until this is complete and proceed with a Section 22 action administratively.

That study was designed, frankly, to develop arguments for not doing anything. When USDA officials responsible for the work were told this in late 1980, they proceeded with the work anyway. The study is a duplicate of the U.S. ITC study of 1979 which concluded that there is no significant displacement of nonfat dry milk by casein. The Chairman of the Commission argued that there was not enough information to make this conclusion and the point of the entire question is not the displacement of nonfat dry milk, but the displacement of milk.

WHAT IS THE STATUS OF THE MELCHER AMENDMENT?

The Senate debated the Melcher amendment on Tuesday, March 17. At that time, Senator Howard Baker, the Majority Leader, offered a motion to table the amendment, thereby killing it. That motion was defeated 45–53. The record of that vote is included.

Immediately following that vote, further consideration of S. 509 and the Melcher amendment was suspended.

A vote on the amendment and the bill is now set for Tuesday, March 24.

SENATE VOTE ON MOTION TO TABLE THE MELCHER AMENDMENT

Opposed to Melcher amendment:

Armstrong, Baker, Bradley, Chafee, Cochran, Cohen, D'Amato, Danforth, Denton, Dole, Domenici, East, Garn, Goldwater, Gorton.

Hatch, Hatfield, Hawkins, Hayakawa, Helms, Humphrey, Jepsen, Kassebaum, Laxalt, Lugar, Mathias, McClure, Moynihan, Murkowski, Nickles.

Packwood, Percy, Quayle, Roth, Rudman, Schmitt, Simpson, Specter, Stevens, Symms, Thurmond, Tower, Wallop, Warner, Weicker.

Supporting the Melcher amendment:

Abdnor, Andrews, Baucus, Bentsen, Biden, Boren, Boschwitz, Bumpers, Burdick, Byrd, Harry F., Jr., Byrd, Robert C., Cannon, Chiles, Cranston, DeConcini, Dixon, Dodd.

Durenberger, Eagleton, Exon, Ford, Glenn, Grassley, Hart, Heflin, Hollings, Huddleston, Inouye, Jackson, Johnston, Kasten, Kennedy, Leahy, Levin, Long.

Matsunaga, Melcher, Metzenbaum, Mitchell, Nunn, Pell, Pressler, Proxmire, Pryor, Randolph, Riegle, Sarbanes, Sasser, Stafford, Stennis, Tsongas, Williams, Zorinsky.

Mr. MELCHER. Mr. President, there is another point that we have not discussed. Casein has been imported from foreign countries that are still struggling with hoof and mouth disease. Let me list those we are importing casein from: Russia, Poland, Argentina, the Netherlands, West Germany, and France. Why would we be risking this dreadful disease coming into the United States by importation of casein products from these countries that still have hoof and mouth disease? Mr. President, I cannot answer that question, but it does give me great concern. It really does give me great concern.

I think we perhaps all have taken it for granted that, in the process of producing casein, the hoof-and-mouth virus simply cannot live. Well, I want to read excerpts of an article by J. J. Callis and P. D. McKercher entitled "Dissemination of Foot-and-Mouth Disease Virus Through Animal Products." McKercher works at Plum Island Animal Disease Center, northeastern region, the Agricultural Research Service, in the Department of Agriculture. Callis cooperates with him.

Their article, which is about 2 years old, raises a point that hoof-and-mouth disease, prevalent in many countries around the world, is a very grievous and serious threat to this country. Only a portion of their article that I am going to read refers to the danger of casein in the importation of the virus.

Traditionally, meat and livestock products have been produced principally for domestic market. It has been estimated that only about 5 percent of the world's supply of carcass meat enters the international trade. There are, however, wide varieties of meat products and by-products such as hides, glands, casein, etc., on the international market. Any and all of them, when they originate in a country having an animal disease that does not exist in the importing country, could serve as a means of introducing the disease into the latter.[5] The disease agent may be carried in a product from an infected animal (primary contamination) or, in the case of processed items, contamination could even occur after processing (secondary contamination).

Footnotes at end of article.

Mr. President, that is a paragraph out of the article that I am reading into the RECORD to lay the groundwork for my personal concern and, I hope, the concern of all of us, that casein, indeed, could be the vehicle for introducing hoof-and-mouth disease into this country.

Going on, reading further into the article, I read a part of the article under the heading of "milk."

MILK

As indicated above, cattle infected with FMD shed the virus through various pathways. This includes mammillary secretions. As a result, milk and milk products from infected animals are of special concern to animal health authorities. During the 1967–68 outbreak of FMD in Great Britain, observations were made on the involvement of the milk in the spread of the virus. Samples of milk taken from milk collection trucks were shown to contain virus even from premises where the disease had not been diagnosed and from milk on store shelves. This observation led to a study which demonstrated high concentrations of virus in milk from infected cows before the appearance of signs of the disease. In addition, the virus may persist in mammary tissue of convalescent cows.[6]

The inactivation of FMDV in milk has been studied by various workers. This includes milk to which virus is added and milk from infected animals. FMDV in milk from infected animals may be extracellular or intracellular. The majority of the virus in milk is inactivated by Pasteurization, 72° C for 15 seconds; however, there is a small fraction which persists.

Mr. President, for emphasis, let me repeat that:

The majority of the virus in milk is inactivated by Pasteurization, 72° C for 15 seconds; however, there is a small fraction which persists. This resistant fraction is also not inactivated by evaporation, the production of casein or caseinate, or the production of some cheeses.

Now, Mr. President, I am quoting from an article by two of the foremost authorities on control of foot-and-mouth disease virus and preventing it from coming into the United States. I am quoting the best reference that I know of on the subject. What they have stated in their article can be further read in more detail in an article published in 1975 by Callis, Hyde, Blackwell, and Cunliffe, entitled "Survival of Foot-and-Mouth Disease Virus in Milk and Milk Products."

I think it is a rather serious oversight, it is an extremely serious oversight, that we are importing into this country casein from countries that have hoof-and-mouth disease. These are countries from which currently, either this year or last year, or the past several years, we have imported casein which are hoof-and-mouth countries, including Soviet Russia, Poland, Argentina, the Netherlands, West Germany, and France.

Mr. President, why would we take this chance? For the same reason, Mr. President, that we are allowing our domestic milk support price program to be threatened by imports. The imports are simply too loose, absolutely too lose. They just make the deal, the product comes in.

For the same reason that the Department of Agriculture says they want to study the matter some more; they simply have not gotten around to doing the right thing. I do not know what interferes with

them, whether it is the State Department or somebody else in the administration gets in their way, from making a scientific judgment, from making a proper judgment, a commonsense judgment, saying, we have to decrease some of these imports.

Nevertheless, we are taking a chance, a very, very grievous chance, on the importation of casein in light of the fact that some of the casein comes from countries that have hoof and mouth disease.

Turning to a different subject, Mr. President, is there anything wrong in saying to some of our trading partners, "Well, we just do not have as good a market as we have had for you before in terms of casein, so you are going to have to be restricted"; saying to them, "You can sell about half of what you have been selling, or you can sell all of what you have been selling, provided you get the market first. But when that limit is reached, you are out for that year."

Is there anything wrong with saying that? I do not think so. I do not think so at all, for reasons I have established before: We have to protect our own program, we have to save up to $200 million a year in Federal outlays because we cannot afford it any longer, because we have too much surplus. The surplus of our own products is mounting so much that we are going to have between $1.5 billion and $2 billion of dairy products in surplus ourselves, just stored in the Commodity Credit Corporation.

I do not think there is anything wrong in saying that. I think it is only fair for our taxpayers that we do say it, we do enact it, we do agree to the amendment so that we can enhance the President's program, help the President's program find, under this additional savings, $200 to $230 million in Federal outlay.

MELCHER AMENDMENT TO S. 509

● Mr. D'AMATO. Mr. President, let me suggest to my colleagues today, that the amendment offered by the distinguished Senator from Montana, Senator MELCHER, is not an amendment designed to benefit the dairy industry, but, in fact, an attempt to embarrass the Reagan administration as it embarks on the course mandated by the American people last November.

As a Senator from one of the leading dairy States in this Nation, let me assure my colleagues on both sides of the aisle that the dairy industry has vociferously made its views known to me regarding the importation of casein. I have met with leaders of the New York dairy industry in an effort to understand the problems with which they are faced. They have urged me to support the Melcher amendment. I have reviewed the many letters and telegrams that I have been beseiged with for the better part of the past few weeks.

By an overwhelming margin, they have urged me to support the Melcher amendment. Nevertheless, I remain unconvinced that the reduction of casein imports into this country is necessary to protect the dairy industry in New York and throughout the United States. To date, the evidence simply does not support the premise embodied in the amendment before us.

Just over 1 year ago, the International Trade Commission studied the matter and found no evidence of U.S. damage from casein imports. This most recent and extensive study of the issue does not support the contention that casein imports damages our domestic milk industry and should be restricted. The fact of the matter is that casein is not even manufactured in the United States because it is not eligible for price supports, and therefore is not profitable.

I am also concerned with the effects of this amendment on our trade relations. The Senate Agriculture Committee heard testimony from the Deputy Secretary of Agriculture warning that legislation limiting casein imports would risk almost certain action against the full range of U.S. exports under the general agreement on tariffs and trade (GATT). Australia, New Zealand and Ireland have already communicated to us their concern about limiting the importation of casein.

Despite the evidence presented to the Senate which indicates that we should not adopt the Melcher amendment, let me say that I eagerly await the Department of Agriculture's latest study to determine the effects of casein imports, which is to be completed by July 1, 1981. Let me assure the dairy industry in New York, that if the study shows a very definite adverse impact on the surplus of domestic milk, I will carefully consider sponsoring legislation to place some limits on casein imports.

However, as I said earlier, this entire matter of reducing casein imports is not important for the reasons the dairy industry believes. Rather the importance of the vote on this amendment lies in terms of whether or not we can forge a consensus to achieve the task handed us by the people in the last election: fiscal discipline. This vote is a vote of confidence in the Reagan administration's program for economic recovery.

The people of this Nation sent a message to Washington last year; that message was loud and clear. They no longer want the affairs of State to be conducted as "business as usual." We must heed their wishes. Many of us were elected as a result of the fiscal discipline theme which President Reagan articulated so clearly throughout his campaign and which became the heart of the campaigns of many of my freshmen colleagues. Now the President has asked the Congress to take the first step in restoring fiscal discipline to the operation of the Federal Government. The time is now for us to put aside individual concerns for the greater good: bringing fiscal restraint to the Nation.

As I have made clear, New York is a leading dairy State and I have been concerned with the impact of price support cuts. And I want to commend the dairy industry for taking the first step on the long and difficult road to fiscal restraint.

But this amendment is obviously a carefully crafted attempt to embarrass the administration by creating a time-consuming jurisdictional dispute in the House of Representatives. The importation of casein is not really an issue, but if the amendment should pass this body, it could signal the beginning of the end for any hope of bringing fiscal restraint to the United States.

Mr. President, we must have the courage to bring about fiscal discipline. It is not always politically popular to take such a position. We must put an end to the platitudes which have prevailed in recent times and realize that we cannot conduct business as usual. I do not believe that this administration came into office to continue conducting the business of this Nation as it has been done. Certainly, this Senator was not elected to preserve the status quo.

The American public expects us to act. In so doing, let us bear in mind that there is a larger constituency than any one State; that constituency is this Nation. I urge my colleagues to defeat this untimely amendment.●

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

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. BOREN. Madam President, I ask unanimous consent that the pending amendment be temporarily set aside so that I might offer an amendment at this time.

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

UP AMENDMENT NO. 16

(Subsequently numbered amendment No. 13)

(Purpose: To embargo imports of agricultural commodities from the Soviet Union under certain conditions)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) proposes an unprinted amendment numbered 16.

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

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

The amendment is as follows:

On page 1, immediately after line 5, insert the following:

"SEC. 2. Notwithstanding any other provision of law, effective April 1, 1981, no agricultural commodities produced in the Union of Soviet Socialist Republics may enter the United States during any period during which the President imposes restrictions on, or prohibits, the export of grain or any other agricultural commodity to the Union of Soviet Socialist Republics (including the restrictions on the exportation of agricultural products to such country initiated on January 7, 1980).".

Mr. BOREN. Madam President, at this time I ask for the yeas and nays on the

amendment and ask that the vote occur after that on the other amendments for which votes have already been scheduled tomorrow.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. BOREN. Very well. I will withdraw the request at this time and renew it at a later time.

Madam President, the amendment which I am offering simply states that we should cease the importation of any agricultural products from the Soviet Union as long as the grain embargo remains in effect.

I am certainly in support of the two amendments which have already been offered to the pending measure, the amendment of the Senator from Montana which would curtail the imports of casein in the United States, saving the taxpayers money, since these imports displace domestically produced milk, particularly skim milk. I am also strongly in support of the amendment of the Senator from Nebraska (Mr. ZORINSKY), which calls upon the President to end the grain embargo and sets up procedures which have to be followed if the grain embargo was continued in the future.

During the discussion of the dairy support program in the Agriculture Committee, I was shocked to learn that we are continuing to import not only casein but other agricultural products as well from the Soviet Union. It is absolutely incredible to me that our Government, on the one hand, denies to our farmers access to the Soviet market, while, on the other hand, we are keeping our markets open to the Soviets.

I am sure that many farmers would raise the question, particularly those who produce wheat and grain, as to whose economic interest the U.S. Government is really looking out for.

During the course of last year, we imported from the Soviet Union approximately 1.3 million pounds of casein at a cost of close to $1 million. This $1 million could have rightly gone to U.S. farmers. Other agricultural products were imported from the Soviet Union as well.

I would like to state a few of those products. The figures which I am citing are drawn from the U.S. Foreign Agricultural Service, which reports that last year we imported from the Soviet Union almost $10 million worth of agricultural products, including $6,479,000 in fur skins; $1,455,000 of tobacco; $979,000 of casein; $334,000 of tea; $175,000 worth of sugar and tropical products, and lesser amounts of fruits and vegetable products, alcoholic beverages, chocolates, seeds and other grain products, and honey.

Again, while the amount of money is not large, I think the principle involved is extremely important. How can we possibly defend the Government's current policy?

I would say that I make these comments not in criticism of the current administration. These policies were begun under the past administration. But as one of the farmers said to me over the weekend when I was in my home State, "We used to refer to the embargo as being the embargo of the last administration, but if these policies which are now being followed are not rapidly reconsidered and changed by the current administration as the months roll on, it will become the policy of this administration."

I think it would be very unfortunate if this administration does not act immediately to correct the policy mistakes of the past.

If the administration is not going to lift the grain embargo—as I hope it will—I believe that we should halt the importation of all Soviet agricultural products for as long as the embargo on the sale of grain produced by American farmers is continued.

This is the least that we can do for our farmers who have already suffered an unfair burden as a result of American foreign policy. Why should we be benefiting Soviet farmers and ignoring our own?

I yield the floor, Madam President.

Madam 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. BOREN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BOREN. Madam President, at this time I renew my request for the yeas and nays on the amendment I have just offered and ask that the vote on the amendment occur after the votes on the others which have been offered.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 11—EMBARGO ISSUES

Mr. ZORINSKY. Madam President, I would like to deal with several issues raised about my amendment. These questions have been raised in some cases to assure that my amendment is not considered on its merits.

First, we should have a clean bill to send to the House. This approach gives S. 509 the standing of one of the Ten Commandments. We do not know what the House will do with S. 509. They might amend the bill in the House, and my amendment could help them pass the bill.

Second, we should not send a message of any kind to the Soviets regarding the embargo. This attitude would leave the embargo issue completely up to the executive branch, and I do not propose to do that. My embargo amendment would offer three clear options for the President. The Soviets know about this issue, our producers know about it, and it will not go away. We are not fooling anyone by this approach.

Third, we should not try to commit the President or tie his hands. My amendment is flexible, and it offers the President a path to get rid of the embargo if he wants to do so. I point out that 43 Senators, including 33 Republicans, voted last year for the Pressler amendment that was much more restrictive than my amendment.

Madam President, I hope that the President will view this amendment as a flexible approach to get rid of the embargo. It is an issue, and, regardless of the outcome of this amendment, he will at some point have to deal with it. Hiding one's face in the sand will not help it to go away.

Madam President, the adoption of my amendment will not have an adverse effect on S. 509. The purpose of S. 509 is very simple—to reduce the Federal budget for fiscal year 1981. My amendment will not have any effect on the Federal budget.

Under my amendment, if the President decides to extend the Russian grain embargo in a manner that does not discriminate against U.S. farmers, he can do so without any outlay of funds.

If, on the other hand, he chooses to lift the embargo, or to move toward renegotiating the bilateral grains agreement with Russia, it can be expected that grain markets will react positively and grain prices will be stronger. If this happens, the need for farmers to rely on USDA farm programs will be lessened. This, in turn, could result in a reduction in USDA outlays.

Also, it must be remembered that farmers rightly feel that, with the grain embargo, they have been unfairly singled out to bear the sacrifice involved in the President's national policy decision relating to our foreign relations with Russia.

With S. 509, it appears that farmers have once again been singled out—this time to be the first to lose benefits as a result of the President's implementation of the public mandate to reduce the Federal budget.

Because farmers are once again being put first in line to bear the cost of a national policy decision, it is singularly appropriate to include in S. 509 provisions to help farmers cope with problems they already face as a result of being the first, and practically only, group to bear the consequences of the earlier national policy decision.

For these reasons, I urge the Senate to reject the argument that my amendment is not appropriate for inclusion as part of S. 509.

Madam President, I have a copy of a letter from Mr. Jim Billington, president of the National Association of Wheat Growers, to President Reagan dated March 5. The Wheat Growers letter outlines the concern of America's wheat farmers with the continued restriction of wheat sales to the Soviet Union, and urges the President to take immediate steps to negotiate a new grain supply agreement with the Soviet Union.

The National Association of Wheat Growers letter states:

> The lack of any definitive statement by your administration regarding the future of US-Soviet grain trade leaves farmers with no idea of export sales prospects.

I ask unanimous consent, Madam President, that a copy of the letter be printed in the RECORD at this point.

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

NATIONAL ASSOCIATION OF WHEAT GROWERS,
Washington, D.C., March 5, 1981.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The National Association of Wheat Growers urges you to take immediate steps to open negotiations with the Soviet Union which can lead to the successful conclusion of a new Grain Supply Agreement.

U.S. wheat sales to the USSR have been restricted for 14 months, and the nation's farmers have been isolated from Soviet demand while competing export firms have been free to sell third country grain to the USSR through their affiliate organizations. Soviet imports of wheat, notwithstanding the U.S. sales suspension, will reach a record of 16.5 million metric tons (605 Million bushels) during the July-June period of 1980–81, 37 percent more than the 1979–80 level.

The ineffective U.S. sales suspension has produced a shift in world grain trade patterns, and competing nations which have been allowed to displace the U.S. in this important market are expanding their wheat acreage and will strive to maintain their enlarged market share in future years. This means that U.S. farmers will continue to be disadvantaged in world trade, unless they are able to regain access through the renegotiation or extension of the 1975 US-Soviet Grain Supply Agreement which expires on October 1, 1981.

Lifting the Carter Administration embargo is a necessary first step to restoring US-Soviet grain trade, but this promised action will have little value unless it is coupled with clearance of new U.S. wheat sales for shipment before October 1 and initiatives to continue the arrangement between the U.S. and the USSR on grain sales.

Currently, the lack of any definitive statement by your administration regarding the future of US-Soviet grain trade leaves farmers with no idea of export sales prospects. Access to the Soviet market and the potential level of trade figure decisively into wheat farmer income, and we urge you to take prompt action towards re-establishing commercial grain sales.

Sincerely yours,

JIM BILLINGTON,
President.

Mr. ZORINSKY. Madam President, I ask unanimous consent that a copy of a Washington Star article dated March 13, 1981, authored by Representative PAUL FINDLEY, be printed in the RECORD.

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

EMBARGO "PROTECTION" COULD BOOST FARM SUBSIDIES

(By PAUL FINDLEY)

In the back rooms of Capitol Hill, and in lobbying offices throughout the city, one of the linchpins of President Reagan's economic program is slowly being worked loose. Surprisingly, presidential indecision is the instrument of its undoing.

The president's farm program, which is expected to call for massive cuts in federal farm subsidies and a greater emphasis on market economics and self reliance, is in danger. Instead of less federal involvement in the farm sector, we could see more. Making matters worse, the effort could be spearheaded by farm-state congressmen from the president's own party.

Why? Because the president's foreign policy contradicts his domestic policy. And while some members of his cabinet fail to see the contradiction, it is abundantly clear to the many farmers who supported Republicans in 1980.

A critical issue in the 1980 farm vote was the suspension of grain sales to the Soviet Union. During the campaign, President Reagan said that one of his first acts to help the ailing farm economy would be to end the embargo.

Meanwhile, Republican congressmen and senators who went to the wall for candidate Reagan in 1980 are being pushed to the wall in 1981 by President Reagan. It is particularly uncomfortable for congressmen who vocally supported Mr. Reagan prior to the Republican convention.

NOW IT'S HIS

The Carter embargo is fast becoming the Reagan embargo. The president promised to reduce government involvement in agriculture with its attendant protections (and costs), in exchange for more access to markets.

Congressmen on both sides of the aisle are willing to work for programs which reduce government spending—or at least hold the line on it. But in an economic segment like agriculture, where production costs over the past two years have risen twice as fast as prices farmers received, there is tremendous pressure, given the embargo atmosphere, to maintain government programs which keep people on the farm. This is done through price-supports, aggressive market development, or both. If you want a market-oriented domestic policy, you should have a market-oriented foreign policy.

Making matters worse, to date the embargo has done little more than show the Soviets that we're willing to hurt ourselves greatly in order to hurt them a little. Damage to the Soviet economy has been minimal. Soviet grain imports in the year ending July 1981 are expected to total a record 34.5 million tons, Soviet livestock numbers on Jan. 1 of this year stood at near-record levels.

While the growth rate in livestock slowed to its lowest level in at least four years, there was no evidence of the massive herd liquidation predicted when the embargo originally was invoked. In short, the Soviets have managed the embargo well.

That doesn't mean things are rosy in the USSR. The Soviets harvested a poor crop in 1980, the second poor crop in a row. Soviet livestock were slaughtered at lighter weights last year, resulting in a 400,000 ton (2.6 per cent) decline in meat products. Milk production was down; however, poultry production was up.

We also should remember that in 1975, when Under Secretary of State Charles Robinson attempted to link U.S.-Soviet grain sales to discounts on Soviet oil sold to the U.S. Soviet Foreign Trade Minister Nikolaichev responded that the Soviet people would "starve to death" before they succumbed to such political pressure.

The Soviet Union has now issued a public invitation for a new grain agreement. The longer Mr. Reagan delays, the more domestic pressure will arise—and not just from the farmers.

EMBARGOED JOBS

Labor is beginning to realize that American jobs are being embargoed, too. Thousands of man-days of work in trucking, storing, drying, barging, processing and shipping grain are being banned from the United States.

For example, the Soviet Union is now importing dramatic quantities of processed items—mainly flour and soybean meal. The volume of each category will exceed one million metric tons during the current year. And the processing represents an enormous input of labor. Except for the embargo, those jobs would be mostly U.S. jobs. Because of the embargo, Europeans, Canadians and Latin Americans get the work.

So, the issue for the Reagan administration becomes: What now? If the president fails to lift the embargo, farm state congressmen and senators will be under heavy pressure to write an "embargo protection" provision in the 1981 farm bill. This probably would take the form of substantial price support increases. The additional budget outlay could damage the president's economic program. It might even wreck it, if it provided the precedent for other interests to gain funding increases for their pet projects.

On the other hand, lifting the embargo would not necessarily result in additional shipments of U.S. grain to the Soviets during the next six months.

FIVE-YEAR AGREEMENT

Under our five-year grain agreement with the Soviet Union, we are committed to selling up to 8 million tons of wheat and corn to them each year, regardless of the embargo. The Soviets have already purchased the 8 million tons allowed, so if they wish to purchase more, they must consult with us. These consultations could be used to negotiate the conditions that would be associated with increased grain sales as well as any other item of mutual interest.

For this reason, ending the embargo would give nothing to the Soviets. It would not weaken the President's hand in dealing with them.

In the October 1980 Communist Party Plenum, Soviet President Leonid Brezhnev stated that improving the food supply is the first priority is improving the living standards of the Soviet people. This would imply a willingness to negotiate, if the process could be moved from the public arena to private consultations. It should be clear that hard-liners in the Kremlin will never publicly concede U.S. embargo pressures.

That leaves U.S. policy makers facing a stalemate that is hurting the Reagan administration. For the president, the embargo albatross is getting heavier. He should shed it quickly.

● Mr. HUDDLESTON. Mr. President, I have previously during this debate commended the distinguished Senator from Nebraska (Mr. ZORINSKY) for introducing his amendment.

The adoption of the amendment by the Senate would go far in depoliticizing the debate on whether the embargo of U.S. grain sales to the Soviet Union that was imposed more than a year ago by President Carter and renewed by him in January 1981 should be lifted or continued.

Certainly, of all the national security and foreign policy actions taken by the United States to impress the Soviets with the seriousness with which our Nation regarded their breach of international law and world stability in invading Afghanistan, none was more dramatic than the grain embargo.

There are, I am sure, many persons—including Senators on both sides of the aisle—who would agree with the remarks President Reagan made in his major agricultural address of the 1980 campaign. In that address, which was delivered on September 30, 1981, at the Lounsberry farm in Nevada, Iowa, Mr. Reagan stated that the grain embargo—and I quote his exact words—

Has damaged the credibility of American farmers as reliable suppliers of wheat, of corn, of soybeans—of all farm products, by embargoing agricultural exports to the Soviet Union. The result has been costly to American farmers and ineffective in our foreign policy. I am pleased that the U.S. Senate

voted last Friday to shut off funds to implement or enforce the embargo. This Senate action was a vote of no confidence in President Carter's embargo policy. The canceling of our grain contracts was Jimmy Carter's way of sending a "Message to Moscow." All he succeeded in doing was hurting U.S. farmers and the U.S. taxpayer.

Likewise, I am certain that there are many persons—again including Senators on both sides of the aisle—who would disagree with Mr. Reagan's assessment. There are, in fact, many western experts who have concluded that the effects of the U.S. sales suspension—although difficult to isolate from the Soviets' own agricultural shortcomings—presented Soviet planners with a troublesome element, and that the economic impact has been more than trivial.

At his March 6 press conference, President Reagan stated that the administration had not reached a decision on whether to lift the grain embargo. I ask unanimous consent that the text of the question the President was asked and his response be printed at this point in the RECORD.

Q. Mr. President, at your first press conference you were asked about the Soviet grain embargo and you said there were really only two options, either to abandon it or to broaden it. Can you tell us which it's going to be and, if you haven't reached a decision yet, can you tell us what factors are still at play here?

P. We haven't reached a decision. I think all of us would like to lift the embargo. I still think that it has been as harmful to the American farmer as it has been to the Soviet Union. But the situation has changed from the time when it was first installed. I was against it at the time. I didn't think it should have been used as it was, that if we were going to follow that road we should have gone across the board and had a kind of quarantine. We didn't but now we have to look at the international situation the way it is and see what would be the effect, not just on the use of grain, but the whole effect and what would it say to the world now for us to just unilaterally move.

We're hopeful that we can arrive at a settlement and a decision on this and one that will benefit our farmers.

But whatever may be one's views on the effect of the embargo, it is important to note that Senator ZORINSKY's amendment is flexible and gives the President a number of ways to resolve this important issue. The amendment does not in any way force the President to take precipitous action.

Under the amendment, the President is afforded three options:

First, the President could elect to lift the Soviet grain embargo by April 15, 1981; or

Second, the President could continue the restrictions by certifying to Congress that the continuation of such restrictions is necessary to further significantly the national security and foreign policy interests of the United States, and will not have an undue adverse effect nor unfairly impose a discriminatory burden on the agricultural economy and the farmers of the United States; or

Third, the President could delay for a reasonable time the date of expiration of the embargo by certifying to Congress, prior to April 15, 1981, that he intends to negotiate a new bilateral grains agreement with the Soviet Union to replace the agreement that expires September 30, 1981.

It should be noted that if the President elects to lift the embargo, such lifting would not automatically open up additional sales of wheat and corn to the Soviets. Russia has already purchased the 8 million tons authorized this year under the bilateral grains agreement. Any additional sales of wheat and corn above the 8 million tons would have to be negotiated.

The second option offers the President the opportunity to continue the embargo if he feels that it is necessary for national security and foreign policy reasons. But, he would have to first consider the effect of the embargo on farmers. He would have to certify to Congress that continuation of the embargo would not impose a discriminatory burden on farmers and the agricultural economy of the United States.

The third option offers the President the opportunity to continue the embargo in order to negotiate a new bilateral grains agreement with the Soviet Union. No time limitation is set, and the amendment only asks that the President indicate that he intends to negotiate a new bilateral agreement to replace the one that expires September 30, 1981.

I emphasize again that Senator ZORINSKY's amendment does not force the President to take precipitous action. The amendment merely requires the President to resolve the grain embargo issue in a careful and responsible manner.

I urge all my colleagues to support the amendment.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED OR HELD AT THE DESK

As in executive session, the acting president pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees or held at the desk.

Mr. BAKER. Mr. President, I ask unanimous consent that the nomination of Lionel H. Olmer and G. Ray Arnett be held at the desk until the close of business Tuesday, March 24.

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

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON ADVERSE IMPACT ON COMMUNITIES IN AREAS IN WHICH MAJOR NEW MILITARY FACILITIES ARE CONSTRUCTED—MESSAGE FROM THE PRESIDENT—PM 39

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

Section 803(b) of the Military Construction Authorization Act of 1980 (PL 96-418) called for "a thorough study of the adverse impact on communities in areas in which major, new military facilities are constructed with a view to determining the most effective and practicable means of promptly mitigating such impact."

I am submitting herewith a preliminary report of this study which is being conducted by an interagency task force of the President's Economic Adjustment Committee. Additional portions of the study are underway, and will be reflected in a final report which I will forward to the Congress as early as practicable. I will defer offering any recommendations on organizational and budgeting approaches to community impact assistance until that time.

The study's initial findings suggest that the near-term local economic benefits of a major new military base may not be sufficient to offset the cost of required additional community facilities and services, and that special Federal assistance to affected States and localities may sometimes be justified. At the same time, States and localities should be expected to meet their share of community facility and service costs in defense growth areas.

As a general proposition, therefore, any special Federal community assistance should be limited to the minimum level required to mitigate the adverse effects of extraordinary growth directly resulting from major new bases. In addition, I would oppose any such assistance taking the form of Federal guarantees of State or municipal indebtedness where the interest is not subject to Federal income tax.

With specific reference to the MX weapon system and the East Coast Trident base, Section 802 of the Military Construction Authorization Act contains a wide range of authorities to provide impact assistance for affected areas. If additional legislation is required, I will request it at a later date.

I am pleased to note that representatives of the States and affected communities of Nevada, Utah, Georgia, and Florida have participated fully in preparation of this report. I am confident that, working together, we can meet legitimate State and local concerns about defense growth impacts, while at the same time satisfying national security requirements.

RONALD REAGAN.

THE WHITE HOUSE, *March 23, 1981.*

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-613. A communication from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation relating to increasing

the interest rates on loans for water and waste disposal and essential community facilities; to the Committee on Agriculture, Nutrition, and Forestry.

EC–614. A communication from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to remove the 2 percent interest rate for insured loans under the Rural Electrification Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC–615. A communication from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation to recover costs related to certain commodity inspection and licensing; to the Committee on Agriculture, Nutrition, and Forestry.

EC–616. A communication from the Deputy Secretary of Agriculture transmitting a draft of proposed legislation relating to cost recovery for services by the Federal Grain Inspection Service; to the Committee on Agriculture, Nutrition, and Forestry.

EC–617. A communication from the Clerk of the U.S. Court of Claims, transmitting, pursuant to law, a copy of the Court's judgment order in the case of Caddo Tribe of Oklahoma, et al. v. United States; to the Committee on Appropriations.

EC–618. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on certain proposed rescissions and deferrals previously transmitted to the Congress by the President; jointly, pursuant to the order of January 30, 1975; to the Committee on Appropriations and the Committee on the Budget.

EC–619. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the cumulative report on monthly rescissions and deferrals proposed by the President; jointly, pursuant to the order of January 30, 1975; to the Committee on Appropriations and the Committee on the Budget.

EC–620. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on a proposed foreign military sale to Saudi Arabia; to the Committee on Armed Services.

EC–621. A communication from the Assistant Secretary of the Air Force for Research, Development, and Logistics, transmitting, pursuant to law, a report on a decision made to convert an operation and maintenance function at Nellis Air Force Base, Nev., to performance under contract; to the Committee on Armed Services.

EC–622. A communication from the Assistant Secretary of the Air Force for Research, Development, and Logistics, transmitting, pursuant to law, a report on a decision made to convert shelf-stocking and custodial services at Pease AFB, N.H., to performance under contract; to the Committee on Armed Services.

EC–623. A communication from the Acting Under Secretary of Defense for Research and Engineering, transmitting, pursuant to law, data to accompany a report previously submitted (pursuant to law) costs incurred on negotiated and bid and proposal defense contracts; to the Committee on Armed Services.

EC–624. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management, transmitting, pursuant to law, a report on a decision made to convert laundry and drycleaning functions at Fort Riley, Kans., to performance under contract; to the Committee on Armed Services.

EC–625. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management, transmitting, pursuant to law, a report on a decision made to convert the laundry and dry cleaning service at Fort Meade, Md., to performance by contract; to the Committee on Armed Services.

EC–626. A communication from the Assistant Secretary of the Air Force for Research, Development and Logistics, transmitting, pursuant to law, a report on a decision made to convert the family housing maintenance function at Moody Air Force Base, Ga., to performance by contract; to the Committee on Armed Services.

EC–627. A communication from the Acting Assistant Secretary of the Army for Installations, Logistics, and Financial Management, transmitting, pursuant to law, a report on a study made regarding conversion of certain in-house functions to performance by contract; to the Committee on Armed Services.

EC–628. A communication from the Assistant Secretary of the Air Force for Research, Development, and Logistics, transmitting, pursuant to law, a decision made to convert commissary shelf-stocking and custodial services at Malmstrom Air Force Base, Mont., to performance by contract; to the Committee on Armed Services.

EC–629. A communication from the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, transmitting pursuant to law, a report on selected reserve recruiting and retention incentives; to the Committee on Armed Services.

EC–630. A communication from the Acting General Counsel of the Department of Defense transmitting a draft of proposed legislation requesting authority for supplemental appropriations for fiscal year 1981 for the Department of Defense; to the Committee on Armed Services.

EC–631. A communication from the Assistant Secretary of the Air Force for Research, development, and Logistics, transmitting, pursuant to law, a report on a decision made to convert the range maintenance at Gila Bend Air Force Auxiliary Field, Ariz., to performance by contract; to the Committee on Armed Services.

EC–632. A communication from the Secretary of Labor transmitting, pursuant to law, a report on exemplary rehabilitation certificates awarded for calendar year 1980; to the Committee on Armed Services.

EC–633. A communication from the Assistant Secretary of the Air Force for Research, Development, and Logistics, transmitting, pursuant to law, a report on a decision made to convert commissary shelf-stocking and custodial services at Seymour-Johnson AFB, N.C., to performance by contract; to the Committee on Armed Services.

EC–634. A communication from the Acting Under Secretary of Defense for Research and Engineering, transmitting, pursuant to law, a report on independent research and development and bid and proposal costs; to the Committee on Armed Services.

EC–635. A communication from the Assistant Secretary of the Air Force for Research Development, and Logistics, transmitting pursuant to law, a report on a decision made to convert the ground maintenance function at March Air Force Base, Calif., to performance under contract; to the Committee on Armed Services.

EC–636. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation relative to furnishing of routine port services to visiting naval vessels of friendly foreign countries if same are provided reciprocally to vessels of the United States; to the Committee on Armed Services.

EC–637. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "DOD Participation in the Space Transportation System: Status and Issues"; to the Committee on Armed Services.

EC–638. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Air Force and Navy Plans to Acquire Trainer Aircraft"; to the Committee on Armed Services.

EC–639. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the first annual report of the Corporation on the Change in Bank Control Act of 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC–640. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the Board on the administration of the Change in Bank Control Act of 1978; to the Committee on Banking, Housing, and Urban Affairs.

EC–641. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, information on reports to be submitted to the Congress by the Department in the next two months; to the Committee on Banking, Housing, and Urban Affairs.

EC–642. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report with respect to a transaction involving United States exports to Israel; to the Committee on Banking, Housing, and Urban Affairs.

EC–643. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting a draft of proposed legislation to extend the authorization of appropriations for the Neighborhood Reinvestment Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC–644. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the sixth annual report of the Board on the Board's functions with respect to Section 18(f) of the Federal Trade Commission Act; to the Committee on Banking, Housing, and Urban Affairs.

EC–645. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers per day and the on-time performance of each train operated by the Corporation for the month of January 1981; to the Committee on Commerce, Science, and Transportation.

EC–646. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers per day and the on-time performance of each train operated by the Corporation for November 1980; to the Committee on Commerce, Science, and Transportation.

EC–647. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers per day and the on-time performance of each train operated by the Corporation for December 1980; to the Committee on Commerce, Science, and Transportation.

EC–648. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the Coast Guard for fiscal year 1982, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–649. A communication from the Acting Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission on the effectiveness of the Rail Passenger Service Act of 1970; to the Committee on Commerce, Science, and Transportation.

EC–650. A communication from the Acting Chairman of the United States Con-

sumer Product Safety Commission, transmitting, pursuant to law, an amended budget estimate for the Commission for fiscal year 1982; to the Committee on Commerce, Science, and Transportation.

EC–651. A communication from the Secretary of Energy, transmitting, for the information of the Senate, that a report of the Department on the Use of Alcohol In Fuel will be submitted on or about May 15, 1981; to the Committee on Energy and Natural Resources.

EC–652. A communication from the Secretary of the Interior, transmitting, pursuant to law, an annual report on the current status or completion or revision of general management plans for each unit of the National Park System for calendar year 1980; to the Committee on Energy and Natural Resources.

EC–653. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "Report of Review and Revision of Royalty Payments for Fiscal Years 1979 and 1980 for Federal Onshore and Outer Continental Shelf (OCS) Oil and Gas Leases"; to the Committee on Energy and Natural Resources.

EC–654. A communication from the Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, a copy of the Development and Management Plan, Legal Description, and Map for the St. Joe River, Idaho; to the Committee on Energy and Natural Resources.

EC–655. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the Strategic Petroleum Reserve, dated February 16, 1981; to the Committee on Energy and Natural Resources.

EC–656. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on an application for repayment of excess gas royalties paid by the Phillips Petroleum Company; to the Committee on Energy and Natural Resources.

EC–657. A communication from the Comptroller General, transmitting, pursuant to law, a report entitled "Federal Charges For Irrigation Projects Reviewed Do Not Cover Costs"; to the Committee on Energy and Natural Resources.

EC–658. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Report to Congress on Status of Emergency Response Planning for Nuclear Power Plants; to the Committee on Environment and Public Works.

EC–659. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act to clarify that no prior public hearing is required for applications for amendment which involve no significant hazards consideration and for other purposes; to the Committee on Environment and Public Works.

EC–660. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Action Needed To Resolve Problem Of Outstanding Supplemental Security Income Checks"; to the Committee on Finance.

EC–661. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "More Diligent Followup Needed To Weed Out Ineligible SSA Disability Beneficiaries"; to the Committee on Finance.

EC–662. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Federal-State Extended Unemployment Compensation Act of 1970 to eliminate the national trigger for extended compensation, change the State trigger, to provide for a qualifying requirement, and for other purposes; to the Committee on Finance.

EC–663. A communication from the Acting Secretary of the Treasury, transmitting, pursuant to law, the annual report of the Department of the Treasury's Office of Revenue Sharing for fiscal year 1980; to the Committee on Finance.

EC–664. A communication from the Chairman of the National Commission on Social Security, transmitting, pursuant to law, the final report of the Commission; to the Committee on Finance.

EC–665. A communication from the Assistant Secretary of State for Congressional Relations, transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1982 and 1983 for the Department of State; to the Committee on Foreign Relations.

EC–666. A communication from the Acting Secretary of the Treasury, transmitting, pursuant to law, a request of the Administration for prompt action on two draft bills submitted on January 17, 1981; to the Committee on Foreign Relations.

EC–667. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements, other than treaties, entered into by the United States in the sixty day period prior to March 12, 1981; to the Committee on Foreign Relations.

EC–668. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "U.S. Assistance To Egyptian Agriculture: Slow Progress After Five Years"; to the Committee on Foreign Relations.

EC–669. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, the "1980 Women In Development" report; to the Committee on Foreign Relations.

EC–670. A communication from the Acting Director of ACTION, transmitting, pursuant to law, final regulations for certain programs of ACTION; to the Committee on Governmental Affairs.

EC–671. A communication from the Employee Benefits and Risk Manager, Office of Joint Services, Farm Credit Institutions, transmitting, pursuant to law, a report on an amended retirement plan for Farm Credit Institutions in the Fourth District; to the Committee on Governmental Affairs.

EC–672. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, a follow-up report and recommendations on the report of the Board of Visitors to the U.S. Naval Academy for September 27, 1978 and September 26, 1979; to the Committee on Governmental Affairs.

EC–673. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, a report on the implementation of the Sunshine Act during calendar year 1980; to the Committee on Governmental Affairs.

EC–674. A communication from the Deputy Assistant Secretary of Housing and Urban Development (Administration), transmitting, pursuant to law, a report on a proposed amendment to a system of records for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC–675. A communication from the Acting Commissioner of Social Security, transmitting, pursuant to law, a notice of a proposed new system of records for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC–676. A communication from the Vice President of the Chesapeake & Potomac Telephone Co., transmitting, pursuant to law, a statement of receipts and expenditures of the Chesapeake & Potomac Telephone Co. for 1980; to the Committee on Governmental Affairs.

EC–677. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, a report detailing the results of an investigation requested by the Office of Special Counsel, Merit Systems Protection Board; to the Committee on Governmental Affairs.

EC–678. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of the Corporation on compliance with the provisions of the Government in the Sunshine Act for calendar year 1980; to the Committee on Governmental Affairs.

EC–679. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report of the Board on the administration of the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–680. A communication from the Acting Assistant Secretary of Commerce (Administration), transmitting, pursuant to law, the annual report of the Department on activities under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–681. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report and recommendation concerning the claim of Staff Sergeant Anne M. Fisher, United States Army Reserve; to the Committee on the Judiciary.

EC–682. A communication from the Acting Director of the International Communication Agency, transmitting, pursuant to law, the annual report of the Agency on activities under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–683. A communication from the Acting Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the annual report of NASA on activities under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–684. A communication from the Acting Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the annual report of the Agency on activities under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–685. A communication from the Director of the Administrative Office of the United States Courts, transmitting a draft of proposed legislation to amend section 3006A of title 18 of the United States Code to provide protection against personal liability to the officers and employees of certain defender organizations providing representation under the Criminal Justice Act; to the Committee on the Judiciary.

EC–686. A communication from the General Counsel, Office of the Federal Inspector, Alaska Natural Gas Transportation System, transmitting, pursuant to law, enclosures to accompany the annual report of the Office on activities under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–687. A communication from the Secretary of Health and Human Services, transmitting, for the information of the Senate, notice that the submission of the special report on the impact of the change in the definition of developmental disabilities has been delayed; to the Committee on Labor and Human Resources.

EC–688. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on section 340a of the Public Health Service Act; to the Committee on Labor and Human Resources.

EC–689. A communication from the Chairman of the United States Railroad Retirement Board, transmitting a draft of proposed legislation to repeal the first section of the act entitled "An Act to amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases"; to the Committee on Labor and Human Resources.

EC–690. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations—Pell Grant Program; Revision in the 1981–82 Family Contribution Schedules; to the Committee on Labor and Human Resources.

EC–691. A communication from the Chairman of the United States Railroad Retirement Board, transmitting, for the information of the Senate, notice of administration support for two drafts of proposed legislation submitted prior to January 20, 1981; to the Committee on Labor and Human Resources.

EC–692. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a copy of the revised budget request of the Commission for fiscal year 1982; to the Committee on Rules and Administration.

EC–693. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Better Guidelines Could Reduce VA's Planned Construction Of Costly Operating Rooms"; to the Committee on Veterans' Affairs.

EC–694. A communication from the Acting Administrator of the Veterans Administration, transmitting, pursuant to law, a report on certain cases recommended for equitable relief; to the Committee on Veterans Affairs.

EC–695. A communication from the Acting Administrator of the Veterans Administration, transmitting, pursuant to law, a report entitled "Report To Congress On Health Care For Veterans In Puerto Rico And the Virgin Islands"; to the Committee on Veterans' Administration.

EC–696. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals for the month of February 1981; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC–697. A communication from the Deputy Assistant Secretary of Defense for Installations and Housing, transmitting, pursuant to law, a report on architect-engineer contracts awarded to the 10 architect-engineering firms receiving the largest dollar total of contracts in the categories of civil works, military construction, and work for foreign governments for fiscal year 1980; to the Committee on Armed Services.

EC–698. A communication from the Chairman of the Federal Home Loan Bank Board, transmitting, pursuant to law, a copy of a study on moving the Federal Home Loan Bank of Little Rock to the Dallas SMSA; to the Committee on Banking, Housing, and Urban Affairs.

EC–699. A communication from the Comptroller of the Currency, transmitting, pursuant to law, the annual report on consumer activities of the Comptroller of the Currency; to the Committee on Banking, Housing, and Urban Affairs.

EC–700. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Urban Mass Transportation Act of 1964 to provide authorizations for appropriations, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs

EC–701. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Federal Capital Budgeting: A Collection Of Haphazard Practices"; to the Committee on the Budget.

EC–702. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Rail Passenger Service Act to authorize additional appropriations for the National Railroad Passenger Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–703. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, to amend the Highway Safety Act of 1966 to authorize appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–704. A communication from the Acting Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, proposed amendments to the previously submitted budget request of NASA for fiscal year 1982; to the Committee on Commerce, Science, and Transportation.

EC–705. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Federal Investment In Amtrak's Assets Should Be Secured"; to the Committee on Commerce, Science, and Transportation.

EC–706. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize the Secretary of the department in which the Coast Guard is operating to establish fees for Coast Guard services and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–707. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, a proposed extension to the deadline on the case "Docket No. 37276 (Sub-No. 1) Coal, Wyoming to Redfield, Arkansas" and "Docket No. 37456, Arkansas Power and Light Co., et al., v. Burlington Northern, Inc., et al."; to the Committee on Commerce, Science, and Transportation.

EC–708. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report of the National Transportation Safety Board for 1980; to the Committee on Commerce, Science, and Transportation.

EC–709. A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law, notices of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–710. A communication from the Acting Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the study of the effect of the Industrial Cost Exclusion on the construction grants program; to the Committee on Environment and Public Works.

EC–711. A communication from the Chairman of the United States Nuclear Regulatory Commission, transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, to authorize the Commission, upon determination that such action is necessary in the public interest, to issue an interim operating license authorizing fuel loading, low-power operation and testing of a nuclear power reactor in advance of the conduct of a hearing; to the Committee on Environment and Public Works.

EC–712. A communication from the Chairman and Directors of the Board of Directors of the Tennessee Valley Authority, transmitting, pursuant to law, the forty-seventh annual report of the authority for fiscal year 1980; to the Committee on Environment and Public Works.

EC–713. A communication from the Acting Administrator of the United States Environmental Protection Agency, transmitting, pursuant to law, a report to estimate the costs of construction of publicly owned wastewater treatment facilities needed to carry out the provisions of the Clean Water Act and to estimate these costs on a State-by-State basis; to the Committee on Environment and Public Works.

EC–714. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Value-Added Tax—What Else Should We Know About It?"; to the Committee on Finance.

EC–715. A communication from the President of the United States, transmitting, pursuant to law, notice of his intention to issue an Executive order proclaiming all members of the Andean group and of the Association of South East Asian Nations shall be treated, respectively, as one country for purposes of the Generalized System of Preferences; to the Committee on Finance.

EC–716. A communication from the Acting Director of the Office of Personnel Management, transmitting a draft of proposed legislation to amend chapter 83 of title 5, United States Code, to provide for annual cost-of-living adjustments; to the Committee on Governmental Affairs.

EC–717. A communication from the Acting Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, a report of an investigation submitted to the Special Counsel, Merit Systems Protection Board; to the Committee on Governmental Affairs.

EC–718. A communication from the Mayor of the District of Columbia, transmitting a draft of proposed legislation to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the rate of compensation of the City Administrator; to the Committee on Governmental Affairs.

EC–719. A communication from the Acting Assistant Administrator of the Environmental Protection Agency (Planning and Management), transmitting, pursuant to law, the annual report of the Agency on the disposal of foreign excess property; to the Committee on Governmental Affairs.

EC–720. A communication from the Chairman of the Federal Home Loan Bank Board, transmitting, pursuant to law, the annual report of the Board on activities under the Freedom of Information Act for calendar year 1980; to the Committee on the Judiciary.

EC–721. A communication from the Acting Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report stating that NASA did not grant any requests for extraordinary contractural adjustment during calendar year 1980; to the Committee on the Judiciary.

EC–722. A communication from the Secretary of Housing and Urban Deevlopment and the Secretary of Health and Human Services, transmitting, for the information of the Senate, notice that there will be a delay in the submission of the report regarding shelter and basic living needs of chronically mentally ill individuals, due on January 1, 1981, until August 1, 1981; to be Committee on Labor and Human Resources.

EC–723. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Low Productivity In American Coal Mines: Causes and Cures"; to the Committee on Labor and Human Resources.

EC–724. A communication from a member of the Office of Technology Assessment, Congress of the United States, transmitting, pursuant to law, the annual report on the activities of the Office for calendar year 1980; to the Committee on Rules and Administration.

EC–725. A communication from the Acting Administrator of the Veterans Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans: to increase the rates of dependency and indemnity compensation for their surviving spouses and children; and for other purposes; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–30. A concurrent resolution adopted by the Legislature of the State of North Dakota; to the Committee on Appropriations:

"SENATE CONCURRENT RESOLUTION No. 4034

"Whereas, there has been a decrease in the amount of federal funds appropriated to the states in the form of grants; and

"Whereas, federal regulations governing the expenditure of those moneys have not decreased; and

"Whereas, moneys dispensed in the form of block grants would reduce federal regulations and allow the state to decide how federal grants can best be utilized in state programs;

"Now, therefore, be it resolved by the Senate of the State of North Dakota, the House of Representatives concurring therein:

"That the Forty-seventh Legislative Assembly urges the United States Congress to appropriate and authorize expenditure of federal moneys in the form of block grants to the several states; and

"Be it further resolved, that copies of this resolution be forwarded by the Secretary of State to the North Dakota Congressional Delegation, the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, the Office of Management and Budget, and the President of the United States."

POM–31. A petition from a citizen of Baltimore, Maryland, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–32. A petition from a citizen of Culver City, California, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–33. A petition from a citizen of Burbank, California, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–34. A petition from a citizen of Edmonds, Washington, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–35. A petition from a citizen of Arleta, California, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–36. A petition from a citizen of Arleta, California, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–37. A petition from a citizen of La Canada, California, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–38. A petition from a citizen of San Marino, California, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–39. A petition from a citizen of Glendale, California, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–40. A petition from a citizen of Winchester, Massachusetts, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–41. A petition from a citizen of Winchester, Massachusetts, urging congressional support for the efforts of the Reagan Administration to strengthen the military power of the United States; to the Committee on Armed Services.

POM–42. A concurrent resolution adopted by the Legislature of the State of Utah; to the Committee on Foreign Relations;

"A CONCURRENT RESOLUTION No. 2

"Whereas, the Governor of Utah and the Utah Legislature fully recognize the importance of international trade, and the benefits accruing to the state from tax revenues, job creation and general economic stimulation that result from bilateral foreign trade;

"Whereas, the production of steel is one of Utah's most important industries, employing some 5,000 men and women at U.S. Steel's Geneva Works, near Provo, and other fellow citizens at coal mines, ore mines and limestone quarries in the state;

"Whereas, Utah steelmakers, management and labor, have achieved a nation-wide reputation for cooperative action and innovation to overcome the disadvantage of distance to major western markets, mainly on the West Coast, and to ensure the future of their industry;

"Whereas, despite this performance, the future operation of Geneva Works, one of only two integrated steel plants west of the Rocky Mountains, is seriously threatened today by imports of foreign steel which have claimed in 1980 nearly 40 percent of the total steel market in the 13 Western States;

"Whereas, the Governor of Utah and the Utah Legislature have received communications from employees, employers, and labor leaders of the Utah steel producing and steel fabricated products industry requesting presidential and congressional action to control the alarming increase of low priced foreign steel imports into the western marketing area;

"Whereas, many foreign producers are owned or subsidized by their home governments, which has enabled them to sell their products on the West Coast for less than the cost to produce and ship them to this country, or below the price charged in their home countries, in violation of the nation's trade laws;

"Whereas, this practice, known as dumping, has had a devastating impact on the competitive position of Geneva Works and other western domestic producers, resulting in a loss of jobs, employment opportunity, modernization and growth potential; and

"Whereas, Utah steelmakers seek no special protectionism or special favors of government, but only the opportunity to compete on an equal footing in cost, quality and service with other producers, foreign and domestic.

"Now, therefore, be it resolved, that the General Session of the 44th Legislature of the State of Utah, the Governor concurring therein, memorializes the Congress of the United States and the new Reagan Administration to take whatever actions may be necessary to strengthen and enforce the Federal laws enacted to ensure fair competition in the international marketing of steel and to prevent unfair trade practices by foreign steel producers in the western market.

"Be it further resolved, that the International Steel Committee, of which the United States is a member nation, be strongly urged to deal forthrightly with the issues involved to firmly establish fair trade among steel producing nations.

"Be it further resolved, that the Lieutenant Governor of Utah forward a copy of this resolution to each member of the state's congressional delegation, to the President of the Senate and the Speaker of the House of the United States Congress, and to the President of the United States."

POM–43. A joint resolution adopted by the Legislature of the State of Montana; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 15

"A joint resolution of the Senate and the House of Representatives of the State of Montana calling for the Congress of the United States to propose and submit to the States an amendment to the United States Constitution that would protect unborn children.

"Whereas, the United States Supreme Court has nullified the laws of various states concerning abortion and has interpreted the United States Constitution in a way that permits the destruction of unborn human life; and

"Whereas, millions of abortions have been performed in the United States since the abortion decisions of the Supreme Court of the United States on January 22, 1973; and

"Whereas, the Congress of the United States has not to date proposed, subject to ratification, an amendment to the United States Constitution that would protect unborn children; and

"Whereas, the Montana Legislature endorses the concept of protecting unborn children, except when an unborn child threatens the life of the mother or is the result of rape or incest; and

"Whereas, under Article V of the Constitution of the United States, amendments to the United States Constitution may be proposed by the Congress whenever two-thirds of both Houses consider it necessary.

"Now therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"(1) That the Congress of the United States is hereby requested to propose and submit to the states an amendment to the Constitution of the United States which would protect unborn children, except when an unborn child threatens the life of the mother or is the result of rape or incest.

"(2) That copies of this resolution be sent to the Secretary of State and presiding officers of both houses of the Legislatures of each of the several states in the Union, the Speaker and the Clerk of the United States House of Representatives, the President and the Secretary of the United States Senate, and to each member of the Montana Congressional Delegation."

POM–44. A concurrent resolution adopted by the Legislature of the State of South Dakota; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 1006

"Whereas, the noble gesture of placing flowers on the graves of the war dead began May 30, 1868; and

"Whereas, the grand patriot General John A. Logan called that day "Decoration Day" to honor the heroes who fell in order that the Union would be preserved; and

"Whereas, the Union veterans of the Civil War continued this tradition until the torch was passed to the American Legion following World War I; and

"Whereas, May thirtieth has become known as Poppy Day since the first World War; and

"Whereas, Memorial Day now serves as a time to remember by parades, floral tributes and lowered flags the brave citizens who gave their lives in defense of democracy; and

"Whereas, this observance took place on the thirtieth day of May for one hundred three years before changing the observance to the last Monday in May:

"Now, therefore, be it resolved, by the House of Representatives of the Fifty-sixth Legislature of the state of South Dakota, the Senate concurring therein, that the Congress of the United States return the observance of Memorial Day to the thirtieth day of May.

"Be it further resolved, that copies of this resolution be sent to the South Dakota Congressional delegation, the Clerk of the United States House of Representatives and the Secretary of the United States Senate."

POM-45. A resolution of the City Council of Youngstown, Ohio, urging the United States Senate and House of Representatives to retain the Urban Development Action Grant Program in support of the distressed areas in the City of Youngstown; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on the Budget, with amendments, and with an amendment to the title:

S. Con. Res. 9. Concurrent resolution revising the congressional budget for the United States Government for the fiscal years 1981, 1982, and 1983 (with additional and supplemental views) (Rept. No. 97-28).

JOINT REFERRAL OF BILL S. 682

Mr. BAKER. Mr. President, I ask unanimous consent that S. 682, introduced in the Senate on March 10, be referred jointly to the Committee on the Judiciary and the Committee on Commerce, Science and Transportation.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HUMPHREY:

S. 755. A bill to revise the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Prevention, Treatment, and Rehabilitation Act; to the Committee on Labor and Human Resources.

By Mr. HOLLINGS:

S. 756. A bill to amend Military Selective Service Act to provide for the reinstitution of the registration and classification of persons under such act and to reinstate the authority of the President to induct persons involuntarily into the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. JACKSON:

S. 757. A bill to amend title 10, United States Code. to authorize medical and dental care and related benefits for reservists and members of the National Guard who contract a disease or become ill while on duty for 30 days or less, and for other purposes; to the Committee on Armed Services.

S. 758. A bill to amend title 10, United States Code, to authorize medical and dental care for dependents of reservists and members of the National Guard, and for other purposes; to the Committee on Armed Services.

S. 759. A bill to amend titles 10, 32, and 37, United States Code, to authorize medical and dental care and related benefits for reservists and members of the National Guard under certain conditions, and for other purposes; to the Committee on Armed Services.

By Mr. McCLURE:

S. 760. A bill to authorize the Corps of Engineers to assume the responsibility for maintenance of a flood control project, and for other purposes; to the Committee on Environment and Public Works.

S. 761. A bill to authorize a national program to encourage dam safety; to the Committee on Environment and Public Works.

S. 762. A bill to amend the Communications Act of 1934 to prohibit the broadcast of the results or projections of the results of an election to choose the electors of the President and Vice President of the United States until all polling places in the United States are closed; to the Committee on Commerce, Science, and Transportation.

S. 763. A bill to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purposes of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir; to the Committee on Energy and Natural Resources.

S. 764. A bill to provide for protection of the John Sack Cabin Targhee National Forest in the State of Idaho; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 765. A bill to clarify the definition of the term "local furnishing" in the Internal Revenue Code of 1954; to the Committee on Finance.

S. 766. A bill to amend the Internal Revenue Code to clarify when the costs of maintaining an office at home may be deducted; to the Committee on Finance.

S. 767. A bill to amend the Internal Revenue Code to provide that, for purposes of the Federal estate tax, amounts contributed to certain cemetery companies may be deducted from the gross estate; to the Committee on Finance.

S. 768. A bill to amend the Internal Revenue Code to provide that certain research and development expenditures will not be taken into account for purposes of the "small issue exemption" from the industrial development bond rules; to the Committee on Finance.

S. 769. A bill to amend section 280 of the Internal Revenue Code of 1954 to exclude from the application of such section expenses incurred by an author of a book or similar property in the writing of such book or property; to the Committee on Finance.

S. 770. A bill to amend the Energy Tax Act of 1978 with respect to the manufacturers excise tax on buses; to the Committee on Finance.

S. 771. A bill to amend the Internal Revenue Code to increase the dependent and child care credit and to make it refundable; to the Committee on Finance.

S. 772. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income of an employee the value of public transit passes provided by his employer, to provide a refundable tax credit to an employer in an amount equal to five percent of the cost of public transit passes provided by such an employer to his employee, and for other purposes; to the Committee on Finance.

By Mr. HUMPHREY:

S. 773. A bill for the relief of Edwin S. Greble; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. HART) (by request):

S. 774. A bill to authorize appropriations for construction at certain military installations for fiscal year 1981, and for other purposes; to the Committee on Armed Services.

By Mr. SCHMITT:

S.J. Res. 52. Joint resolution to authorize and request the President to designate July 4, 1981, as "Honor Our Vietnam Veterans Day"; to the Committee on the Judiciary.

By Mrs. KASSEBAUM:

S.J. Res. 53. Joint resolution to provide for the designation of September 6, 1981, as "Working Mothers' Day"; to the Committee on the Judiciary.

By Mr. HEINZ (for himself, Mr. NUNN, Mr. DURENBERGER, Mr. GOLDWATER, Mr. BOSCHWITZ and Mr. JEPSEN):

S.J. Res. 54. Joint resolution proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound fiscal and monetary policies by limiting total outlays of the Government; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY:

S. 755. A bill to revise the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Prevention, Treatment, and Rehabilitation Act; to the Committee on Labor and Human Resources.

COMPREHENSIVE ALCOHOL AND DRUG ABUSE AMENDMENTS OF 1981

● Mr. HUMPHREY. Mr. President, today, I am introducing legislation to reauthorize both the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, and the Drug Abuse Prevention, Treatment and Rehabilitation Act. This proposal calls for a continued Federal presence in the areas of alcohol abuse, alcoholism and drug abuse. A strong Federal presence is appropriate in view of the serious consequences of alcohol and drug abuse, and the negative impact of such abuse on education, work and interpersonal relationships.

Under this proposal, the National Institute on Alcohol Abuse and Alcoholism (NIAAA) and the National Institute on Drug Abuse (NIDA) would be maintained as separate entities, and they would focus their resources on research, training, national prevention and education activities, information collection and dissemination, the provision of technical assistance to the States, and the encouragement of demonstration programs.

The Reagan administration has recommended that Federal funding for alcohol and drug abuse health care services be included in the proposed block grant framework, out of the belief that maximum authority and flexibility should be given to the States. Furthermore, block grants promise to reduce significantly Federal regulations, paperwork, and what many have seen as unnecessary Federal interference. Obviously, many details regarding the block grant approach remain to be determined, and I look forward to contributing to this process. The bill introduced today does not, therefore, address the issue of block grants directly. The bill simply assumes a block grant framework for the bulk of the alcohol and drug abuse treatment programs.

The bill focuses current project grants and contracts on model and demonstration programs, and other activities appropriate for the Federal Government. Under this new approach, funds could no longer be accessed by State governments—their funding would come via the block grants—individual grantees could receive awards for a maximum of 5 years, and no award could cover more than 75 percent of the costs of a given project in any year. Furthermore, at least 25 percent of project funds would be channeled to prevention activities.

Finally, the proposal would allow funds received from NIAAA to be used for projects aimed at drug abuse as well as alcohol abuse and alcoholism. Similar flexibility is authorized for NIDA grants. In a society where substance abuse frequently means concurrent abuse of alcohol and other drugs, it seems appropriate that the Federal response be flexible. Nevertheless, alcohol abuse and drug abuse have many unique features, and this fact must not be overlooked.

In the case of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, the bill maintains separate language authorizing grants to States to encourage passage and implementation of the Uniform Alcoholism and Intoxication Act which decriminalizes public intoxication and commits individual States to providing a continuum of care for those afflicted by the disease of alcoholism. As under current law, a State could receive grants under this program for a maximum of 6 years. The amount of individual grants would be determined by the Secretary of Health and Human Services.

For research aimed at alcohol abuse and alcoholism, a single authorization for the national research centers and all other research activities is provided. In the case of NIDA research, the bill would authorize projects aimed at developing less addictive pain and medications, long-lasting blocking agents for treatment of heroin addiction, and new detoxification agents to ease the physical effects of withdrawal, as well as investigations related to other drug prevention, treatment, and rehabilitation activities.

Mr. President, the Subcommittee on Alcoholism and Drug Abuse has scheduled hearings on Federal drug and alcohol abuse programs. On March 25 at 9:30 a.m. in room 2228 Dirksen Senate Office Building, the subcommittee will consider those programs dealing with alcohol abuse and alcoholism. On March 30 at 9:30 a.m. in room 4232 Dirksen Senate Office Building, the subcommittee will focus on comparable drug abuse programs. At these hearings, comments regarding the proposed block grant framework for the distribution of Federal funds for alcohol and drug abuse health care services will be most welcome. Furthermore, we will be interested in views regarding what is the appropriate Federal role in the area of alcohol and drug abuse, and how NIAAA and NIDA have been performing.

The legislation would reauthorize Federal alcohol and drug abuse programs only through fiscal year 1982. My intent is to hold extensive oversight hearings in the months ahead in order to be in a better position to chart the future course for these Federal programs. A 1-year reauthorization will force us to take a fresh look at Federal alcohol and drug abuse programs next year, and I think this is the best approach to take in view of the tremendous changes brought about by the November elections.

Mr. President, I ask unanimous consent that the text of my bill be inserted in the RECORD following these remarks.

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

S. 755

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 "Comprehensive Alcohol and Drug Abuse Amendments of 1981".

TITLE I—ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT AND REHABILITATION

REFERENCE

SEC. 101. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

FINDINGS AND PURPOSE

SEC. 102. Section 2 is amended to read as follows:

"FINDINGS AND PURPOSE

"SEC. 2. (a) The Congress finds that—

"(1) alcohol abuse and alcoholism are serious national problems requiring a Federal response;

"(2) alcohol abuse and alcoholism impair the physical and psychological well-being of individuals, and thereby lead to an unfortunate waste of human talent and energy; and

"(3) alcohol abuse and alcoholism interfere with education, work, and interpersonal relationships, causing great harm to families, communities, and the Nation.

"(b) It is the policy of the United States and the purpose of this Act to provide a Federal response to alcohol abuse and alcoholism which—

"(1) is constructive, cost-effective and well coordinated;

"(2) reserves to the States as much authority and flexibility as practicable;

"(3) encourages the greatest participation by the private sector, both financially and otherwise; and

"(4) concentrates on carrying out functions which are truly national in scope.".

ALCOHOL ABUSE AND ALCOHOLISM AMONG GOVERNMENT AND OTHER EMPLOYEES

SEC. 103. Section 201(b)(2)(B) is amended by striking out "single State agencies designated pursuant to section 303 of this Act" and inserting in lieu thereof "the State agencies responsible for the administration of alcohol abuse prevention, treatment, and rehabilitation activities".

TECHNICAL ASSISTANCE

SEC. 104. (a) Section 301 is amended to read as follows:

"TECHNICAL ASSISTANCE

"SEC. 301. (a) On the request of any State, the Secretary, acting through the Institute, shall, to the extent feasible, make available technical assistance for—

"(1) developing and improving systems for data collection;

"(2) program management, accountability, and evaluation;

"(3) certification, accreditation, or licensure of treatment facilities and personnel;

"(4) monitoring compliance by hospitals and other facilities with the requirements of section 321; and

"(5) eliminating exclusions in health insurance coverage offered in the State which are based on alcoholism or alcohol abuse.

"(b) Insofar as practicable, technical assistance provided under this section shall be provided in a manner which will improve coordination between activities supported under this Act and under the Drug Abuse Prevention, Treatment, and Rehabilitation Act.".

(b) Sections 302 and 303 are repealed.

SPECIAL GRANTS

SEC. 105. (a) Section 310(a) is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1982".

(b) The first sentence of section 310(c) is amended to read as follows: "The amount of any grant under this section to any State for any fiscal year shall be determined by the Secretary.".

GRANTS AND CONTRACTS

SEC. 106. (a) The section heading for section 311 is amended to read as follows:

"GRANTS AND CONTRACTS FOR THE DEMONSTRATION OF NEW AND MORE EFFECTIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION PROGRAMS".

(b) Section 311(a) is amended—

(1) by adding at the end of clause (1) "and with particular emphasis on identifying new and more effective alcohol abuse and alcoholism prevention, treatment, and rehabilitation programs,";

(2) by inserting "and" after the comma the last place it appears in clause (2);

(3) by striking out clauses (3) and (5) and by redsignating clause (4) as clause (3); and

(4) by striking out the comma and "and" at the end of clause (3) (as redesignated by clause (2) of this subsection) and inserting in lieu thereof a period.

(c)(1) Section 311(c)(2)(A) is amended—

(A) by striking out "designated under section 303 of this Act, if such designation has been made" in the first sentence and inserting in lieu thereof "responsible for the administration of alcohol abuse and alcoholism prevention, treatment, and rehabilitation activities";

(B) by striking out "the" before "State comprehensive plan" in the third sentence and inserting in lieu thereof "any"; and

(C) by striking out "under section 303" in the third sentence.

(2) Section 311(c)(3) is amended—

(A) by inserting "and" after the semicolon in clause (B);

(B) by striking out the semicolon and "and" at the end of clause (C) and inserting in lieu thereof a period; and

(C) by striking out clause (D).

(3) Section 311(c)(4) is amended to read as follows:

"(4) The Secretary shall encourage the submission of and give special consideration to applications under this section for programs and projects aimed at underserved populations such as racial and ethnic minorities, native Americans, youth, the elderly, women, handicapped individuals, and families of alcoholics.".

(4) Section 311(c) is further amended—

(A) by redesignating paragraph (5) as paragraph (6);

(B) by inserting after paragraph (4) the following new paragraph:

"(5)(A) No grant may be made under this section to a State or to any entity within the government of a State.

"(B) No grant or contract may be made under this section for a period in excess of 5 years.

"(C) The amount of any grant or contract made under this section may not exceed 75 percent of the cost of carrying out such grant or contract."; and

(C) by adding at the end thereof the following new paragraph:

"(7) Nothing shall prevent the use of funds provided under this section for programs and projects aimed at the prevention,

treatment, or rehabilitation of drug abuse as well as alcohol abuse and alcoholism.".

AUTHORIZATION OF APPROPRIATIONS—PROJECT GRANTS AND CONTRACTS

SEC. 107. (a) The first sentence of section 312(a) is amended by striking out "and" after "1980," and by inserting before the period a comma and "and $20,000,000 for the fiscal year ending September 30, 1982".

(b) The second sentence of such section is amended by striking out "and" after the semicolon the first place it appears and by inserting before the period a semicolon and "and of the funds appropriated under this section for the fiscal year ending September 30, 1982, at least 25 percent of the funds shall be obligated for such grants".

AUTHORIZATION OF APPROPRIATIONS—RESEARCH

SEC. 108. Section 503 is amended by adding at the end thereof the following new sentence: "There are authorized to be appropriated for carrying out the purposes of sections 501, 502, and 504 $25,000,000 for the fiscal year ending September 30, 1982.".

TECHNICAL AMENDMENTS

SEC. 109. (a) Section 101(a) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) Section 103(b)(1) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(c) Section 201(e) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(d) Section 334 is amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

TITLE II—DRUG ABUSE PREVENTION, TREATMENT, AND REHABILITATION

REFERENCE

SEC. 201. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

CONGRESSIONAL FINDINGS

SEC. 202. Section 101 is amended to read as follows:

"§ 101. Congressional findings.

"The Congress finds that—

"(1) drug abuse is a serious national problem requiring a Federal response;

"(2) drug abuse impairs the physical and psychological well-being of individuals, and thereby leads to an unfortunate waste of human talent and energy; and

"(3) drug abuse interferes with education, work, and interpersonal relationships, causing great harm to families, communities, and the Nation.".

DECLARATION OF POLICY

SEC. 203. Section 102 is amended to read as follows:

"§ 102. Declaration of national policy.

"It is the policy of the United States and the purpose of this Act to provide a Federal response to drug abuse which—

"(1) is constructive, cost effective, and well coordinated;

"(2) reserves to the States as much authority and flexibility as practicable;

"(3) encourages the greatest participation by the private sector, both financially and otherwise; and

"(4) concentrates on carrying out functions which are truly national in scope.".

ADDITIONAL DRUG ABUSE PREVENTION FUNCTIONS

SEC. 204. (a) Section 406(a) is amended—

(1) by inserting "and" after the semicolon in clause (2);

(2) by striking out the semicolon and "and" at the end of clause (3) and inserting in lieu thereof a period; and

(3) by striking out clause (4).

(b) The section heading for section 406 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(c) The item relating to section 406 in the table of sections for title IV is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

FORMULA GRANTS

SEC. 205. (a) Section 409 is repealed.

(b) The table of sections for title IV is amended by striking out the item relating to section 409.

GRANTS AND CONTRACTS

SEC. 206. (a)(1) The section heading for section 410 is amended to read as follows:

"§ 410. Grants and contracts for the demonstration of new and more effective prevention, treatment, and rehabilitation programs.".

(2) The item relating to section 410 in the table of sections for title IV is amended to read as follows:

"§ 410. Grants and contracts for the demonstration of new and more effective prevention, treatment, and rehabilitation programs.".

(b)(1) The first sentence of section 410(a) is amended to read as follows: "The Secretary acting through the National Institute on Drug Abuse, may make grants to and enter into contracts with individuals and public and private nonprofit entities—

"(1) to provide training seminars, educational programs, and technical assistance for the development, demonstration, and evaluation of drug abuse prevention, treatment, and rehabilitation programs;

"(2) to conduct demonstration and evaluation projects, with a high priority on prevention and early intervention projects, and with particular emphasis on identifying new and more effective drug abuse prevention, treatment, and rehabilitation programs, including improved drug maintenance and detoxification techniques; and

"(3) to determine the cause of drug abuse in a particular geographic area and prescribe methods for dealing with drug abuse in such area.".

(2) Section 410(a) is further amended by adding at the end thereof the following new sentence: "Furthermore, nothing shall prevent the use of funds provided under this section for programs and projects aimed at the prevention, treatment, and rehabilitation of alcohol abuse and alcoholism as well as drug abuse.".

(c) Section 410(b) is amended by adding at the end thereof the following new sentences: "For carrying out the purposes of this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1982. Of the funds appropriated under the preceding sentence, at least 25 percent of the funds shall be obligated for grants and contracts for primary prevention and intervention programs designed to discourage individuals, particularly individuals in high risk populations, from abusing drugs.".

(d)(1) Section 410(c)(1) is amended by striking out ", or to State agencies over local agencies".

(2)(A) The first sentence of section 410(c)(2) is amended by striking out "designated or established under section 409" and inserting in lieu thereof "responsible for the administration of drug abuse prevention activities".

(B) The third sentence of such section is amended—

(i) by striking out "the" before "State comprehensive plan" and inserting in lieu thereof "any"; and

(ii) by striking out "under section 409".

(3) Section 410(c)(3) is amended—

(A) by inserting "and" after the semicolon in clause (B);

(B) by striking out the semicolon and "and" at the end of clause (C) and inserting in lieu thereof a period; and

(C) by striking out clause (D).

(e) Section 412(d) is amended to read as follows:

"(d) The Secretary shall encourage the submission of and give special consideration to applications under this section to programs and projects aimed at underserved populations such as racial and ethnic minorities, native Americans, youth, the elderly, women, handicapped individuals, and families of drug abusers.".

(f) Section 410 is further amended by adding at the end thereof the following new subsection:

"(g)(1) No grant may be made under this section to a State or to any entity within the government of a State.

"(2) No grant or contract may be made under this section for a period in excess of five years.

"(3) The amount of any grant or contract made under this section may not exceed 75 percent of the cost of carrying out such grant or contract project.".

RECORDS AND AUDIT

SEC. 207. Section 411(a) is amended by striking out "409 or".

ENCOURAGEMENT OF RESEARCH DEVELOPMENT

SEC. 208. (a) Section 503(a) is amended—

(1) by striking out "and" after the semicolon in clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after clause (4) the following new clause:

"(5) drug prevention, treatment, and rehabilitation.".

(b) Section 503(b) is amended by striking out "and" after "1978," and by inserting after the period a comma and "and $50,000,000 for the fiscal year ending September 30, 1982".

TECHNICAL AMENDMENTS

SEC. 209. (a) Section 205 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(b) Section 302 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(c)(1) Section 405 is amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(2) The section heading for section 405 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(3) The item relating to section 405 in the table of sections for title IV is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(d) Section 408(g) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(e) Section 501 is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".●

By Mr. HOLLINGS:

S. 756. A bill to amend Military Selective Service Act to provide for the reinstitution of the registration and classification of persons under such act and to reinstate the authority of the President to induct persons involuntarily into the Armed Forces, and for other purposes; to the Committee on Armed Services.

LEGISLATION TO REINSTATE MILITARY DRAFT

Mr. HOLLINGS. Mr. President, I rise today to introduce legislation reinstituting the military draft. We need the draft—we need it in order to field a credible fighting force, and we need it in order to remain true to the ideals which built this country. Early in the 1970's, with America's morale sapped by our involvement in Vietnam, we bought the idea that there was an easy way for America to defend itself without personal sacrifice. Gone was the injunction of John F. Kennedy—"Ask not what your country can do for you: Ask what you can do for your country." In its stead was the barren idea that somehow we could painlessly provide for the defense of freedom. So we instituted the Volunteer Army, and with that problem moved beyond arm's length, we put the whole defense problem beyond arm's length. Now America is caught with its defenses down. That Volunteer Army which no longer touches every neighborhood is forgotten in appropriations, and the families of our service men and women line up for food stamps.

Back when we voted to institute the All-Volunteer Force, I warned that the proposed army would only institutionalize the inequities of the draft—inequities which could have been remedied with much less dislocation. Specifically, the poor, the black, and the disadvantaged who were fighting in Vietnam would constitute the bulk of the Volunteer Force. This is precisely what happened. The decision of 1973 insured that our Nation's defense burden would rest with the poor, the black, and the disadvantaged for years to come. And without a cross-section of representation, we had no cross-section of support. Rather than an equal call on all, we perpetuated the rich man's undemocratic lie: "We will pay for it."

The fact is we can never pay for it. We can appropriate to cure the pay deficiencies, as we did with the Nunn-Warner pay and benefits package, but the fact is that was only a halfway measure that did not address our long-term needs. On one end we have the equivalent of a military Job Corps where our mercenaries are paid subminimum wage and as many as 100,000 of them qualify for welfare. On the other end, we have commissioned officers who will shortly be taking home paychecks larger than those of a U.S. Senator. Now we hear proposals to exempt their first $20,000 in income from Federal taxation, which does nothing to address the fundamental pay and incentive problems of the All-Volunteer Force.

Let us look at our real problem. During fiscal year 1979, armed services recruiting fell short of requirements by about 23,000 people. The Army missed its targets by 17,000. The Marine Corps met its objective only because it accepted a cut in authorized strength. And the Air Force, which during the All-Volunteer period has enjoyed more recruiting success than the other services, fell short by 1,500. There are those who point out that in times like today, with unemployment high and the economy sluggish, we will meet our manpower requirements. I say it is a sad commentary when we have to bank on a recession in the economy to man America's fighting forces. Even bigger problems are just around the corner, for all the demographic indicators warn that the pool of 17- to 21-year-old males—the largest grouping of potential recruits—is going to fall off sharply. The baby boom is history, and the prognosis is for a rapidly shrinking recruiting pot.

In terms of quality, only the Air Force has held its standard at least constant. The quality of recent volunteers in the other services is a matter for grave concern. Fewer Army recruits in recent years have demonstrated reading skills above the eighth-grade level. And the quality of Navy and Marine Corps recruits is not much better. This is especially disconcerting because the military's technical operations and complex equipment demand greater skill and judgment of our servicemen. If we fail to face up to the quality problem today, we will depend more and more on less-educated soldiers to carry the weight of our conventional military force tomorrow.

In a nutshell, the All-Volunteer approach has been a failure. It has failed to provide the necessary number of troops. It has failed to provide a quality defense force. We have failed to appropriate for it. And we have failed, as a people, to fairly and equitably distribute the burden of our national defense. Our Volunteer Forces are sadly unrepresentative of the society they serve. Almost one-quarter of all new recruits are black—double their proportion in the population. The number of other minorities, especially Hispanics, is growing. The minority soldiers are over-represented in combat formations such as tank, artillery, and infantry outfits, raising the specter of disproportionate casualties among minorities in wartime. And, more than a racial problem, it is a class problem. For even the white recruits are drawn from the poorer and less-educated segments of society.

The cross section approach of an equitable draft solves this problem. The burden would be shared by all. Exemptions can and must be kept to a minimum. Just prior to the institution of the All-Volunteer Force, and in response to the inequitable deferment and exemption standards which had been in place, we tightened eligibility standards and greatly limited deferments and exemptions. Under the proposal I am introducing today, we would observe those necessary and tightened standards. Specifically, deferments and exemptions would be limited to: First, persons on active duty, in the Reserves, or in advanced ROTC study; second, surviving sons or brothers of those killed in war or missing-in-action; third, conscientious objectors and ministers; fourth, professions necessary to national health, like doctors; fifth, judges of courts of record and elected officials; and sixth, for students, short-term postponement of their military obligation. Those in high school could be deferred until they graduate, but in no case extending beyond age 20. And those in college could continue studying until the end of the semester or, if in their senior year, until the end of that school year. We all share the benefits of life in America; under my plan, we insure that we all help shoulder the burden of defending it.

Our military manpower is below par. Our sincerity in meeting foreign obligations and our commitments to NATO and to our allies is seriously questioned. In fact, we are one of the few nations in NATO that depends solely on volunteers as the source of military personnel. Most of NATO's other members—excluding Canada and Great Britain—have military conscription and theirs is an equal call on all. That equal call translates into a forceful demonstration of national resolve and willpower. America needs that.

Mr. President, if we are to be taken seriously by our allies and our adversaries, we must have the military wherewithal to meet our commitments and protect our interests. This mandates military conscription. And for that reason, I introduce S. 756, to provide for the reinstitution of registration and classification and to reinstate the authority of the President to induct persons into the Armed Forces.

The direction of our foreign policy, the power of our newest weaponry, and the number of dollars in the defense budget are meaningless unless we, as a people, are committed to the task of protecting our Nation and aiding our allies.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Military Selective Service Act (50 U.S.C. 453 App.) is amended by inserting "(a)" before "Except" at the beginning of such section and by adding at the end thereof the following new subsection:

"(b) The President shall, at the earliest practicable date, but not later than 180 days after the date of the enactment of this subsection, begin the registration and classification of citizens and other persons described in subsection (a) of this section.".

SEC. 2. Section 17(c) of the Military Selective Service Act (50 U.S.C. App. 467(c)) is amended by striking out "July 1, 1973" and inserting in lieu thereof "September 30, 1986".

Mr. HATFIELD. Mr. President, as much as I am tempted to respond to the Senator from South Carolina on this subject that he has just discussed this morning, I shall exercise all my restraint in doing so and take up one subject at a time. There will be another day in which I will address that subject, and I think the Senator perhaps provided us with a good vehicle upon which to make a rather significant national debate.

By Mr. JACKSON:

S. 757. A bill to amend title 10, United States Code, to authorize medical and dental care and related benefits for reservists and members of the National Guard who contract a disease or become ill while on duty for 30 days or less, and for other purposes; to the Committee on Armed Services.

S. 758. A bill to amend title 10, United States Code, to authorize medical and dental care for dependents of reservists and members of the National Guard and for other purposes; to the Committee on Armed Services.

S. 759. A bill to amend titles 10, 32, and 37, United States Code, to authorize medical and dental care, and related benefits for reservists and members of the National Guard under certain conditions, and for other purposes; to the Committee on Armed Services.

LEGISLATION RELATING TO MEDICAL AND DENTAL BENEFITS FOR MEMBERS OF THE GUARD AND RESERVE

● Mr. JACKSON. Mr. President, today I am introducing three measures which I have sponsored in previous Congresses to provide additional medical and dental benefits to members of the National Guard and Reserve. Previously this legislation has been combined into one bill; however, I believe that it will facilitate consideration of these proposals if they are separated so that each may be considered on its own merits.

The first bill would provide medical and dental coverage for injuries to members during travel to or from a required training assembly. In the past there have been cases of injuries for which there should have been compensation but none was authorized.

The second bill would extend medical and dental benefits under CHAMPUS to the survivors of guardsmen and reservists who are killed in the line of duty during an authorized training period.

The third bill would provide medical and dental care for reservists and guardsmen who become ill while on duty for 30 days or less if the illness is service connected. Current law assumes that any illness contracted by a member during such a brief duty period must be unrelated to service. This is an erroneous assumption and my bill would provide coverage when a connection is established.

Mr. President, the legislation I have proposed would provide guardsmen and reservists with the same benefits which would be available to military personnel on active duty under similar circumstances. I believe that these three bills fill gaps in medical and dental coverage for guardsmen and reservists which represent inequities in the present system. The Guard and Reserve are an important part of our military readiness posture and I hope that the Congress will move to correct these deficiencies which impair our ability to attract the necessary personnel to service in the Guard and Reserve.●

By Mr. McCLURE:

S. 760. A bill to authorize the Corps of Engineers to assume the responsibility for maintenance of a flood control project, and for other purposes; to the Committee on Environment and Public Works.

MAINTENANCE OF A FLOOD CONTROL PROJECT

Mr. McCLURE. Mr. President, I am today introducing legislation that has been passed by the Senate previously; this bill, however, never became law due to the failure of the full Congress to enact an omnibus water resources bill.

The first section of this bill authorizes the Chief of Engineers to assume responsibility for the annual maintenance requirements for a project in Idaho known as Heise-Roberts. This shift in responsibility is justified because maintenance costs have risen far beyond the level anticipated, due to poor project design. Quite simply, the corps failed to recognize the nature of streams and erosion in that area. The result has been regular damage to the flood levees, damage at a rate far greater than was anticipated by local interests.

It is, therefore, my judgment that it is legitimate for the Federal Government to assume these costs over and above the costs anticipated by local interests. This section, therefore, requires that the initial $25,000, in any year—the level anticipated—shall be borne by local interests, but that the added cost shall be paid by the Federal Government.

Section 2 of the bill amends the authorization for Lucky Peak Dam, which is located near Boise, Idaho. This change will allow local interests to go forward and construct a hydroelectric plant there.

Lucky Peak Dam was built with a single water outlet. In 1976, the Congress authorized the construction of a second outlet in order to improve operations. That second outlet has not been built.

This section authorizes any local interests holding a Federal Energy Regulatory Commission permit to construct a second outlet of up to 23 feet in diameter, but directs the corps to reimburse local interests for what it would have paid to construct the smaller, authorized outlet. Thus, the Federal Government will have no expense greater than that envisioned by the 1976 law. But this amendment enables the dam to be operated far more efficiently, producing new energy for the people of Idaho and the Pacific Northwest.

Mr. President, I ask unanimous consent that a copy of this bill be printed at this point in the RECORD.

S. 760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the project for flood control for Heise-Roberts, Idaho, approved in section 10 of Public Law 81–516, is hereby modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers, *Provided,* That local interests shall pay the initial $25,000, in cash or materials, of any such costs expended in any one year.

SEC. 2. The project for Lucky Peak Lake, Idaho, authorized by the Flood Control Act of 1946 (Public Law 526–79), as modified by the Water Resources Development Act of 1976 (Public Law 94–587), is further modified to provide for an increase in the diameter of the additional dam outlet, authorized by Public Law 94–587, to twenty-three feet, and provide that the Secretary of the Army shall (1) authorize any entity, having the necessary license from the Federal Energy Regulatory Commission, to construct such outlet in accordance with the said entity's plans, as approved by the Secretary of the Army, and to use such outlet for the generation of electricity, (2) provide that all property rights in such outlet, subject to the provisions of this section, shall be conveyed to and remain with the United States, and (3) reimburse such entity for an amount equal to the estimated cost, as determined by the Secretary of the Army as of the time of the construction of the twenty-three-foot outlet of the outlet authorized by Public Law 94–587.

By Mr. McCLURE:

S. 761. A bill to authorize a national program to encourage dam safety; to the Committee on Environment and Public Works.

DAM SAFETY OF 1981

Mr. McCLURE. Mr. President, I am today introducing legislation that was passed by the Senate during the 95th Congress, was considered favorably in the Committee on Environment and Public Works during the 96th Congress, but has yet to become law. This failure stems from the inability of Congress to enact comprehensive water resources legislation since 1976.

This bill authorizes an ongoing program to assist the States in developing and implementing dam safety programs. The language is nearly identical to what the Senate has passed previously.

Essentially, this bill creates an opportunity for the Federal Government to assist the States in developing effective, continuing dam safety programs. In return, the States must meet certain basic criteria, such as preconstruction safety reviews and inspections every 2 years.

I recognize that modest changes in the bill could prove helpful. For example, this bill adds new sections 9 and 10 to the basic dam safety law. These sections may no longer be as necessary as they were at the time of the original passage of this bill. Yet, a discussion of dam insurance and Federal assistance in upgrading the safety of dams must be a vital component in any discussion of this issue. And I remain convinced that the basic components of the bill are sound, necessary, and essential.

The Federal Government, through the Army Corps of Engineers, has recently inspected 9,000 dams for safety. The corps estimates that 26 percent of these dams are unsafe in varying degrees.

Much of this corps activity was subcontracted to the States, which carried out the work. But the authority for this program expires at the end of this fiscal year. A need exists to continue such a program. This bill achieves that goal, transferring the basic responsibility to the States.

It is appropriate to transfer this responsibility to the States. But it also is appropriate to provide Federal assistance to the States in carrying out this important work.

Mr. President, I believe this bill offers a responsible approach to a difficult challenge. I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

S. 761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 92-367 (86 Stat. 506) is amended as follows:

SIZE OF DAMS

(a) Section 1 is amended by deleting the final sentence.

RIGHT OF ENTRY

(b) Section 2 is amended (a) by inserting "(a)" immediately after the words "the Chief of Engineers shall carry out a national program of inspection of dams for the purpose of protecting human life and property.", and by striking the "and" after "inspection" and striking the period after "property" and inserting the following: "and (5) dams located within a State having an approved program under section 8 of this Act," and (b) by adding at the end thereof the following new subsections:

"(b) In order to carry out the purposes of this Act, the Secretary, or his authorized representative, upon presenting appropriate credentials to the owner, operator, or agent in charge is authorized—

"(1) to enter without delay and at reasonable times any damsite, structure, appurtenance, or any work area, or other area used in connection with operation of the dam; and

"(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such damsite and all pertinent conditions, structures, machinery, apparatus, devices, equipment, and materials therein or thereon; and to require any owner, operator, agent or employee, or designer, contractor or builder, to provide information regarding the design, construction, operation, and maintenance of the same; and to have access to any records, blueprints, plans, or other pertinent documents pertaining to the design, construction, operation, and maintenance of the same.

"(c) Except as to cases the court considers of greater importance, any judicial proceedings involving this Act before a district court of the United States, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.".

CONTRACTOR LIABILITY

(c) Section 6 is amended by inserting a new paragraph (2) as follows, and by renumbering paragraph (2) as paragraph (3):

"(2) to create any liability for agents or contractors for damages caused by such action or failure to act in excess of the amount of the contract entered into pursuant to the Act;".

STATE ASSISTANCE PROGRAMS

(d) Following section 6, add the following new sections:

"SEC. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereafter in this Act referred to as the 'Secretary'), $15,000,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985. Sums appropriated under this section shall be distributed annually among those States on the following basis: One-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost of implementing an approved dam safety program in such State.

"SEC. 8(a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under this section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall determine that such program includes the following:

"(1) a procedure, whereby, prior to any construction, the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam has been conducted and will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every two years;

"(4) a procedure for more detailed and frequent safety inspections, if warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) Utilizing the expertise of the Board established under section 11 of this Act, the Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Board finds that a State program under this Act has proven inadequate to reasonably protect human life and property, and the Secretary agrees, the Secretary shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until such State program has been reapproved.

"SEC. 9. (a) In order to assure that owners of dams will be able to obtain liability insurance at reasonable rates, and to protect persons located downriver of dams, the Secretary, or the head of any agency of the United States designated by the Secretary, shall provide to any insurer, subject to conditions established by regulation, reinsurance or guarantees of any insurance provided to the owner of a dam to protect such owner from liabilities incurred in the event of the failure of such dam. Reinsurance or guarantees provided under this section shall reimburse an insurer for those liabilities in excess of an amount agreed upon between the Secretary, or his designee, and the insurer.

"(b) Any reinsurance or guarantees provided under this section shall be available only in a State which has an approved dam safety program under the terms of section 8 of this Act.

"(c) Agreements on reinsurance or guarantees under this section shall provide that the failure of the owner of any dam to carry out expeditiously any modification or procedure required by a State under the terms of its dam safety program shall result in the cancellation of any reinsurance or guarantee provided by the Secretary, or his designee.

"(d) There is authorized to be appropriated such sums as may be necessary to carry out this section.

"(e) Not later than eighteen months after enactment of the Dam Safety Act of 1980, the Secretary and the Secretary of the Treasury shall report jointly to the Congress with an analysis of the effects of this section, together with any recommendations for a more comprehensive dam safety insurance program to assure the availability of insurance to owners of dams inspected under a State program approval under section 8 of this Act, in an effort to lessen or eliminate the need for any disaster assistance in the event of the failure of such a dam.

"SEC. 10. There is authorized to be appropriated and remain available the sum of $20,000,000 to be placed in a revolving fund by the Secretary, such funds to be available for loans, on terms established by the Secretary, to any owner for any dam required to make repairs, to replace, or to make other safety improvements in such dam under any safety program approved under section 8 of this Act, if such owner can demonstrate to the Secretary that other funds are not reasonably available, and such owner agrees to repay such funds and at a rate of interest on terms agreed to with the Secretary.

"SEC. 11. (a) There is authorized to be established a Federal Dam Safety Review Board (hereinafter referred to as the 'Board'), which shall be responsible for reviewing the procedures and standards utilized in the design and safety analysis of dams constructed and operated under authority of the United States, and to monitor State implementation of this Act. The Board is authorized to hire necessary staff and shall review as expeditiously as possible the plans and specifications on all dams specifically authorized by Congress prior to initiation of construction of such dam, and file an advisory report on the safety of such dam with the appropriate agency, the appropriate State, and the Congress. The Board is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements for this section. There is authorized to be appropriated to the Board such sums as may be necessary to carry out this section.

"(b) The Board shall consist of nine members selected for their expertise in dam safety, including one representative each from the Department of the Army, the Department of the Interior, the Tennessee Valley Authority, and the Department of Agriculture, plus five members, appointed by the President for periods of five years, on a rotating basis, who are not employees of the United States. At least two members of the Board shall be employees of the States having an approved program under section 8 of this Act. The Chairman of the Board shall be selected from among those members who are not employees of the United States.

"SEC. 12. The head of any agency of the

United States that owns or operates a dam, or proposes to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

"SEC. 13. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending September 30, 1982, and $500,000 during each of fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985.

"SEC. 14. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and September 30, 1985.

"SEC. 15. The Secretary is authorized to maintain and periodically publish updated information on the inventory of dams authorized in section 5 of this Act.".

REPORTING OF DAM SAFETY

SEC. 2. Any report that is submitted to the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary of the Army, acting through the Chief of Engineers, or the Secretary of Agriculture, acting under Public Law 83-566, as amended, which proposes construction of a water impoundment facility, shall include information on the possibility of failure of such facility due to geologic or design factors, the potential impact of the failure of such facility, and information on the design features that would prevent, lessen, or mitigate such.

SHORT TITLE

SEC. 3. This Act shall be known as the "Dam Safety Act of 1981".

By Mr. McCLURE:

S. 762. A bill to amend the Communications Act of 1934 to prohibit the broadcast of the results or projections of the results of an election to choose the electors of the President and Vice President of the United States until all polling places in the United States are closed; to the Committee on Commerce, Science, and Transportation.

ELECTION BROADCAST ACT OF 1981

Mr. McCLURE. Mr. President, on the day Congress reconvened after the general election in November, I introduced the Election Broadcast Reform Act of 1980, which would prohibit the broadcast of results or the projection of results of Presidential elections until all the polls across the Nation are closed. Like so many of my colleagues, I had just returned to Washington from having spent the election period in my home State; and while the memories of election night were still fresh in our minds, I wanted to focus attention on the manner in which the major broadcast networks had covered the election results and particularly their unduly early determination and announcement of the winners. The subject is one about which I had felt strongly for some time, but my own experience in voting in Idaho underscored for me the need to do something about it.

My wife and I left our home in McCall, Idaho, by car on the afternoon of November 7 to drive the relatively short distance to Payette, where we have traditionally voted, to cast our ballots. By the time we arrived in Payette, about 5:30 in the afternoon, the networks had already determined the election was decided and President Carter was ready to concede defeat.

Make no mistake about it, Mr. President, I was and am absolutely delighted with the results of the election. I have been and continue to be a strong supporter and admirer of President Reagan, and my friendship and admiration for Vice President Bush go back many years. But I am also concerned, as I know they are, that the right of every American citizen to cast a ballot assured that his or her vote makes a difference, is important, and is worth making the effort for, is protected. I believe people should be free to make a choice based on their own convictions and judgment without the undue influence of what the networks say is going to be the result.

I can think of no better way to reduce voter turnout or to discourage participation in the election process than to allow this practice to continue. Voter turnout was only approximately 53 percent this year, the lowest figure since 1948. The State of California, in the Pacific time zone, was expecting voter participation of 85 percent this year, but a full 13 percent fewer voters showed up at the polls. People in my State, which in the northern part is 3 hours behind the east coast, are angry. I would venture to say the same is true in other Western States.

The Legislature of the State of Idaho recently passed a joint memorial calling on Congress to take action to address this situation.

Mr. President, the right to vote in a free society is so very precious and important. Our elections are so much more than media events or mere television specials. I can see no reason or justification that the election results must be known instantaneously across the land. Really the greatest advantage I see is to the network ratings. I believe the right to vote is more important.

Since the day I introduced my bill last November, I have received many letters about it from virtually every part of the United States. The overwhelming majority of those letters were written from citizens in support of my proposal. Naturally the bill has caused a good deal of interest and concern among those in the broadcast field. I expected that would be the case and I have welcomed their comments. An especially interesting article by Mr. Elmer W. Lower appeared in the January 17 issue of TV Guide. It is well worth reading, and I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

I am, of course, well aware that my proposal is one of several which have been suggested to address the problem of which I have spoken, but I still believe it presents the most complete solution. There has been some discussion that the way to address this situation is to provide that the polls remain open during the same period of time across the country. But in my judgment, this proposal is bound to lead to inconvenience in one part of the country or another, and would in fact result in even smaller voter turnouts. People naturally want to vote during the time before or after work. Why should the time of voting for millions of Americans be adjusted to meet the demands of the broadcast media? Does it not make more sense that the media adjust its programing for the needs of those voters and the good of the country? It would be well if the networks would take this step on their own initiative, but quite frankly, I do not expect that to happen.

Another suggestion has been to in effect seal all ballot boxes, or to prohibit disclosure of voting results by election officials until a specific time across the country. Perhaps that step should be taken to discourage voting irregularities anyway, but it would not solve the problem of the network projections which are based in large part on surveys of voters as they leave the polls.

My esteemed colleague and friend from California, Senator HAYAKAWA has introduced a series of bills which address the problem from several different approaches, and I certainly compliment and support his efforts in this regard. I am very pleased that some attention is being focused on the problem and as a member of the Senate Rules Committee, I shall encourage our chairman to hold hearings on the subject at some point during the year. It was never my intention to be unalterably tied to the specific terms of my own bill, but rather to encourage Congress to look at the situation with some care.

But I also still believe the matter should be looked at from the standpoint of its being a broadcast problem as well as a Federal election law problem. I am accordingly reintroducing my bill which amends the Communications Act to prohibit the broadcast of results or projections of the results of Presidential elections until all the polls are closed. I sincerely hope the Commerce Committee will also consider holding hearings on the subject.

I recognize that the approach I propose touches on the constitutional guarantees of freedom of the press and freedom of speech, but I believe the proposal would pass constitutional muster. It has been concluded through a long series of decisions that these rights are not absolute, and my proposal does not go so far as to prohibit speech or publication altogether but rather delays it a matter of hours. It entails a reasonable manner of achieving a justifiable purpose with a minimum infringement on the rights in question. I, of course, recognize that the bill I am introducing is in need of some perfecting. It does not, for example, ad-

dress the question of Senate and House races, nor does it anticipate all possible loopholes. But it does focus our attention on the problem.

Something must be done, Mr. President, as difficult as it seems. We must reenfranchise that significant portion of our population living and voting in the later time zones.

I ask unanimous consent that the text of my bill, an article, and a joint resolution of the Legislature of Idaho be printed at this point in the RECORD.

There being no objection, the bill, article, and joint resolution were ordered to be printed in the RECORD, as follows:

S. 762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that part I of title III of the Communications Act of 1934 (47 U.S.C. 301–330) is amended by adding at the end thereof the following new section:

"Section 331. PROHIBITION AGAINST BROADCAST OF PRESIDENTIAL ELECTION RESULTS UNTIL POLLS ARE CLOSED

On any day in which an election is held to select electors of the President and Vice President of the United States, no station licensee shall broadcast, or permit the broadcast of the results of or any projections of the results of such election prior to the official closing of all polling places (other than those places where only absentee ballots may be cast) at which votes may be cast in such election. Any station licensee which violates this section shall be subject to a fine of not more than $10,000."

INAUGURATION DAY: YOU'LL SEE IT ALL

(By Elmer W. Lower)

Those comments were only three of the hundreds provoked by NBC News when on Election Night it declared Ronald W. Reagan the next President of the United States at 8:15 P.M., Eastern Time. West Coast and Rocky Mountain voters—also those in Alaska and Hawaii—still had from one to three hours in which to cast their ballots. Many believed at that moment that they had lost their votes.

The arguments are certain to continue. Legislation has already been introduced. The questions that have arisen are not easily answered.

How do the networks make projections? What did NBC News do that ABC News and CBS News did not?

What effect do early projections have on Western voters who haven't yet cast ballots? Are projections based on key precincts accurate? What about those based on interviews with voters as they leave the polls?

Should Congress establish a uniform poll-closing time for all precincts in the 50 states and the District of Columbia? Or is there some other solution?

Since the early 1960s the three commercial television networks have projected the results of voting in each state—for President, senator and governor—by using a small sample of precincts that reflects the state's voting behavior. For example, ABC's 66 key precincts in Missouri have mirrored how the state's 4050 precincts vote.

The projections have usually been accurate. In 1976, the networks made only two incorrect calls all year; their records during the 1980 primaries were perfect, but they did make several incorrect projections on Nov. 4.

In 1980, all networks used extensive interviews outside selected polling places in an effort to tell their viewers why voters voted as they did. But NBC News carried these exit interviews one step further. It used them to make its projections of the results in each state, in some cases, reportedly, without waiting for the key precincts and the raw vote tabulated by the cooperative News Election Service.

This enabled NBC to project that Reagan would win Ohio's 25 electoral votes at 7:31 P.M., one brief minute after polls had closed, and to do the same in Missouri (with 12 electoral votes) at 8:02. Other projections were made so quickly that soon NBC anchorman John Chancellor announced—at 8:15—that Reagan would be the next President of the United States, having been projected to win more than the required 270 electoral votes.

NBC News trumpeted its victory in full-page newspaper advertisements, and Les Crystal, senior executive producer for election coverage, argued: "If tonight isn't proof that exit polls are useful, I don't know what is." NBC conceded that it had decided some states on exit polls alone, not waiting for the actual tabulation from key precincts.

ABC and CBS, both fielding exit interviewers at some 400 precincts, had similar information, but delayed their projections until they received the actual vote tallies from their key precincts. ABC called Reagan the winner at 9:52 P.M. and CBS at 10:32.

So what's wrong with being the first to tell American television viewers who their next President will be? The problem is that it may interfere with voting in nine Western states, not only in the Presidential race, but also in lesser—but still important—contests at the bottom of the ballot. Those states were still balloting when NBC announced that it was all over.

"Nobody goes to the ball game in the ninth inning when the score is 100 to 0," remarked Truman Campbell, California Republican chairman. Both he and Clinton Reilly, a California Democratic campaign director, felt that NBC's early call and President Carter's unusually early concession had turned voters from the polls and caused both parties to lose Congressional and state assembly races. A final CBS News-New York time post-election poll reported that 10 per cent of those who didn't vote in the West said they didn't because they had heard either network projections or Mr. Carter's concession.

"What does exit polling do to further the democratic election process?" asked Reilly, arguing that laws should be passed to keep interviewers at least 500 feet away from the polls.

Other critics question the accuracy of exit interviews. In a Reagan landslide they were right on the money. But are they, in a close election? Do voters tell the truth as they leave the polls? Do the interviews represent a true cross section?

Reagan's landslide was not the first in the television era. Eisenhower won big and early in 1952 and 1956, Lyndon Johnson was an early victor in 1964, and so was Richard M. Nixon in 1972. After the networks' early projections of Johnson's 1964 landslide victory over Sen. Barry M. Goldwater, remedial legislation was introduced in Congress, but it died in committee.

So what are the solutions for the 1980s and beyond? Here are some of the proposals that have been made:

That uniform poll-closing hours be established, so that all the 178,000 precincts in the 50 states and the District of Columbia would close simultaneously. Then network projections, however speedy, would no longer have any effect on voting in the West.

That a law be passed requiring that news interviewers be kept at least 500 feet from polls. There is some doubt that such a law would be constitutional, but those who favor it contend that if party workers can be kept from electioneering too close to the polls, news interviewers can be required to keep at least a 500-foot distance. This would make it easier for voters to avoid being interviewed if they wished.

That voting results in states that have finished voting early be withheld, and be released to news organizations only after all polls have closed.

That Election Day be shifted from the first Tuesday after the first Monday in November to the first weekend in November, in an effort to produce a larger turnout; and couple this with a uniform poll-closing time.

That split-day voting be established in the Western states. Polls would open on the first Monday night of November to accommodate persons who vote after work, and then open again on Tuesday. Polls would close at 6 P.M. Tuesday, Pacific Time, to synchronize with 9 P.M. in the East. All polls in every state would close simultaneously.

Congress can take a big step in solving the problem in its next session. It can establish uniform poll-closing hours everywhere. That is the simplest immediate solution.

But even that would not restrain news organizations—notably those of the big television networks—from interviewing voters as they left the polls and making projections based on those results. As one Midwestern newspaper remarked, NBC "could have called the election at 10 o'clock in the morning if it had been brazen enough."

A law restricting the rights of reporters outside polling places might raise First Amendment objections and be bad public policy. Instead of legislation, the answer might be an act of network-news statesmanship: voluntary self-restraint. The networks could abandon the mad race to be first just to boast of it in full-page advertisements; let the voters everywhere cast their ballots without outside influence.

What form should voluntary restraint take? At the very least, all news organizations should withhold projections in states having staggered poll-closing hours until all the states' precincts have completed voting. (Thirteen states still have such staggered hours.)

All news organizations should agree not to use exit-interview polls as the sole basis for projections. They should use them only for developing demographic information about voting patterns.

If any news organization insisted on using exit interviews for projections, it should frankly reveal the precise data on which it based its predictions. An anchorperson might say, for example:

"XYZ News projects that Candidate A will win Missouri's 12 electoral votes. As the Missouri polls closed only 60 seconds ago, we do not yet have actual vote tallies. We base our projection on how 300 Missouri voters *said* they voted during interviews as they left the polls." The public could then decide whether to believe the XYZ News data.

If Congress established uniform poll-closing hours and if news organizations ceased making projections based on exit interviews, there could be no posssible interference anywhere with the voting process. But if voting hours remain the same, the problems will continue—even without projections.

The News Election Service tabulates the raw vote so swiftly that a Presidential winner in a landslide year is almost certain to be known by 8:30 P.M., Eastern Time, an hour at which seven to nine Western states are still balloting. And we have had *five* such races in the eight Presidential elections of the television era.

There are those who believe that neither legislation nor voluntary restraint will work. The solution will come, they say, when some news organization gets badly burned using exit-interview polls. What worked for NBC

News in the Reagan landslide could lead to disaster in a close race.

As Idaho's Sen. James McClure says, "Our elections are much more important than a media event or a mere television spectacular."

IN THE SENATE, SENATE JOINT MEMORIAL NO. 101 BY STATE AFFAIRS COMMITTEE

A joint memorial to the Honorable Senate and House of Representatives of the United States in Congress Assembled, and to the Honorable Congressional Delegation Representing the State of Idaho in the Congress of the United States

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the First Regular Session of the Forty-sixth Idaho Legislature, do hereby respectfully represent that:

Whereas, the outcome of the recent election for President and Vice President of the United States was predicted early in the evening of November 4, 1980, by the national broadcast media, before the polls closed in Idaho and other western states; and

Whereas, the broadcast media based their predictions on election returns released by election officials of eastern and midwestern states after the polls closed in those states; and

Whereas, there is strong evidence that the predictions discouraged many citizens in the western states from voting and thus affected the outcome of many important and close state and local issues and contests; and

Whereas, there is a need for national legislation that will lessen the impact of election returns from eastern and midwestern states on voters in the western states and that will recognize and respect the constitutional rights of the media to report the news.

Now, therefore, be it resolved by the members of the First Regular Session of the Forty-sixth Idaho Legislature, the Senate and the House of Representatives concurring therein, that we urge the Congress of the United States to study and consider seriously the effect the release of election returns from eastern and midwestern states has on voting in the western states.

Be it further resolved that we urge the Congress of the United States to enact legislation that will minimize the impact of election returns from eastern and midwestern states but will not discourage any citizen from exercising one of the most precious rights of an American: the right to vote.

Be it further resolved that the Secretary of the Senate be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the honorable congressional delegation representing the State of Idaho in the Congress of the United States.

By Mr. McCLURE:

S. 763. A bill to authorize and direct the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands that were withdrawn or acquired for the purposes of relocating a portion of the city of American Falls out of the area flooded by the American Falls Reservoir; to the Committee on Energy and Natural Resources.

S. 764. A bill to provide for protection of the John Sack Cabin Tarshee National Forest in the State of Idaho; to the Committee on Energy and Natural Resources.

LEGISLATION RELATING TO CERTAIN PUBLIC LANDS IN IDAHO

Mr. McCLURE. Mr. President, today I am reintroducing two bills the 96th Congress began to consider. By the end of the session both had passed the Senate. Time was the limiting factor in the House consideration of these bills. I hope that the early introduction this year will enable both the Senate and House to consider and vote favorably on these bills.

The first is a bill to authorize and direct the Secretary of the Interior to transfer to the city of American Falls, Idaho, title to its city parks. Title which has been mistakenly retained by the Federal Government since 1925. When the original American Falls Dam was constructed by the Bureau of Reclamation in 1925, the old city of American Falls was moved from its low lying location behind the new dam. The new city, which was platted on land purchased from private owners, included a number of city parks.

The city has developed the parks and has used them over the years without knowing they continued to be owned by the Government. American Falls residents have paid taxes to maintain the parks for the past 55 years, and the parks have been treated as city property.

A recent search turned up the fact that the Federal Government apparently owns the city golf course, the central city square, and several other smaller parks. Rather than having to lease the parks from the Government, the Bureau of Reclamation has suggested to the city officials that legislation giving title to the city would be the way to solve the problem.

I am accordingly introducing this measure to accomplish that purpose. I see no reason that it should be controversial; it involves only a small amount of land which has in any case been treated as city property for some time. The Bureau of Reclamation has helped to draft the language I am introducing; and has no objection to its adoption. Correction of this oversight is long overdue.

The second bill I am reintroducing provides for the protection of a unique structure located in the Targhee National Forest in Idaho. Known as the Johnny Sack Cabin, this structure and surrounding smaller structures have become something of a local historic landmark. Constructed about 1932, the cabin is nestled in the trees overlooking Big Springs, a natural springs emitting warm, geothermally heated water year round. The setting of the cabin, the water wheel nearby, and the springs combine to provide a rare esthetic beauty which has been enjoyed by countless thousands over the years. Countless artists and photographers have reproduced the scene many times since 1832.

The esthetic beauty of the area, including the cabin, is not the only reason for seeking its preservation, however. The original builder and owner of this cabin Johnny Sack, was himself a unique individual.

A German immigrant, Johnny Sack stood only 4 feet 11 inches tall. Over the years, following his settlement in the area around 1931, Johnny Sack constructed the main cabin and later the various other structures nearby, including a water-powered pumphouse, built around 1940.

Legend has it that Johnny Sack lived primarily off the land and, during the summer, held a variety of odd jobs. During the winter, he occupied himself with making improvement on the cabin and constructing furniture. Perhaps the cabin is most unique for its interior woodwork, which is of very high quality characterized by an interesting and attractive planed-bark finish. It remains today in excellent condition. Much of the original furnishings were also built by Sack, utilizing the same bark finishing technique. The workmanship exhibits considerable skill, imagination and attention to detail.

While many have seen the cabin from the outside, generally from a parking area located across Big Springs, relatively few have seen the magnificent interior of the structure. It has been the intent to open the inside of the cabin for public use. Since I first introduced this bill in 1979, the John Sack Cabin has been registered on the National Register of Historic Places. Also, interested local residents have established the Island Park Interpretative Association to maintain and operate the cabin. The association has successfully raised the funds needed to maintain the cabin and has more importantly, raised the interest and commitment of many people to carry on with the cabin's operation.

Specifically this bill does nothing more than require the Forest Service to preserve and maintain the Johnny Sack Cabin and associated structures in their present form. It also requires the Forest Service to consult local interest organization, such as the Island Park Interpretative Association, concerning the management and operation of the cabin and immediate area; and in fact, allows the Forest Service to enter into a cooperative agreement for the management and protection of the area for the public use.

Mr. President, both of these bill are still needed, and are noncontroversial. I ask unanimous consent that the text of both bills be printed in the RECORD at the end of my remarks.

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

S. 763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to convey by quitclaim deed to the city of American Falls, Idaho, without cost, the following real property located within or adjacent to the city limits of said city of American Falls, reserving all right-of-way and oil and gas of in land to the United States:

(a) The area identified as the Campbell Stebbins Park, containing approximately 41.5 acres, including the park area located between the Oregon Trail Highway and the Oregon Short Line Railroad, and the area identified as a Public Square, containing approximately 8.8 acres, all as shown on the official plat of the Reclamation Addition to the city of American Falls approved October 18, 1923, and recorded in the county of Power, Idaho, as instrument No. 32042.

(b) Block 44 of the original townsite of American Falls; containing approximately 3.3 acres,

(c) A tract of land containing 11.7 acres, more or less, described as follows:

Beginning at the northwest corner of the

southwest quarter of section 21, township 7 south, range 31 east, Boise meridian;

thence south 45 degrees 16 minutes east, a distance of 1,870.3 feet, more or less, to the southeast corner of said southwest quarter;

thence north 58 degrees 28 minutes west, a distance of 96.3 feet;

thence north 68 degrees 17 minutes west, a distance of 1,339.2 feet, more or less, to a point on the west section line of said section 21, said point being 548.2 feet north of the southwest corner of said section;

thence north along the west section line a distance of 770.5 feet, more or less, to the northwest corner of the southwest quarter of said section 21, the point of beginning.

(d) A tract of land containing 8.79 acres more or less in the south half of the southwest quarter, section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of said section 28;

thence north 44 degrees and 38 minutes east, 1,868.6 feet to the 16/17 corner of said section;

thence east along the north boundary of the southeast quarter southwest quarter of said section 28, 367.2 feet to a point;

thence south 324.9 feet to a point;

thence north 89 degrees and 59 minutes west, 92.8 feet to a point;

thence south 49 degrees and 23 minutes west, 361.9 feet to a point;

thence south 78 degrees and 34 minutes west, 708 feet to a point;

thence south 26 degrees and 55 minutes west, 333.7 feet to a point;

thence south 61 degrees and 51 minutes west, 271.6 feet to a point;

thence south 43 degrees and 29 minutes west, 280.3 feet to a point on the south boundary of said section 28;

thence south 89 degrees and 59 minutes west along the south boundary of said section 28, 34.9 feet to the place of beginning.

(e) A tract of land containing 8.0 acres, more or less, located in the west half of the southwest quarter, section 28, township 7 south, range 31 east, Boise meridian, Idaho, and more particularly described as follows:

Beginning at the southwest corner of section 28;

thence north 44 degrees 38 minutes east, a distance of 1,886.6 feet to the northeast corner of the southwest quarter southwest quarter, of section 28;

thence north a distance of 1,320 feet to the northeast corner of the northwest quarter southwest quarter of section 28;

thence west, a distance of 30 feet to a point on the east edge of Hillcrest Avenue;

thence southwesterly along a curve on the side of Hillcrest Avenue a distance of 2,955 feet to a point on line between sections 28 and 29;

thence south 65.0 feet to the southwest corner of section 28, the place of beginning.

Such property shall be conveyed subject to the reservation of rights-of-way for ditches, canals, and pipelines constructed by the authority of the United States and to other existing rights-of-way of record. The conveyance of such property shall contain a reservation to the United States of all oil and gas in the land, together with the right to prospect for, mine, and remove the same under such regulation as the Secretary of the Interior may prescribe.

S. 764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of providing for the public use and enjoyment of the John Sack Cabin, Targhee National Forest, State of Idaho, and to protect and preserve such cabin as a unique example of craftsmanship, the Secretary of Agriculture, in consultation with the Island Park Interpretive Association and other interested organizations, shall take such action as may be necessary in order to provide for the protection and maintenance of the John Sack Cabin and associated structures. In carrying out the requirements of this Act, the Secretary is authorized, in accordance with existing law, to enter into a cooperative agreement with, or to issue a special use permit to, an appropriate person or organization pursuant to which such person or organization shall provide such protection and maintenance.

By Mr. MOYNIHAN:

S. 765. A bill to clarify the definition of the term "local furnishing" in the Internal Revenue Code of 1954; to the Committee on Finance.

LEGISLATION TO CLARIFY THE DEFINITION OF "LOCAL FURNISHING" IN THE TAX CODE

Mr. MOYNIHAN. Mr. President, my bill would let New York City tap the gas that is produced by decomposing garbage, have private companies supply it to city residents, and finance the endeavor with tax-exempt "industrial development bonds." Any other city can do this now. New York City cannot because of its unusual political structure—it has five boroughs.

I introduced the same bill last year. It was S. 2660 then. The Senate Finance Committee held a hearing on it on June 24, but there was no other action.

As a general rule, industrial development bonds are taxable, not tax exempt. However, section 103(b)(4)(E) of the Federal tax code makes an exception for bonds that are used to finance "facilities for the local furnishing of electric energy or gas." The interest an investor earns on such bonds is not taxed.

The question is what is a facility for the "local furnishing"? Section 103 was placed in the code in 1968. But nowhere in the committee reports, in the transcript of the floor debate, or in the statement of the conferees is the term "local furnishing" defined.

The Internal Revenue Service takes the position that the facility must serve an area no larger than two contiguous counties. According to its regulations—

(t)he term "facilities for the local furnishing" . . . means property which . . . is part of a system providing service . . . in one or more communities or municipalities, but in no event more than two contiguous counties (or a political equivalent).

But the service area may be one city and one contiguous county where the city is an independent entity, like Baltimore, Md.:

For purposes of this subdivision, a city which is not within, or does not consist of, one or more counties (or a political equivalent) shall be treated as a county.

In 1978, Congress added a new sentence to the code. In effect, the new sentence defines local furnishing as either two contiguous counties or one city and one contiguous county, whether the city is an independent entity, like Baltimore, or not. But the statutory definition applies only to facilities for the furnishing of electricity. The bill I am introducing today would extend it to gas.

Under the present rules, Mr. President, every city, except New York, can build a facility to supply gas to its residents, and finance it with tax-exempt "industrial development bonds." Every city, except New York, is either a municipality within a county, or an independent unit. New York is disqualified because it has five boroughs, or "counties."

The present rules make a mockery of the word "local." It is a "local furnishing," for example, to supply gas to Jacksonville (766 square miles) or to Oklahoma City (636 square miles), but not to New York City (300 square miles), a city much smaller in geographic size.

I submit that local jurisdiction should be treated the same, whatever their political arrangements.

In addition, the term "local furnishing" should have the same meaning for plants that generate electricity and for ones that produce gas. The phrase is used once, in one sentence, as an adjective for both.

The Treasury Department supported the electricity amendment in 1978, after agreeing that furnishing power to a city and one contiguous county is sufficiently "local" that whatever bonds are issued should be tax exempt. As Don Lubick, the Assistant Secretary for Tax Policy, wrote me at the time—

(s)ince a city is a single governmental unit, even if it embraces more than one county, the requisite local character of the furnishing is as much met by the standard you propose as by the current two-county standard. For reasons of consistency in the treatment of local jurisdictions for purposes of the "local furnishing" test, we therefore support your amendment.

I hope that the Treasury will look favorably on a second, similar amendment to cover facilities that produce gas. I ask unanimous consent, Mr. President, 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. 765

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 103(b) of the Internal Revenue Code of 1954 (relating to projects for which tax-exempt "industrial development bonds" may be issued) is amended by inserting the words "or gas" between "energy" and "from" in the last sentence of paragraph (4).

SEC. 2. The amendment made by this Act shall apply to obligations issued after the date of enactment.

By Mr. MOYNIHAN:

S. 766. A bill to amend the Internal Revenue Code to clarify when the costs of maintaining an office at home may be deducted; to the Committee on Finance.

LEGISLATION RELATING TO TAX DEDUCTIONS FOR MAINTAINING AN OFFICE AT HOME

Mr. MOYNIHAN. Mr. President, one of the bills I am introducing today would clarify when a taxpayer may deduct the cost of maintaining an office at home.

I believe the Internal Revenue Service is misinterpreting the law.

At present, a taxpayer's expenses are deductible only if his office at home is used exclusively and on a regular basis as the taxpayer's "principal place of business." The law on this subject is at

section 280A of the Internal Revenue Code. There are other requirements, as well. But what I am most concerned about is the rule that the office must be the taxpayer's "principal place of business."

It is not clear what that means. For instance, where is the principal place of business of a university professor who has an office on campus for teaching, and an office at home for private consulting?

The IRS says that it is the office on campus, if teaching is how the professor earns most of his income. The IRS looks for the principal place of the taxpayer's principal business. According to it—

A taxpayer may have only one principal place of business regardless of the number of business activities in which the taxpayer is engaged. When a taxpayer engages in business activities at more than one location, it is necessary to determine the principal place of the taxpayer's overall business activity.

I am reading from proposed regulations that the IRS issued on August 7.

I do not think that is what Congress intended. Rather, I believe we felt that a taxpayer would have a principal place of business for each trade or business in which he is engaged. I am using the phrase "trade or business" as it is used in Code section 162.

My bill, therefore, would rewrite the statute so that there is no longer any ambiguity or room for misunderstanding.

There are three reasons why I think my interpretation of the law is correct. First, it is consistent with what Congress was trying to accomplish. Congress enacted section 280A because it wanted to provide a set of definitive rules to guide taxpayers on the deductibility of their home office expenses. The law at the time was unclear. The IRS understood the existing statute to mean one thing and the tax court understood it to mean another.

Congress also had as its aim keeping the tax deduction from being abused. Deductions were being claimed by individuals whose only business use of the home was to work occasionally at the kitchen table or in the den. What these people were writing off, however, were some of their living expenses and not business expenses, since their rent, their property taxes, and their gas and electricity bills were no higher because of the occasional work being done at home than they would have been otherwise. There was no incremental business expense.

In section 280A, Congress spelled out what elements must be present before one can say with certainty that a business use of the home has produced an incremental expense.

This was done primarily by requiring that the home office be used exclusively and on a regular basis for business. If a room is used exclusively for business, there can be no disguising living expenses as business costs. If the room also is used on a regular basis for business, one guarantees that no taxpayer will be able to claim a tax deduction for an empty room merely by taking his work there once or twice.

Nothing much is gained by insisting, in addition, that the room serve as the taxpayer's principal place of business. It does help to insure, however, that the business use is significant, which it is if the home office is the base for a trade or business.

Another reason why I think Congress meant "principal place of a trade or business" is that the Joint Tax Committee staff suggested that as the standard in a pamphlet it prepared for the Ways and Means Committee in 1975.

The pamphlet spoke of the need to limit taxpayers with offices at home to deductions for incremental business expenses. It added that—

In the case of certain business uses of the home, it is more readily demonstrated that incremental costs are incurred by reason of the business use, e.g., where a portion of the home is exclusively used as a shop or business office in actively conducting a trade or business.

The standard proposed was a trade or business. It was not, as the IRS has suggested, the principal place of the taxpayer's overall business activity.

Finally, the U.S. tax court has said the IRS is wrong. Judge Tannewald, writing for the court in the *Curphey* v. *Commissioner*, 73 T.C. 61 (1980), said the IRS—

* * * approach of requiring that the home office be the principal place at which the taxpayer's principal business is conducted would disallow otherwise allowable deductions in connection with the use of a home office which is a principal place of business. We do not believe that Congress intended such a result.

According to the judge, what Congress wanted was for the IRS to inquire—

whether, with respect to a particular business conducted by a taxpayer, his home office was his principal place for conducting that business.

My bill would rewrite section 280A to make that clear.

The other fact that I should mention about my bill is that it also would clarify what is meant by the phrase "exclusively used."

The office at home must be "exclusively used" as the taxpayer's principal place of business. Does that mean, for example, that the taxpayer must use the office only for the business he runs at home?

The IRS has said no, that the office may be used for more than one business purpose. I believe that is the correct interpretation. My bill would change the order of several words to rule out future misunderstandings.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subsection (c) of section 280A of the Internal Revenue Code of 1954 (relating to exceptions for certain business or rental use) is amended by striking out paragraph (1) and inserting in lieu thereof the following—

"(1) CERTAIN BUSINESS USE.—Subsection (a) shall not apply to any item to the extent such item is allocable to a portion of the dwelling unit which is exclusively used on a regular basis by the taxpayer as a place of business and—

"(A) is the principal place of a trade or business of the taxpayer,

"(B) is used by patients, clients, or customers in meeting or dealing with the taxpayer in the normal course of his trade or business, or

"(C) is a separate structure which is not attached to the dwelling unit.

In the case of an employee, the preceding sentence shall apply only if the use referred to in the preceding sentence is for the convenience of his employer."

SEC. 2. The amendments made by this Act shall apply to taxable years beginning after December 31, 1975.

By Mr. MOYNIHAN:

S. 767. A bill to amend the Internal Revenue Code to provide that, for purposes of the Federal estate tax, amounts contributed to certain cemetery companies may be deducted from the gross estate; to the Committee on Finance.

LEGISLATION TO PERMIT A TAX DEDUCTION FOR MONEY LEFT TO A NONPROFIT CEMETERY ASSOCIATION

Mr. MOYNIHAN. Mr. President, I am introducing legislation today to permit a tax deduction to be taken by the estate of anyone who has left money in his will to a nonprofit cemetery association.

Let me say that I am prompted to do this by a decision by the second circuit court of appeals in the case *Child* v. *United States*, 540 F.2d 579 (1976).

In Child, a woman, Elizabeth Haas, had died in 1966 and had left a significant portion of her estate to two nonprofit cemeteries. The Grove Cemetery was given $25,000, partly for the perpetual care of a family burial plot. Another $2.5 million went to the Watertown Cemetery as a general bequest.

The executor tried to deduct both sums from Ms. Haas' estate before paying the estate taxes, on grounds that the cemeteries were charitable or religious organizations. Gifts to such organizations are tax deductible under section 2055(a) of the Federal Tax Code.

But the court said the cemeteries were neither charitable nor religious and denied the deductions.

The important point is this. Had Ms. Haas made the gifts during her lifetime, they probably could have been deducted from her income taxes. The income tax laws make contributions to charitable or religious organizations deductible, just as gifts to those groups are deductible for estate tax purposes. Such groups are known as 501(c)(3) organizations.

Gifts to "cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit" also are deductible for income tax purposes. Specific provision is made for them in section 501(c)(13). But nothing is said about such groups in the estate tax laws.

The court noted this and said it would leave "to congressional wisdom the apparent anomaly establishing different treatment of nonprofit cemetery associations for income and estate tax purposes."

I see no reason for such an anomaly.

Indeed, I see good reason why there should not be one. I believe we deny individuals equal protection of the law if we permit one person to leave money, free from estate taxes, to the church-run cemetery where he wants to be buried, but deny this to another person who wants to be buried in a private, nonprofit cemetery, instead.

My bill would make bequests to a nonprofit cemetery company tax deductible for estate tax purposes, provided the cemetery company is either owned and operated exclusively for its members or prohibited by its charter from engaging in any business other than burials. The bill would do this for bequests made by individuals who die after December 31, 1980. I ask unanimous consent, Mr. President, that the text of the measure be printed in the RECORD.

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

S. 767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subsection (a) of section 2055 of the Internal Revenue Code of 1954 (relating to transfers for public, charitable, and religious uses) is amended by striking out "or" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or", and by inserting after paragraph (4) the following new paragraph:

"(5) to or for the use of—

"(A) a cemetery owned and operated exclusively for the benefit of its members, or

"(B) any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose,

"if such company or corporation is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual."

SEC. 2. Subsection (e) of section 2055 of such Code is amended by adding at the end thereof the following new paragraph:

"(4) No deduction shall be allowed under this section for any amount of any bequest, legacy, devise, or transfer to or for the use of any organization described in subsection (a)(5) to the extent such amount is allowable as a deduction under section 2053."

SEC. 3. The amendments made by this Act shall apply to estates of decedents dying after December 31, 1980.

By Mr. MOYNIHAN:

S. 768. A bill to amend the Internal Revenue Code to provide that certain research and development expenditures will not be taken into account for purposes of the "small issue exemption" from the industrial development bond rules.

LEGISLATION TO AMEND THE INTERNAL REVENUE CODE WITH RESPECT TO CERTAIN RESEARCH AND DEVELOPMENT EXPENDITURES

Mr. MOYNIHAN. Mr. President, we have heard a great deal recently about venture capital firms and how the United States needs more of them if we are to compete with the Japanese and West Germans. These are small companies, set up by individuals who have worked for high-technology giants like IBM and ITT, but who have ideas of their own that they want to develop and market. Venture capitalists started the microchip boom in the 1970's. They are already heavily involved in the next growth industry, biotechnology. In short, they are terribly important to the American economy.

That this is the case is well understood. But what is not generally known is that the Federal tax laws discriminate against venture capitalists. We let cities borrow money, at tax-exempt rates, for small stores and small factories, but not for venture capital firms or, for that matter, for any small business that spends a large part of its budget on research and development.

This difference in treatment arises because of the way the Internal Revenue Service has interpreted section 103 of the Tax Code. I am, therefore, proposing legislation that would change the code. If cities can borrow for small manufacturers, they should also be able to borrow for venture capital firms.

Technically, the question is how two words used in the "small-issue exemption" for industrial development bonds should be defined. IDB's are a type of municipal bond, but they have certain distinctive features. For one, a city issues a municipal bond to borrow money for itself to build a hospital, school, or other public project. But it issues an IDB to borrow for someone else, usually a private company. In this way, the city can induce a company to set up shop nearby and to provide jobs for local workers.

Another difference is that municipal bonds are tax exempt. IDB's are not, although there are exceptions, one of which is the "small-issue exemption." The exemption is very complicated. Unfortunately, it can be stated only in mathematical terms. I will say it slowly. IDB's issued by a city are tax exempt if the face amount of the bond issue plus the "capital expenditures" of the company in the 3 years preceding and the 3 years following the issue date do not exceed $10 million.

Venture capital firms rarely, if ever, can take advantage of the exemption. Other small businesses can. The reason is the IRS has defined the term "capital expenditures" in a way that excludes venture capitalists. "Capital expenditures" are obviously such items as the cost of land, buildings, machinery, and other depreciable assets. But the IRS maintains that research and development expenses also are covered.

This makes it difficult, if not impossible, for companies in rapidly changing, high-technology fields to take advantage of IDB financing. It is not unusual for even small venture capital firms to spend millions of dollars in research over a period of several years. These companies must develop their own products. Companies that merely buy their inventory from others have no problem. Since they can ignore the money invested in product development by others, they are less likely than venture capital firms to exceed the $10 million limit on "capital expenditures."

Surely this is an oversight by Congress. If not, it is appalling economic policy. My bill would correct for it by making clear that research expenses are not "capital expenditures." I ask unanimous consent, Mr. President, that the measure be printed in the RECORD.

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

S. 768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that—

(a) Paragraph (6) of section 103(b) of the Internal Revenue Code of 1954 (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraph:

"(J) RESEARCH AND EXPERIMENTAL EXPENDITURES NOT TAKEN INTO ACCOUNT.—For purposes of applying subparagraph (D)(ii), research and experimental expenditures (within the meaning of section 174) shall not be taken into account."

(b) The amendment made by subsection (a) shall apply—

(1) to obligations issued after the date of the enactment of this Act in taxable years ending after such date, and

(2) with respect to capital expenditures made after December 31, 1980.

By Mr. MOYNIHAN:

S. 769. A bill to amend section 280 of the Internal Revenue Code of 1954 to exclude from the application of such section expenses incurred by an author of a book or similar property in the writing of such book or property; to the Committee on Finance.

LEGISLATION TO AMEND THE INTERNAL REVENUE CODE WITH RESPECT TO EXPENSES INCURRED BY AN AUTHOR

Mr. MOYNIHAN. Mr. President, the bill I am introducing today would clear up a misunderstanding about section 280 of the Tax Code.

Section 280 requires the production costs associated with "films, sound recordings, books, and similar property" to be capitalized. That is to say, such costs must be deducted over the period when the property is generating income, rather than in the year they are incurred.

Production costs are capitalized according to a special formula. The formula requires that one keep a separate account for each movie, record, or book, and estimate how much income will be made from it. One's costs are deducted at the same rate the income is received. Thus, if 75 percent of the income from a movie is to be received in year one, then 75 percent of the production costs may be deducted in the same year.

The section was put in the Tax Code in 1976. It was supposed to shutdown so-called production company tax shelters, a form of shelter favored by wealthy individuals investing in movies. In such shelters—

> A limited partnership is formed to produce a film. . . . The partnership enters into an agreement with a studio, with a distributor or with an independent producer to produce a particular film. The partnership uses the cash method of accounting and writes off the costs of production as they are paid. Typically, the partnership is heavily leveraged and significant costs are paid with borrowed funds. The principal elements of this form of motion picture shelter are . . . deferral and leverage.

I am reading from the Senate Finance Committee's report on the 1976 Tax Reform Act.

The committee said it had evidence that "the production company shelter

may be expanding into other areas, such as the publishing field." Hence, it wrote a provision that applied to books and records, and not just to movies. The conferees agreed to what the Finance Committee proposed, with one change. They wanted production costs to be capitalized, but not the "distribution costs" associated with movies.

One thing is clear. Section 280 was aimed at the tax shelter investor; it was not aimed at the bona fide writer or author.

Yet, that is not how the IRS has interpreted it. The IRS stated its position in a letter ruling on October 30.

A retired attorney had asked whether he can claim that his "trade or business" is writing. Expenses connected with a "trade or business" are deductible; those connected with a hobby are not.

The attorney had written a chapter in a law manual and he was in the process of writing an entire book. He had received an advance for the book from a publisher.

The IRS reviewed the facts. It concluded that the attorney was now a professional writer. But it added—

While expenses incurred in connection with your writing are deductible, these expenses are subject to the provisions of section 280(a) of the Code.

This disturbs me—for several reasons. First, the IRS has misconstrued the statute. A careful reading of the legislative history should persuade anyone that section 280 does not apply to writers and authors. Their expenses are not the sort of "production costs" that Congress had in mind.

Second, this is only sensible. Figuring out one's taxes is difficult enough without having to keep segregated accounts for each writing project. One tolerates a certain amount of complexity in our tax laws where it is needed to prevent tax avoidance. But to extend section 280 to bona fide writers is to require complicated rules for no good reason.

Third, writers should be treated in the same way as members of other professions. A lawyer need not capitalize his expenses with respect to each case. Think of the administrative nightmare. An individual whose trade or business is writing should not have to do so with respect to his articles or books.

My bill is easy to describe. I view it as a technical correction. It would state plainly that section 280 does not apply to the production costs that a writer or author incurs in the creation of his own works.

The measure would take effect retroactively to tax years beginning after December 31, 1975. That was the effective date of section 280.

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. 769

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 280 of the Internal Revenue Code of 1954 (relating to deductibility of certain expenditures incurred in production of films, books, records, or similar property) is amended by adding at the end thereof the following new subsection:

"(d) CERTAIN PRODUCTION COSTS OF AUTHORS EXCLUDED.—The provisions of this section shall not apply to amounts attributable to the production of a book, article or similar property to the extent such amounts are expenses incurred by the author of such property in the research for, or writing of, such book, article, or similar property.".

SEC. 2. (a) The amendments made by the first section of this Act shall take effect as if included in the amendment made by section 210(a) of the Tax Reform Act of 1976.

(b) Notwithstanding any other provision of law—

(1) the period for filing a claim for refund for any taxable year to which the amendment made by the first section of this Act applies shall, to the extent such claim for refund is attributable to such amendment, not expire before the date which is 1 year after the date of the enactment of this Act, and

(2) the period for assessing a deficiency with respect to any taxable year shall, to the extent such deficiency is attributable to a claim for refund filed as a result of the extension of any period under paragraph (1), not expire before the date which is 1 year after the date of the filing of the claim for refund.

By Mr. MOYNIHAN:

S. 770. A bill to amend the Energy Tax Act of 1978 with respect to the manufacturers excise tax on buses; to the Committee on Finance.

PROPOSED AMENDMENT TO ENERGY TAX ACT OF 1978

Mr. MOYNIHAN. Mr. President, the bill I am introducing today is an amendment to the Energy Tax Act of 1978.

The Energy Tax Act repealed the manufacturers excise tax on buses. Until 1978, buses were subject to a 10-percent tax; this tax was collected when the bus was sold by the manufacturer to the dealer or to the bus company that was going to use it. Generally speaking, the repeal applied only to buses sold after November 9, 1978.

But there were several special rules. And one of these explained what happens when a bus was actually purchased before November 9, but the buyer was still paying for it by installment and had not yet acquired title to the vehicle when the Energy Tax Act became law.

In that case, one was to assume that the tax was being paid ratably as part of each installment. And that part of the tax that was paid after November 9 was to be refunded to the manufacturer, on condition that he pass it along to the dealer or ultimate purchaser.

Congress wanted to encourage people to buy more buses or, for those who had already bought them, to keep paying the installments. The theory was that this would save fuel.

Unfortunately, the statute has a technical flaw. The following case is a good example.

Holland Industries, a bus company in New York City, purchased new buses direct from the MCI Corp., the manufacturer. However, immediately after Holland Industries bought the buses, MCI sold the installment contract to its subsidiary, the MCI Acceptance Corp. Both events took place before November 9, 1978.

By law—section 4216(d) of the Tax Code—the excise taxes immediately fell due, in full, when the installment contract was sold.

The 1978 Energy Tax Act, meanwhile, said that taxes associated with installment payments would be refunded only when they are "due and payable" after November 9, 1978. And these taxes were not, even though Holland Industries continued to pay installments that were partly for the buses, partly for interest, and partly for taxes. MCI Corp. could not get a refund. And as a result, it had nothing to pass through to Holland Industries.

This is not what Congress intended. MCI Corp. merely transferred the installment contract on its books to a subsidiary. In the process, Holland Industries lost its refund. We simply did not foresee this sort of technical problem.

The bill I am introducing today would rewrite subsection 231(g) of the Energy Tax Act. My purpose is to make that subsection easier to understand. The only substantive change I would make is the addition of a sentence at the end:

Finally, that portion of the tax that is computed on payments made after November 9, 1978 shall be considered "due and payable" after that date, even though the installment account, on which the payments are made, was sold or otherwise disposed of on or before that date.

This would give the MCI Corp. a refund for the excise taxes that were computed on installment payments the company received after November 9, 1978. However, this refund would have to be passed along to Holland Industries and to MCI's other customers.

If the bill passes, an injustice will have been undone. Mr. President, I ask unanimous consent that the complete text of it be printed in the RECORD.

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

S. 770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 231(g) of the Energy Tax Act of 1978 (relating to the effective date for removal of the excise tax on buses) is amended by striking paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) In the case of—

"(A) a lease,

"(B) a contract for the sale of an article providing that the price shall be paid by installments and title to the article sold does not pass until a future date notwithstanding partial payment by installments,

"(C) a conditional sale, or

"(D) a chattel mortgage arrangement providing that the sale price shall be paid in installments,

entered into on or before November 9, 1978, payments made after that date shall be considered payments made for an article sold after that date, if the lessor or vendor establishes that the post-November 9 payments have been reduced in amount by the share of the tax that is due or payable after November 9, 1978. If the lessor or vendor does not establish that the payments have been reduced, then the payments shall be treated as if made for an article sold on or before November 9, 1978. Finally, that portion of the tax that is computed on payments made after November 9, 1978, shall be considered 'due and payable' after that date, even

though the installment account, on which the payments are made, was sold or otherwise disposed of on or before that date."

(b) The amendment made by this Act shall apply to payments (and the taxes computed thereon) made after November 9, 1978.

By Mr. THURMOND (for himself and Mr. HART) (by request):

S. 774. A bill to authorize appropriations for construction at certain military installations for fiscal year 1981, and for other purposes; to the Committee on Armed Services.

SUPPLEMENTAL MILITARY CONSTRUCTION AUTHORIZATION ACT, 1981

Mr. THURMOND. Mr. President, by request, for myself and the senior Senator from Colorado (Mr. HART), I introduce for appropriate reference, a bill to authorize appropriations for construction at certain military installations for fiscal year 1981, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD immediately following the listing of the bill.

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

S. 774

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 "Supplemental Military Construction Authorization Act, 1981."

(a) The following amount is authorized in addition to the amounts specified for the public works projects authorized by Title I of the Military Construction Act, 1981 (Public Law 96-418, 94 Stat. 1561):

UNITED STATES ARMY, EUROPE

Various locations, $1,800,000.

(b) There is authorized to be appropriated for the purpose of this section an amount not to exceed $1,800,000.

SEC. 2. (a). The following amount is authorized in addition to the amounts specified for the public works projects authorized by Title II of the Military Construction Authorization Act, 1981, (Public Law 96-418, 94 Stat. 1752):

UNITED STATES MARINE CORPS

Marine Corps Air Station, El Toro, California, $2,000,000.

(b) There is authorized to be appropriated for the purpose of this section an amount not to exceed $2,000,000.

SEC. 3. (a) The following amounts are authorized in addition to the amounts specified for public works projects authorized by Title III of the Military Construction Authorization Act, 1981 (Public Law 96-418, 94 Stat. 1757):

AIR TRAINING COMMAND

Laughlin Air Force Base, Texas, $4,700,000.

STRATEGIC AIR COMMAND

K. I. Sawyer Air Force Base, Michigan, $540,000.

SPECIAL PROJECT

Various locations, Special Project, $50,000,000.

(b) The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $860,000 in addition to the amount specified for minor construction projects by section 303 of the Military Construction Authorization Act, 1981 (Public Law 96-418, 94 Stat. 1759).

(c) There is authorized to be appropriated for the purposes of subsection (a) an amount not to exceed $55,240,000.

SEC. 4. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $900,000 in addition to the amount specified for minor construction projects by section 403 of the Military Construction Authorization Act, 1981 (Public Law 96-418, 94 Stat. 1761).

SEC. 5. In addition to the funds authorized to be appropriated by section 510(a)(2) of the Military Construction Authorization Act, 1981 (Public Law 96-418, 94 Stat. 1767), there is hereby authorized to be appropriated for use by the Secretary of Defense, or the Secretary's designee, an amount not to exceed $16,022,000, authorized by law for suppport of military family housing, including operating expenses, leasing maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. § 1715).

SEC. 6. The Secretary of Defense may establish or develop facilities for Air National Guard of the United States in an amount not to exceed $6,500,000 in addition to the amount specified in section 701(3)(A) of the Military Construction Authorization Act, 1931 (Public Law 96-418, 94 Stat. 1774).

SEC. 7. Authorizations contained in this Act shall be subject to the authorizations and limitations of the Military Construction Authorization Act, 1981 (Public Law 96-418, 94 Stat. 1749), in the same manner as if such authorizations had been included in that Act. For the purposes of the limitations set forth in section 603 of the Military Construction Authorization Act, 1981 (Public Law 96-418, 94 Stat. 1768), the amounts authorized to be appropriated, by title, in that Act shall be deemed to be increased by the additional amounts authorized to be appropriated by this Act.

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., March 19, 1981.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation to authorize supplemental appropriations for military construction for Fiscal Year 1981. The additional construction is required to increase readiness, to improve our ability to recruit and retain personnel, and to modernize military facilities. The Office of Management and Budget has advised that the enactment of this bill would be in accordance with the program of the President.

This bill would authorize an additional $67,300,000 for military construction needs, of which $1,800,000 is for the Department of the Army, $2,000,000 for the Department of the Navy, $56,100,000 for the Department of the Air Force, $900,000 for the Defense Agencies, and $6,500,000 for the Air National Guard. In addition, this bill would authorize $16,022,000 for essential operations and maintenance of the military family housing inventory.

Your support of this supplemental military construction requirement is requested.

Sincerely,

L. NIEDERLEHNER,
Acting.

By Mr. SCHMITT:

S.J. Res. 52. Joint resolution to authorize and request the President to designate July 4, 1981, as "Honor Our Vietnam Veterans Day"; to the Committee on the Judiciary.

HONOR OUR VIETNAM VETERANS DAY

● Mr. SCHMITT. Mr. President, in 1921 an American soldier—his name "known but to God"—was buried in Arlington National Cemetery on a site overlooking the Potomac River. Burial of this unknown World War I soldier was in recognition of the high esteem which the people of this Nation held for all of the American men and women who answered the call of their country. Similar ceremonies took place after World War II and the Korean War.

This Nation was built by the continuing sacrifice of brave men and women, from the Revolution through the Vietnam era, who responded to the call for service to this Nation.

Some years ago this Nation ended America's direct involvement in the Southeast Asian conflict. More than 2½ million veterans served in Vietnam and another 6 million served elsewhere during those years. Many made enormous personal sacrifices and many suffered injuries that will disable them for the rest of their lives. In all, 57,414 Americans died in Southeast Asia. All these brave men and women deserve our utmost respect and admiration for their service to this country.

Veterans' Day is one way Americans demonstrate their respect for those men and women who have endured hardship and sacrifice in serving this country so ably. However, it has painfully been called to our attention that the returning Vietnam veteran was not accorded the honors and recognition for his or her service in a manner similar to that given to previous military service personnel. On every Veterans' Day we reflect on the past and celebrate the hopes and promises of the future. We are reminded that no one abhors war more than those who have been called to fight, and that none have a greater right to enjoy the freedoms and benefits of American citizenship than those individuals who have taken up their country's arms.

We are at peace today. Our gratitude for that blessing is owed in part to those veterans who have served in the past to make peace accessible.

In keeping with our national tradition of honoring those brave citizens who served their country, I am introducing today a joint resolution authorizing and requesting the President to designate July 4 of this year as "Honor Our Vietnam Veterans Day."

A law passed in 1973 provides for the interment of an unknown American who lost his or her life in Southeast Asia during the Vietnam era. I feel it would be particularly fitting to carry out this special recognization, if possible, on July 4 of this year.

Admittedly, Vietnam was an unpopular war which created sharp divisions among many of our people, but the GI who served in Vietnam has the right to hold his head just as high as any serviceman who answered the call of this great Nation. This special day of recognization is a long overdue acknowledgement by the American people of the sacrifice and service of the Vietnam veteran.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 52

Whereas the people of the United States have a long-standing commitment to honor and care for individuals who have borne arms in defense of their country;

Whereas during the period of the Vietnam conflict 8,500,000 individuals served in military service, and 2,800,000 of those individuals served in the Vietnam theater;

Whereas the 2,800,000 individuals who served in the Vietnam theater honorably performed their duty to their country in a long and divisive conflict;

Whereas the veterans of the Vietnam conflict were not accorded the same recognition that has been accorded to veterans of earlier wars;

Whereas although the Vietnam conflict has become part of history for most Americans, some veterans continue to bear the physical, emotional, and psychological scars of that conflict; and

Whereas it is appropriate to honor the patriotism and sacrifice of all the individuals who faithfully and honorably served their country during the Vietnam conflict: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating July 4, 1981, as "Honor Our Vietnam Veterans Day" and to call upon Federal, State, and local government agencies, and the people of the United States to demonstrate with appropriate programs, ceremonies, and activities the appreciation of the American people for the men and women who honorably served their country in the Vietnam conflict.●

By Mrs. KASSEBAUM:

S.J. Res. 53. Joint resolution to provide for the designation of September 6, 1981, as "Working Mother's Day"; to the Committee on the Judiciary.

WORKING MOTHER'S DAY

Mrs. KASSEBAUM. Mr. President, today I am introducing a joint resolution to designate the Sunday before Labor Day as "Working Mother's Day." I am pleased to join Representative CARDISS COLLINS in this effort to provide special recognition to the millions of American women who are serving double duty as homemakers and as participants in the paid labor force.

For a number of reasons, female participation in employment outside the home has undergone dramatic and steady increases in the recent past. By all indications, this trend will continue. Last year, 56.6 percent of all mothers with children under age 18 worked in paid employment. Although most working mothers are married, it is significant to note that approximately 20 percent of all working mothers are household heads. In fact, it comes as no surprise that mothers in one-parent families have a much higher rate of labor force participation—67 percent—than those in two-parent families.

As women move into the work force, they continue to assume primary responsibility for child rearing. The demands on the time and energy of these women are tremendous. Making the adjustments necessary to establish an appropriate balance between home and work responsibilities is a constant struggle. To the extent that these women are able to operate in a supportive environment, their ability to successfully cope with their multiple roles is substantially enhanced.

It is appropriate that we recognize the unique contributions made by working mothers to both the growth of the economy and the strength of the American family. I see "Working Mothers Day" as an excellent opportunity to show our appreciation to these dedicated women and invite my colleagues to join me in extending this expression of thanks.

Mr. President, I ask unanimous consent that the text of my joint resolution be printed in the RECORD.

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

S.J. RES. 53

Whereas more than sixteen million American women are employed outside the home and have children under the age of eighteen;

Whereas these working mothers are making unique and substantial contributions, to both the growth of the economy and the strength of the American family; and

Whereas working mothers deserve special recognition for fulfilling their exceptional responsibilities in the home and in the world of commerce: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating September 6, 1981, as "Working Mothers' Day," and calling upon families, individual citizens, labor and civic organizations, the media, and the business community to acknowledge the importance of the working mother and to express appreciation of her role in American society.

By Mr. HEINZ (for himself, Mr. NUNN, Mr. DURENBERGER, Mr. GOLDWATER, Mr. BOSCHWITZ, and Mr. JEPSEN):

S.J. Res. 54. Joint resolution proposing an amendment to the Constitution to protect the people of the United States against excessive governmental burdens and unsound fiscal and monetary policies by limiting total outlays of the Government; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT TO LIMIT FEDERAL SPENDING

Mr. HEINZ. Mr. President, because of a drafting error not picked up in final proofreading, I am today reintroducing in modified form the Heinz-Nunn constitutional amendment limiting Federal spending. I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

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

S.J. RES. 54

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE

"SECTION 1. (a) Total outlays of the Government of the United States during any fiscal year shall not rise more than the rate of increase in gross national product in the last calendar year that ended before such fiscal year.

"(b) For purposes of subsection (a), total outlays includes both budget and off-budget outlays, but does not include redemptions of the public debt or emergency outlays authorized under section 3 of this article.

"SEC. 2. When, for any fiscal year, total revenues received by the Government of the United States exceed total outlays, the surplus shall be used to reduce the public debt of the United States until such debt is eliminated.

"SEC. 3. Following declaration of an emergency by the President, the Congress may authorize, by a two-thirds vote of both Houses of Congress, a specified amount of emergency outlays in excess of the limit prescribed by section 1 for the current fiscal year.

"SEC. 4. The limit on total outlays prescribed by section 1 may be changed by a specified amount by a three-quarters vote of both Houses of Congress. The change shall become effective for the fiscal year following approval.

"SEC. 5. The Congress may not by law require or authorize any agency of the Government of the United States to require, directly or indirectly that State or local governments engage in additional or expanded activities without compensation equal to the necessary additional costs."

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. DECONCINI, the Senator from New Jersey (Mr. WILLIAMS), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 267, a bill to amend title 28, United States Code, to provide that the Federal tort claims provisions of that title are the exclusive remedy in medical malpractice actions and proceedings resulting from federally authorized National Guard training activities, and for other purposes.

S. 294

At the request of Mr. GLENN, the Senator from Georgia (Mr. NUNN), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 294, a bill to establish an Interagency Committee on Arson Control to coordinate Federal antiarson programs, to amend certain provisions of the law relating to programs for arson investigation, prevention, and detection, and for other purposes.

S. 574

At the request of Mrs. KASSEBAUM, the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 574, a bill to amend the Internal Revenue Code of 1954 to allow the estate of a decedent a deduction for certain bequests of interests in property used in farms or other trades or businesses, and for other purposes.

S. 732

At the request of Mr. NUNN, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 732, a bill to insure the confidentiality of information filed by individual taxpayers with the Internal Revenue Service pursuant to the Internal Revenue Code and, at the same time, to insure the effective enforcement of Federal and State criminal laws and the effective administration of justice.

SENATE JOINT RESOLUTION 38

At the request of Mrs. KASSEBAUM, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of Senate Joint

Resolution 38, a joint resolution to provide for designation of the first Friday of March as "Teacher Day, United States of America."

SENATE CONCURRENT RESOLUTION 10

At the request of Mr. HATFIELD, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of Senate Concurrent Resolution 10, a concurrent resolution expressing the sense of the Congress concerning the continuing permanent conversion of productive agricultural lands to nonagricultural uses.

SENATE RESOLUTION 44

At the request of Mr. MOYNIHAN, the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. JEPSEN), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Resolution 44, a resolution relating to the convening of an international conference to amend certain international agreements concerning the privileges and immunities of diplomatic and consular agents.

AMENDMENT NO. 8

At the request of Mr. RIEGLE, his name was added as a cosponsor of amendment No. 8 proposed to S. 509, a bill to amend section 201 of the Agricultural Act of 1949, as amended, to delete the requirement that the support price of milk be adjusted semiannually.

AMENDMENTS SUBMITTED FOR PRINTING

DELETION OF REQUIREMENT THAT SUPPORT PRICE OF MILK BE ADJUSTED SEMIANNUALLY

AMENDMENT NO. 13

(Ordered to be printed.)

Mr. BOREN proposed an amendment to the bill (S. 509) to amend section 201 of the Agricultural Act of 1949, as amended, to delete the requirement that the support price of milk be adjusted semiannually.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. WEICKER. Mr. President, on March 17 I announced a hearing before the Energy Conservation and Supply Subcommittee. At this time, I would like to reschedule the hearing at 9 a.m. rather than 9:30 a.m. as previously announced. The hearing will be held on April 6, 1981, in room 3100 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. SPECTER. Mr. President, the Subcommittee on Juvenile Justice of the Committee on the Judiciary will hold a hearing on April 1, 1981, at 9 a.m. in room 2228 Dirksen Senate Office Building to discuss the proposed phaseout of the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice.

Persons wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on the Judiciary, Subcommittee on Juvenile Justice, room 253 Russell Senate Office Building, Washington, D.C. 20510. For further information regarding the hearing, please contact Jonathan Levin at 224–4254.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON SMALL BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Small Business be authorized to meet today until 12:30 p.m. to consider the nomination of Michael Cardenas to be the Administrator of Small Business Administration.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources, Subcommittee on Energy Research and Development, be allowed to meet today as scheduled while the Senate is in session to hold a hearing on the Department of Energy's fiscal year 1982 authorization request.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate today to hear testimony from witnesses regarding the 1981 farm bill.

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

ADDITIONAL STATEMENTS

THE EXPORT TRADING COMPANY ACT OF 1981

● Mr. HEINZ. Mr. President, on Thursday, March 12, the Committee on Banking, Housing, and Urban Affairs marked up S. 144, the Export Trading Company Act of 1981, and ordered reported an original bill embodying the amendments to S. 144 approved by the committee. The committee report, along with the original bill, S. 734, were filed March 18.

In its markup, the committee did not change the basic provisions of S. 144. but it did adopt 24 amendments, most of them technical, a few of which make substantive changes in particular parts of the bill. For those who have been following this legislation closely, I would like to list briefly the more substantive changes in S. 144 made by the committee.

First. The committee reduced the amount of money authorized in section 106 of the bill for EDA and SBA loans and loan guarantees from $20 million per year to $10 million per year for 5 years.

Second. The committee added a new section 108, proposed by Senator RIEGLE, creating a program which would help small businesses not previously significantly involved in exporting hire an export manager by providing for Federal payment of half the manager's salary for the first year. The cost of this amendment is $2 million per year for 3 years. It is the same amendment which the Senate adopted on the floor last year in its consideration of S. 2718, the predecessor of S. 144.

Third. The committee adopted two amendments initially proposed by Senator CHAFEE which would: (a) Permit a trading company to have the same name as its banking organization investor if the latter owns a majority of the stock of the trading company; and (b) provide the bank regulatory agencies greater flexibility in dealing with violations of section 105(c)(3) of the bill relating to taking positions in commodities, securities or foreign exchange. Both these amendments were recommended by the Comptroller of the Currency.

Fourth. With respect to title II of the bill, the antitrust provisions the committee agreed to an amendment which would permit existing Webb-Pomerene Associations to continue to operate under current law if they so chose rather than being forced to seek certification under the new system created by this bill. Such associations, of course, would also retain the option of seeking certification under the same standards and procedures applicable to everyone else.

The other amendments, Mr. President, were technical in nature, correcting typographical or reference errors or making other minor changes in language, in most cases at the reqeust of the administration. So that all these changes are clear to everyone concerned, Mr. President, I shall ask that the complete text of S. 734, the original bill reported by the Banking Committee, be printed in the RECORD at the conclusion of my remarks.

Reporting this bill represents another important step in our progress toward enacting this legislation and thereby giving American businesses interested in exporting another set of tools to use to successfully market and sell abroad. The committee held 3 days of hearings on this bill this year, in addition to the many days held in 1979 and 1980, and I anticipate that the printed record of the 1981 hearings will be available to Senators and the public shortly. I am also pleased to see that the House is also moving forward with this legislation, the House Judiciary Committee having scheduled hearings on it and other related measures for March 26. The next step should be Senate floor action, which I hope will come soon.

The bill follows:

S. 734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXPORT TRADING COMPANIES

SHORT TITLE

SEC. 101. This title may be cited as the "Export Trading Company Act of 1981".

FINDINGS

SEC. 102. (a) The Congress finds and declares that—

(1) tens of thousands of American companies produce exportable goods or services but do not engage in exporting;

(2) although the United States is the

world's leading agricultural exporting nation, many farm products are not marketed as widely and effectively abroad as they could be through producer-owned export trading companies;

(3) exporting requires extensive specialized knowledge and skills and entails additional, unfamiliar risks which present costs for which smaller producers cannot realize economies of scale;

(4) export trade intermediaries, such as trading companies, can achieve economies of scale and acquire expertise enabling them to export goods and services profitably, at low per unit cost to producers;

(5) the United States lacks well-developed export trade intermediaries to package export trade services at reasonable prices (exporting services are fragmented into a multitude of separate functions; companies attempting to offer comprehensive export trade services lack financial leverage to reach a significant portion of potential United States exporters);

(6) State and local government activities which initiate, facilitate, or expand export of products and services are an important and irreplaceable source for expansion of total United States exports, as well as for experimentation in the development of innovative export programs keyed to local, State, and regional economic needs;

(7) the development of export trading companies in the United States has been hampered by insular business attitudes and by Government regulations; and

(8) if United States export trading companies are to be successful in promoting United States exports and in competing with foreign trading companies, they must be able to draw on the resources, expertise, and knowledge of the United States banking system, both in the United States and abroad.

(b) The purpose of this Act is to increase United States exports of products and services, particularly by small, medium-size, and minority concerns, by encouraging more efficient provision of export trade services to American producers and suppliers.

DEFINITIONS

SEC. 103. (a) As used in this Act—

(1) the term "export trade" means trade or commerce in goods produced in the United States or services produced in the United States, and exported, or in the course of being exported, from the United States to any foreign nation;

(2) the term "goods produced in the United States" means tangible property manufactured, produced, grown, or extracted in the United States, the cost of the imported raw materials and components thereof shall not exceed 50 per centum of the sales price;

(3) the term "services produced in the United States" includes, but is not limited to accounting, amusement, architectural, automatic data processing, business, communications, construction franchising and licensing, consulting, engineering financial, insurance, legal, management, repair, tourism, training, and transportation services, not less than 50 per centum of the sales or billings of which is provided by United States citizens or is otherwise attributable to the United States;

(4) the term "export trade services" includes, but is not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States;

(5) the term "export trading company" means a company, whether operated for profit or as a nonprofit organization, which does business under the laws of the United States or any State and which is organized and operated principally for the purposes of—

(A) exporting goods and services produced in the United States; and

(B) facilitating the exportation of goods and services produced in the United States by unaffiliated persons by providing one or more export trade services;

(6) the term "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(7) the term "Secretary" means the Secretary of Commerce; and

(8) the term "company" means any corporation, partnership, association, or similar organization, whether operated for profit or as a nonprofit organization.

(b) The Secretary is authorized, by regulation, to further define such terms consistent with this section.

FUNCTIONS OF THE SECRETARY OF COMMERCE

SEC. 104. The Secretary shall promote and encourage the formation and operation of export trading companies by providing information and advice to interested persons and by facilitating contact between producers of exportable goods and services and firms offering export trade services.

OWNERSHIP OF EXPORT TRADING COMPANIES BY BANKS, BANK HOLDING COMPANIES, AND INTERNATIONAL BANKING CORPORATIONS

SEC. 105. (a) For the purpose of this section—

(1) the term "banking organization" means any State bank, national bank, Federal savings bank, bankers' bank, bank holding company, Edge Act Corporation, or Agreement Corporation;

(2) the term "State bank" means any bank or bankers' bank which is incorporated under the laws of any State, any territory of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands;

(3) the term "State member bank" means any State bank which is a member of the Federal Reserve System;

(4) the term "State nonmember insured bank" means any State bank which is not a member of the Federal Reserve System, but the deposits of which are insured by the Federal Deposit Insurance Corporation;

(5) the term "bankers' bank" means any bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent directors' qualifying shares are required by law) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees;

(6) the term "bank holding company" has the same meaning as in the Bank Holding Act of 1956;

(7) the term "Edge Act Corporation" means a Corporation organized under section 25(a) of the Federal Reserve Act;

(8) the term "Agreement Corporation" means a corporation operating subject to section 25 of the Federal Reserve Act;

(9) the term "appropriate Federal banking agency" means—

(A) the Comptroller of the Currency with respect to a national bank or any bank located in the District of Columbia;

(B) the Board of Governors of the Federal Reserve System with respect to a State member bank, bank holding company, Edge Act Corporation, or Agreement Corporation;

(C) the Federal Deposit Insurance Corporation with respect to a State nonmember insured bank; and

(D) the Federal Home Loan Bank Board with respect to a Federal saving bank.

In any situation where the banking organization holding or making an investment in an export trading company is a subsidiary of another banking organization which is subject to the jurisdiction of another agency, and come from of agency approval or notification is required, such approval or notification need only be obtained from or made to, as the case may be, the appropriate Federal banking agency for the banking organization making or holding the investment in the export trading company;

(10) the term "capital and surplus" shall be defined by the appropriate Federal banking agency;

(11) an "affiliate" of a banking organization has the same meaning as an "affiliate" of a member bank under section 2 of the Banking Act of 1933, and, with respect to a bank holding company, includes any bank or other subsidiary of such company, the term "subsidiary" has the same meaning as in section 2 of the Bank Holding Company Act of 1956;

(12) the terms "control" and "subsidiary" shall have the same meanings assigned to those terms in section 2 of the Bank Holding Company Act of 1956, and the terms "controlled" and "controlling" shall be construed consistently with the term "controlled" as defined in section 2 of the Bank Holding Company Act of 1956, except that for purpose of the Export Trading Company Act of 1981, the determination of control as provided in section 2(a)(2) of the Bank Holding Company Act of 1956 shall be made by the appropriate Federal banking agency; and

(13) for the purposes of this section, the term "export trading company" means a company which does business under the laws of the United States or any State and which is exclusively engaged in activities related to international trade, whether operated for profit or as a nonprofit organization: *Provided, however,* That any such company must also either meet the definition of export trading company in section 103(a)(5) of this Act, or be organized and operated principally for the purpose of providing export trade services, as defined in section 103(a)(4) of this Act: *Provided further,* That any such company, for purposes of this section, (A) may engage in or hold shares of a company engaged in the business of underwriting, selling, or distributing securities in the United States only to the extent that its banking organization investor may do so under applicable Federal and State banking law and regulations, and, (B) may not engage in manufacturing or agricultural production activities.

(b)(1) Notwithstanding any prohibition, restriction, limitation, condition, or requirement of any law applicable only to banking organizations, a banking organization, subject to the limitations of subsection (c) and the procedures of this subsection, may invest directly and indirectly in the aggregate, up to 5 per centum of its consolidated capital and surplus (25 per centum in the case of an Edge Act Corporation or Agreement Corporation not engaged in banking) in the voting stock or other evidences of ownership of one or more export trading companies. A banking organization may—

(A) invest up to an aggregate amount of $10,000,000 in one or more export trading companies without the prior approval of the appropriate Federal banking agency, if such investment does not cause an export trading company to become a subsidiary of the investing banking organization; and

(B) make investments in excess of an aggregate amount of $10,000,000 in one or more export trading companies, or make any investment or take any other action which causes an export trading company to become a subsidiary of the investing banking orga-

nization or which will cause more than 50 per centum of the voting stock of an export trading company to be owned or controlled by banking organizations, only with the prior approval of the appropriate Federal banking agency.

Any banking organization which makes an investment under authority of clause (A) of the preceding sentence shall promptly notify the appropriate Federal banking agency of such investment and shall file such reports on such investment as such agency may require. If, after receipt of any such notification, the appropriate Federal banking agency determines, after notice and opportunity for hearing, that the export trading company is a subsidiary of the investing banking organization, it shall have authority to disapprove the investment or impose conditions on such investment under authority of subsection (d). In furtherance of such authority, the appropriate Federal banking agency may require divestiture of any voting stock or other evidences of ownership previously acquired, and may impose conditions necessary for the termination of any controlling relationship.

(2) If a banking organization proposes to make any investment or engage in any activity included within the following two subparagraphs, it must give the appropriate Federal banking agency ninety days prior written notice before it makes such investment or engages in such activity.

(A) any additional investment in an export trading company subsidiary; or

(B) the engagement by any export trading company subsidiary in any line of activity, including specifically the taking of title to goods, wares, merchandise, or commodities, if such activity was not disclosed in any prior application for approval.

During the notification period provided under this paragraph, the appropriate Federal banking agency may, by written notice, disapprove the proposed investment or activity or impose conditions on such investment or activity under authority of subsection (d). An additional investment or activity covered by this paragraph may be made or engaged in, as the case may be, prior to the expiration of the notification period if the appropriate Federal banking agency issues written notice of its intent not to disapprove.

(3) In the event of the failure of the appropriate Federal banking agency to act on any application for approval under paragraph (1)(B) of this subsection within a period of one hundred and twenty days, which period begins on the date the application has been accepted for processing by the appropriate Federal banking agency, the application shall be deemed to have been granted. In the event of the failure of the appropriate Federal banking agency either to disapprove or to impose conditions on any investment or activity subject to the prior notification requirements of paragraph (2) of this subsection within the ninety-day period provided therein, such period beginning on the date the notification has been received by the appropriate Federal banking agency, such investment or activity may be made or engaged in, as the case may be, any time after the expiration of such period.

(c) The following limitations apply to export trading companies and the investments in such companies by banking organizations.

(1) The name of any export trading company shall not be similar in any respect to to that of a banking organization that owns any of its voting stock or other evidence of ownership except where a majority of the outstanding voting stock or other evidences of ownership of the company is owned or controlled by such banking organization.

(2) The total historical cost of the direct and indirect investments by a banking organization in an export trading company combined with extensions of credit by the banking organization and its direct and indirect subsidiaries to such export trading company shall not exceed 10 per centum of the banking organization's capital and surplus.

(3) A banking organization that owns any voting stock or other evidences of ownership of an export trading company may be required, by the appropriate Federal banking agency, to terminate its ownership or shall be subject to limitations or conditions which may be imposed by such agency, if the agency determines that the company has taken positions in commodities or commodities contracts, in securities, or in foreign exchange, other than as may be necessary in the course of its business operations.

(4) No banking organization holding voting stock or other evidences of ownership of any export trading company may extend credit or cause any affiliate to extend credit to any export trading company or to customers of such company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extension of credit shall not involve more than the normal risk of repayment or present other unfavorable features.

(d)(1) In the case of every application under subsection (b)(1)(B) of this section, the appropriate Federal backing agency shall take into consideration the financial and managerial resources, competitive situation, and future prospects of the banking organization and export trading company concerned, and the benefits of the proposal to United States business, industrial, and agricultural concerns (with special emphasis on small, medium-size and minority concerns), and to improving United States competitiveness in world markets. The appropriate Federal banking agency may not approve any investment for which an application has been filed under subsection (b)(1)(B) if it finds that the export benefits of such proposal are outweighed in the public interest by any adverse financial, managerial, competitive, or other banking factors associated with the particular investment. Any disapproval order issued under this section must contain a statement of the reasons for disapproval.

(2) In approving any application submitted under subsection (b)(1)(B), the appropriate Federal banking agency may impose such conditions which, under the circumstances of such case, it may deem necessary (A) to limit a banking organization's financial exposure to an export trading company, or (B) to prevent possible conflicts of interest or unsafe or unsound banking practices. With respect to the taking of title to goods, wares, merchandise, or commodities by any export trading company subsidiary of a banking organization, the appropriate Federal banking agencies may, by order, regulation, or guidelines, establish standards designed to ensure against any unsafe or unsound practices that could adversely affect a controlling banking organization investor. In particular, the appropriate Federal banking agencies may establish inventory-to-capital ratios, based on the capital of the export trading company subsidiary, for those circumstances in which the export trading company subsidiary may bear a market risk on inventory held.

(3) In determining whether to impose any condition under the preceding paragraph (2), or in imposing such condition, the appropriate Federal banking agency must give due consideration to the size of the banking organization and export trading company involved, the degree of investment and other support to be provided by the banking organization to the export trading company, and the identity, character, and financial strength of any other investors in the export trading company. The appropriate Federal banking agency shall not impose any conditions or set standards for the taking of title which unnecessarily disadvantage, restrict, or limit export trading companies in competing in world markets or in achieving the purposes of section 102 of this Act. In particular, in setting standards for the taking of title under the preceding paragraph (2), the appropriate Federal banking agencies shall give special weight to the need to take title in certain kinds of trade transactions, such as international barter transactions.

(4) Notwithstanding any other provision of this Act, the appropriate Federal banking agency may, whenever it has reasonable cause to believe that the ownership or control of any investment in any export trading company constitutes a serious risk to the financial safety, soundness, or stability of the banking organization and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the banking organization, after due notice and opportunity for hearing, to terminate (within one hundred and twenty days or such longer period as the appropriate Federal banking agency may direct in unusual circumstances) its investment in the export trading company.

(5) On or before two years after enactment of this Act, the appropriate Federal banking agencies shall jointly report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives their recommendations with respect to the implementation of this section, their recommendations on any changes in United States law to facilitate the financing of United States exports, especially by small, medium-size, and minority business concerns, and their recommendations on the effects of ownership of United States banks by foreign banking organizations affiliated with trading companies doing business in the United States.

(6) The appropriate Federal banking agency may, by regulation or order, exempt from the collateral requirements of section 23A of the Federal Reserve Act any loan or extension of credit made by a national or State bank to an export trading company affiliate if the agency determines such exemption is necessary to finance the operating expenses of an affiliated export trading company and does not expose the bank to undue financial risks. This paragraph does not apply to bank affiliates currently exempt from the requirements of section 23A.

(e)(1) Any party aggrieved by an order of an appropriate Federal banking agency under this section may obtain a review of such order in the United States court of appeals within any circuit wherein such organization has its principal place of business, or in the court of appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The appropriate Federal banking agency shall promptly certify and file in such court the record upon which the order was based. The court shall set aside any order found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege or immunity; (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or (D) without observance of procedure required by law.

(2) Except for violations of subsection (b)(3) of this section, the court shall remand for further consideration by the appropriate Federal banking agency any order set aside solely for procedural errors and may remand for further consideration by the appropriate Federal banking agency any order set aside for substantive errors. Upon remand, the appropriate Federal banking agency shall have no more than sixty days from date of issuance of the court's order

to cure any procedural error or reconsider its prior order. If the agency fails to act within this period, the application or other matter subject to review shall be deemed to have been granted as a matter of law.

(f)(1) The appropriate Federal banking agencies are authorized and empowered to issue such rules, regulations, and orders, to require such reports, to delegate such functions, and to conduct such examinations of subsidiary export trading companies, as each of them may deem necessary in oder to perform their respective duties and functions under this section and to administer and carry out the provisions and purposes of this section and prevent evasions thereof.

(2) In addition to any powers, remedies, or sanctions otherwise provided by law, compliance with the requirements imposed under this section may be enforced under section 8 of the Federal Deposit Insurance Act by any appropriate Federal banking agency defined in that Act.

(g) Nothing in this section shall at any time prevent any State from adopting a law prohibiting banks chartered under the laws of such State from investing in export trading companies or applying conditions, limitations, or restrictions on investments by banks chartered under the laws of such State in export trading companies in addition to any conditions, limitations, or restrictions provided under this section.

INITIAL INVESTMENTS AND OPERATING EXPENSES

SEC. 106. (a) The Economic Development Administration and the Small Business Administration are directed, in their consideration of applications by export trading companies for loans and guarantees, and operating grants to nonprofit organizations, including applications to make new investments related to the export of goods or services produced in the United States and to meet operating expenses, to give special weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small, medium-size and minority business or agricultural concerns in the export market.

(b) There are authorized to be appropriated as necessary to meet the purposes of this section $10,000,000 for each of the fiscal years 1982, 1983, 1984, 1985, and 1986. Amounts appropriated pursuant to the authority of this subsection shall be in addition to amounts appropriated under the authority of other Acts.

GUARANTEES FOR EXPORT ACCOUNTS RECEIVABLE AND INVENTORY

SEC. 107. The Export-Import Bank of the United States is authorized and directed to establish a program to provide guarantees for loans extended by financial institutions or other private creditors to export trading companies as defined in section 103(5) of this Act, or to other exporters, when such loans are secured by export accounts receivable or inventories of exportable goods, and when in the judgment of the Board of Directors—

(1) the private credit market is not providing adequate financing to enable otherwise creditworthy export trading companies or exporters to consummate export transactions; and

(2) such guarantees would facilitate expansion of exports which would not otherwise occur.

The Board of Directors shall attempt to insure that a major share of any loan guarantees ultimately serves to promote exports from small, medium-size and minority businesses or agricultural concerns. Guarantees provided under the authority of this section shall be subject to limitations contained in annual appropriations Acts.

ASSISTANCE FOR SMALL BUSINESS EXPORT MANAGEMENT

SEC. 108. (a) The Secretary is authorized to make grants to subsidize the employment of export managers by small business manufacturing firms which have not previously been exporters in substantial amounts. The amount of such a grant may not exceed the lesser of (1) 50 per centum of the salary and other expenses related to the employment of a full-time export manager for a period of one year, or (2) $40,000.

(b) To be eligible under this section, each firm must submit to the Secretary an application which—

(1) demonstrates that the firm has not derived more than an average of five per centum of its sales volume (in monetary terms) from exports during the 5 most recent years and does not currently employ an export manager;

(2) demonstrates that the firm is a small business manufacturing firm, as defined by the Secretary after consulting with the Administrator of the Small Business Administration;

(3) describes the qualification of a person proposed to be hired as the firm's export manager on a full-time basis for a period of at least one year, and describes the terms and conditions of that person's employment by the firm and the amount of the grant applied for to subsidize the costs of that employment; and

(4) describes the products and services considered by the firm to be suitable for export and the general outlines of the export program to be undertaken under the direction of the export manager.

(c) In selecting firms to receive grants under this section, the Secretary shall consider the desirability of determining the feasibility of this approach to export promotion in each of the regions of the Department of Commerce and in relation to a variety of products and services which, in the opinion of the Secretary, have export potential.

(d) There are authorized to be appropriated to the Secretary not to exceed $2,000,000 for each of the fiscal years 1982, 1983, and 1984, to carry out the program established by this section.

(e) The Secretary shall develop a plan to evaluate the cost-effectiveness of the program of export promotion established by this section and its effectiveness as compared with other export promotion programs, including the amount of export sales generated by small businesses assisted under this section. For the purpose of the evaluation the Secretary is authorized to require any firm receiving assistance under this section to furnish such information as is deemed appropriate to complete the required evaluation. The Secretary shall make recommendations concerning continuation or expansion of the program and improvements in the program structure. Such evaluation and recommendations shall be submitted to the Congress prior to October 1, 1983.

TITLE II— EXPORT TRADE ASSOCIATIONS

SHORT TITLE

SEC. 201. This title may be cited as the "Export Trade Association Act of 1981."

FINDINGS: DECLARATION OF PURPOSE

SEC. 202. (a) FINDINGS.—The Congress finds and declares that—

(1) the exports of the American economy are responsible for creating and maintaining one out of every nine manufacturing jobs in the United States and for generating $1 out of every $7 of total United States goods produced;

(2) exports will play an even larger role in the United States economy in the future in the face of severe competition from foreign government-owned and subsidized commercial entities;

(3) between 1968 and 1977 the United States share of total world exports fell from 19 per centum to 13 per centum;

(4) trade deficits contribute to the decline of the dollar on international currency markets, fueling inflation at home;

(5) service-related industries are vital to the well being of the American economy inasmuch as they create jobs for seven out of every ten Americans, provide 65 per centum of the Nation's gross national product, and represent a small but rapidly rising percentage of United States international trade;

(6) small and medium-sized firms are prime beneficiaries of joint exporting, through pooling of technical expertise, help in achieving economies of scale, and assistance in competing effectively in foreign markets; and

(7) the Department of Commerce has as one of its responsibilities the development and promotion of United States exports.

(b) PURPOSE.—It is the purpose of this Act to encourage American exports by establishing an office within the Department of Commerce to encourage and promote the formation of export trade associations through the Webb-Pomerene Act, by making the provisions of that Act explicitly applicable to the exportation of services, and by transferring the responsibility for administering that Act from the Federal Trade Commission to the Secretary of Commerce.

DEFINITIONS

SEC. 203. The Webb-Pomerene Act (15 U.S.C. 61–66) is amended by striking out the first section (15 U.S.C. 61) and inserting in lieu thereof the following:

"SECTION 1. DEFINITIONS.

"As used in this Act—

"(1) EXPORT TRADE.—The term 'export trade' means trade or commerce in goods, wares, merchandise, or services exported, or in the course of being exported from the United States or any territory thereof to any foreign nation.

"(2) SERVICE.—The term 'service' means intangible economic output, including, but not limited to—

"(A) business, repair, and amusement services;

"(B) management, legal, engineering, architectural, and other professional services; and

"(C) financial, insurance, transportation, informational and any other data-based services, and communication services.

"(3) EXPORT TRADE ACTIVITIES.—The term 'export trade activities' means activities or agreements in the course of export trade.

"(4) METHODS OF OPERATION.—The term 'methods of operation' means the methods by which an association or export trading company conducts or proposes to conduct export trade.

"(5) TRADE WITHIN THE UNITED STATES.—The term 'trade within the United States' whenever used in this Act means trade or commerce among the several States or in any territory of the United States, or in the District of Columbia, or between any such territory and another, or between any such territory or territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

"(6) ASSOCIATION.—The term 'association' means any combination, by contract or other arrangement, of persons who are citizens of the United States, partnerships which are created under and exist pursuant to the laws of any State or of the United States, or corporations, whether operated for profit or organized as nonprofit corporations, which

are created under and exist pursuant to the laws of any State or of the United States.

"(7) EXPORT TRADING COMPANY.—The term 'export trading company' means an export trading company as defined in section 103 (5) of the Export Trading Company Act of 1981.

"(8) ANTITRUST LAWS.—The term 'antitrust laws' means the antitrust laws defined in the first section of the Clayton Act (15 U.S.C. 12), sections 5 and 6 of the Federal Trade Commission Act (15 U.S.C. 45, 46), and any State antitrust or unfair competition law.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"(10) ATTORNEY GENERAL.—The term 'Attorney General' means the Attorney General of the United States.

"(11) COMMISSION.—The term 'Commission' means the Federal Trade Commission.".

ANTITRUST EXEMPTION

SEC. 204. The Webb-Pomerene Act (15 U.S.C. 61–66) is amended by striking out section 2 (15 U.S.C. 62) and inserting in lieu thereof the following:

"SEC. 2. EXEMPTION FROM ANTITRUST LAWS.

"(a) ELIGIBILITY.—The export trade, export trade activities, and methods of operation of any association, entered into for the sole purpose of engaging in export trade, and engaged in or proposed to be engaged in such export trade, and the export trade, export trade activities and methods of operation of any export trading company, that—

"(1) serve to preserve or promote export trade;

"(2) result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of such association or export trading company;

"(3) do not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by such association or export trading company;

"(4) do not constitute unfair methods of competition against competitors engaged in the export trade of goods, wares, merchandise, or services of the class exported by such association or export trading company;

"(5) do not include any act which results, or may reasonably be expected to result, in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the association or export trading company or its members; and

"(6) do not constitute trade or commerce in the licensing of patents, technology, trademarks, or knowhow, except as incidental to the sale of the goods, wares, merchandise, or services exported by the association or export trading company on its members

shall, when certified according to the procedures set forth in this Act, be eligible for the exemption provided in subsection (b).

"(b) EXEMPTION.—An association or an export trading company and its members are exempt from the operation of the antitrust laws with respect to their export trade, export trade activities and methods of operation that are specified in a certificate issued according to the procedures set forth in this Act, carried out in conformity with the provisions, terms, and conditions prescribed in such certificate and engaged in during the period in which such certificate is in effect. The subsequent revocation or invalidation in whole or in part of such certificate shall not render an association or its members or an export trading company or its members, liable under the antitrust laws for such export trade, export trade activities, or methods of operation engaged in during such period.

"(c) DISAGREEMENT OF ATTORNEY GENERAL OR COMMISSION.—Whenever, pursuant to section 4(b)(1) of this Act, the Attorney General or the Commission has formally advised the Secretary of disagreement with his determination to issue a proposed certificate, and the Secretary has nonetheless issued such proposed certificate or an amended certificate, the exemption provided by this section shall not be effective until thirty days after the issuance of such certificate.".

AMENDMENT OF SECTION 3

SEC. 205. The Webb-Pomerene Act (15 U.S.C. 61–66) is amended—

(1) by inserting immediately before section 3 (15 U.S.C. 63) the following:

"SEC. 3. OWNERSHIP INTEREST IN OTHER TRADE ASSOCIATIONS PERMITTED.", and

(2) by striking out "Sec. 3. That nothing" in section 3 and inserting in lieu thereof "Nothing".

ADMINISTRATION: ENFORCEMENT: REPORTS

SEC. 206. (a) IN GENERAL.—The Webb-Pomerene Act (15 U.S.C. 61–66) is amended by striking out sections 4 and 5 (15 U.S.C. 64 and 65) and inserting in lieu thereof the following sections:

"SEC. 4. CERTIFICATION.

"(a) PROCEDURE FOR APPLICATION.—Any association or export trading company seeking certification under this Act shall file with the Secretary a written application for certification setting forth the following:

"(1) The name of the association or export trading company.

"(2) The location of all of the offices or places of business of the association or export trading company in the United States and abroad.

"(3) The names and addresses of all of the officers, stockholders, and members of the association or export trading company.

"(4) A copy of the certificate or articles of incorporation and bylaws, if the association or export trading company is a corporation; or a copy of the articles, partnership, joint venture, or other agreement or contract under which the association or export trading company conducts or proposes to conduct its export trade activities, or contract of association, if the association or export trading company is unincorporated.

"(5) A description of the goods, wares, merchandise, or services which the association or export trading company or their members export or propose to export.

"(6) A description of the domestic and international conditions, and factors which show that the association or export trading company and its activities will serve a specified need in promoting the export trade of the described goods, wares, merchandise, or services.

"(7) The export trade activities in which the association or export trading company intends to engage and the methods by which the association or export trading company conducts or proposes to conduct export trade in the described goods, wares, merchandise, or services, including, but not limited to, any agreements to sell exclusively to or through the association or export trading company, any agreements with foreign persons who may act as joint selling agents, any agreements to acquire a foreign selling agent, any agreements for pooling tangible or intangible property or resources, or any territorial, price-maintenance, membership, or other restrictions to be imposed upon members of the association or export trading company.

"(8) The names of all countries where export trade in the described goods, wares, merchandise, or services is conducted or proposed to be conducted by or through the association or export trading company.

"(9) Any other information which the Secretary may request concerning the organization, operation, management, or finances of the association or export trading company; the relation of the association or export trading company to other associations, corporations, partnerships, and individuals; and competition or potential competition, and effects of the association or export trading company thereon. The Secretary may request such information as part of an initial application or as a necessary supplement thereto. The Secretary may not request information under this paragraph which is not reasonably available to the person making application or which is not necessary for certification of the prospective association or export trading company.

"(b) ISSUANCE OF CERTIFICATE.—

"(1) NINETY-DAY PERIOD.—The Secretary shall issue a certificate to an association or export trading company within ninety days after receiving the application for certification or necessary supplement thereto if the Secretary, after consultation with the Attorney General and Commission, determines that the association and, its export trade, export trade activities and methods of operation, or export trading company, and its export trade, export trade activities and methods of operation meet the requirements of section 2 of this Act and will serve a specified need in prompting the export trade of the goods, wares, merchandise, or services described in the application for certification. The certificate shall specify the permissible export trade, export trade activities and methods of operation of the association or export trading company and shall include any terms and conditions the Secretary deems necessary to comply with the requirements of section 2 of this Act. The Secretary shall deliver to the Attorney General and the Commission a copy of any certificate that he proposes to issue. The Attorney General or Commission may, within fifteen days thereafter, give written notice to the Secretary of an intent to offer advice on the determination. The Attorney General or Commission may, after giving such written notice and within forty-five days of the time the Secretary has delivered a copy of a proposed certificate, formally advise the Secretary and the petitioning association or export trading company of disagreement with the Secretary's determination. The Secretary shall not issue any certificate prior to the expiration of such forty-five day period unless he has (A) received no notice of intent to offer advice by the Attorney General or the Commission within fifteen days after delivering a copy of a proposed certificate, or (B) received any noticed formal advice of disagreement or written confirmation that no formal disagreement will be transmitted from the Attorney General and the Commission. After the forty-five day period or, if no notice of intent to offer advice has been given, after the fifteen-day period, the Secretary shall either issue the proposed certificate, issue an amended certificate, or deny the application. Upon agreement of the applicant, the Secretary may delay taking action for not more than thirty additional days after the forty-five day period. Before offering advice on a proposed certification, the Attorney General and Commission shall consult in an effort to avoid, wherever possible, having both agencies offer advice on any application.

"(2) EXPEDITED CERTIFICATION.—In those instances where the temporary nature of the export trade activities, deadlines for bidding on contracts or filling orders, or any other circumstances beyond the control of the association or export trading company which have a significant impact on its export trade, make the ninety-day period for application approval described in paragraph (1) of this subsection, or an amended application approval as provided in subsection (c) of this

section, impractical for the association or export trading company seeking certification, such association or export trading company may request and may receive expedited action on its application for certification.

"(3) AUTOMATIC CERTIFICATION FOR EXISTING ASSOCIATIONS.—Any association registered with the Federal Trade Commission under this Act as of January 19, 1981, may file with the Secretary an application for automatic certification of any export trade, export trade activities, and methods of operation in which it was engaged prior to enactment of the Export Trade Association Act of 1981. Any such application must be filed within 180 days after the date of enactment of such Act and shall be acted upon by the Secretary in accordance with the procedures provided by this section. The Secretary shall issue to the association a certificate specifying the permissible export trade, export trade activities, and methods of operation that he determines are shown by the application (including any necessary supplement thereto), on its face, to be eligible for certification under this Act, and including any terms and conditions the Secretary deems necessary to comply with the requirements of section 2(a) of this Act, unless the Secretary possesses information clearly indicating that the requirements of section 2(a) are not met.

"(4) APPEAL OF DETERMINATION.—If the Secretary determines not to issue a certificate to an association or export trading company which has submitted an application for certification, or for an amendment of a certificate, then he shall—

"(A) notify the association or export trading company of his determination and the reasons for his determination, and

"(B) upon request made by the association or export trading company, afford it an opportunity for reconsideration with respect to that determination.

"(c) MATERIAL CHANGES IN CIRCUMSTANCES; AMENDMENT OF CERTIFICATE.—Whenever there is a material change in the membership, export trade activities, or methods of operation, of an association or export trading company then it shall report such change to the Secretary and may apply to the Secretary for an amendment of its certificate. Any application for an amendment to a certificate shall set forth the requested amendment of the certificate and the reasons for the requested amendment. Any request for the amendment of a certificate shall be treated in the same manner as an original application for a certificate.

"(d) AMENDMENT OR REVOCATION OF CERTIFICATE BY SECRETARY.—

"(1) The Secretary on his own initiative shall, upon a determination that the export trade, export trade activities or methods of operation of an association or export trading company no longer comply with the requirements of section 2 of this Act, revoke its certificate or make such amendments as may be necessary to comply with the requirements of such section.

"(2) Prior to revoking or amending a certificate, the Secretary shall—

"(A) notify the holder of the certificate in writing of the facts or conduct which may warrant the action, and

"(B) provide the holder of the certificate an opportunity for such hearing as may be appropriate in the circumstances.

"(3) Before revoking or amending a certificate pursuant to this subsection the Secretary may in his discretion provide the holder of the certificate an opportunity to achieve compliance within a reasonable period of time not to exceed ninety days, except that nothing in this paragraph shall affect any action under section 4(e) of this Act.

"(e) ACTION FOR INVALIDATION OF CERTIFICATE BY ATTORNEY GENERAL OR COMMISSION.—

"(1) The Attorney General or the Commission may bring an action against an association or export trading company or its members to invalidate, in whole or in part, its certificate on the ground that the export trade, export trade activities or methods of operation of the association or export trading company fail or have failed to meet the requirements of section 2 of this Act. Except in the case of an action brought during the period before an antitrust exemption becomes effective, as provided for in section 2(c), the Attorney General or Commission shall notify any association or export trading company or member thereof, against which it intends to bring an action for invalidation, thirty days in advance, as to its intent to file an action under this subsection. The district court shall consider any issues presented in any such action de novo and if it finds that the requirements of section 2 are not met, it shall issue an order declaring the certificate invalid or any other order necessary to effectuate the purposes of this Act and the requirements of section 2.

"(2) Any action brought under this subsection shall be considered an action described in section 1337 of title 28, United States Code. Pending any such action which was brought during the period any exemption is held in abeyance pursuant to section 2(c) of this Act, the court may make such temporary restraining order or prohibition as shall be deemed just in the premises.

"(3) No person other than the Attorney General or Commission shall have standing to bring an action against an association of export trading company or their respective members for failure of the association of export trading company or their respective export trade, export trade activities or methods of operation to meet the eligibility requirements of section 2 of this Act.

"(f) COMPLIANCE WITH OTHER LAWS.—Each association and each export trading company and any subsidiary thereof shall comply with United States export control laws pertaining to the export or transshipment of any goods on the Commodity Control List to controlled countries. Such laws shall be complied with before actual shipment.

"(g) JUDICIAL REVIEW.—Final orders of the Secretary under this section shall be subject to judicial review pursuant to chapter 7 of title 5, United States Code.

"SEC. 5. GUIDELINES.

"(a) INITIAL PROPOSED GUIDELINES.—Within ninety days after the enactment of the Export Trade Association Act of 1981, the Secretary, after consultation with the Attorney General, and the Commission shall publish proposed guidelines for purposes of determining whether export trade, export trade activities and methods of operation of an association or export trading company will meet the requirements of section 2 of this Act.

"(b) PUBLIC COMMENT PERIOD.—Following publication of the proposed guidelines, and any proposed revision of guidelines, interested parties shall have thirty days to comment on the proposed guidelines. The Secretary shall review the comments and, after consultation with the Attorney General, and Commission, publish final guidelines within thirty days after the last day on which comments may be made under the preceding sentence.

"(c) PERIODIC REVISION.—After publication of the final guidelines, the Secretary shall periodically review the guidelines and, after consultation with the Attorney General, and the Commission, propose revisions as needed.

"(d) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.—The promulgation of guidelines under this section shall not be considered rulemaking for purposes of subchapter II of chapter 5 of title 5, United States Code, and section 553 of such title shall not apply to their promulgation.

"SEC. 6. ANNUAL REPORTS.

"Every certified association or export trading company shall submit to the Secretary an annual report, in such form and at such time as he may require, which report updates where necessary the information described by section 4(a) of this Act.

"SEC. 7. OFFICE OF EXPORT TRADE IN DEPARTMENT OF COMMERCE.

"The Secretary shall establish within the Department of Commerce an office to promote and encourage to the greatest extent feasible the formation of export trade associations and export trading companies through the use of provisions of this Act in a manner consistent with this Act. The Office of Export Trade in the Department of Commerce shall report to the congressional committees of appropriate jurisdiction on an annual basis, all East-West trade transactions requiring validated licenses, and any other relevant information on the role of United States export trading companies or subsidiaries thereof in East-West trade.

"SEC. 8. CONFIDENTIALITY OF APPLICATION AND ANNUAL REPORT INFORMATION.

"(a) GENERAL RULE.—Portions of applications made under section 4, including amendments to such applications, and annual reports made under section 6 that contain trade secrets or confidential business or financial information, the disclosure of which would harm the competitive position of the person submitting such information shall be confidential, and, except as authorized by this section, no officer or employee or former officer or employee, of the United States shall disclose any such confidential information, obtained by him in any manner in connection with his service as such an officer or employee.

"(b) Disclosure to Attorney General or Commission.—Whenever the Secretary believes that an applicant may be eligible for a certificate, or has issued a certificate to an association or export trading company, he shall promptly make available all materials filed by the applicant, association or export trading company, including applications and supplements thereto, reports of material changes, applications for amendments and annual reports, and information derived therefrom, to the Attorney General or Commission, or any employee or officer thereof, for official use in connection with an investigation or judicial or administrative proceeding under this Act or the antitrust laws to which the United States or the Commission is or may be a party. Such information may only be disclosed by the Secretary upon a prior certification that the information will be maintained in confidence and will only be used for such official law enforcement purposes.

"SEC. 9. MODIFICATION OF ASSOCIATION TO COMPLY WITH UNITED STATES OBLIGATIONS.

"At such time as the United States undertakes binding international obligations by treaty or statute, to the extent that the operations of any export trade association or export trading company, certified under this Act, are inconsistent with such international obligations, the Secretary may require the association or export trading company to modify its respective operations, and in so doing afford the association or export trading company a reasonable opportunity to comply therewith, so as to be consistent with such international obligations.

"SEC. 10. REGULATIONS.

"The Secretary, after consultation with the Attorney General and the Commission, shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

"SEC. 11. TASK FORCE STUDY.

"Seven years after the date of enactment of the Export Trade Association Act of 1981, the President shall appoint, by and with the advice and consent of the Senate, a task force to examine the effect of the operation of this Act on domestic competition and on United States international trade and to recommend either continuation, revision, or termination of the Webb-Pomerene Act. The task force shall have one year to conduct its study and to make its recommendations to the President.".

(b) Redesignation of Section 6.—The Act is amended—

(1) by striking out "Sec. 6." in section 6 (15 U.S.C. 66), and

(2) by inserting immediately before such section the following:

"SEC. 12. SHORT TITLE.".

EFFECTIVE DATE WITH REGARD TO EXISTING ASSOCIATIONS

SEC. 207. (a) GENERAL RULE.—The amendments to the Webb-Pomerene Act set forth in sections 203, 204, 205, and 206 of this Act shall become effective with regard to an existing association described in subsection (b) only at such time as the association may elect to be certified pursuant to subsection (c).

(b) Election to Continue Under Prior Law.—Application of the antitrust laws to any association which as of January 1, 1981, had filed with the Commission the information specified under section 5 of the Webb-Pomerene Act as in effect immediately prior to the date of enactment of this Act shall continue to be governed by the standards set forth in that Act, unless such association elects to seek certification under subsection (c).

(c) Election to Apply for Certification.—Any association to which subsection (b) applies may, at any time after the effective date of this Act, file an application for certification with the Secretary containing the information set forth in section 4(a) of the Webb-Pomerene Act, as amended by section 206 of this Act. The Secretary shall consider and act upon such application in the manner provided in section 4(b) of the Webb-Pomerene Act, as amended by section 206 of this Act. The association filing an application pursuant to this subsection shall continue to be subject to subsection (b) of this section until the Secretary issues a certificate and such certificate has been accepted by the association; the association must decide whether or not to accept such certificate no later than thirty days after the Secretary's determination with respect thereto has become final.●

EXPORT TRADING COMPANY LEGISLATION—VII

● Mr. HEINZ. Mr. President, the Export Trading Company Act, ordered reported by the Banking Committee last Thursday, should play a significant part in revitalizing our Nation's ailing position in the international marketplace. By facilitating the establishment of export trading companies, the bill would provide for a mechanism through which small- and medium-sized manufacturers could sell their products abroad. I would like to call my colleagues' attention to the testimony of Mr. W. Paul Cooper, chairman of the Board of the Acme-Cleveland Corp. before the Subcommittee on International Finance and Monetary Policy.

The Acme-Cleveland Corp. is a medium-sized manufacturer of machine tools. As Mr. Cooper explains in his testimony, Acme-Cleveland serves as an example of a company whose exports plummeted in the past decade and one whose exports stand to surge in the next if this legislation is enacted. Mr. Cooper provides firsthand evidence of how individual enterprises and ultimately the U.S. economy in general will benefit from the Export Trading Company Act. Mr. Cooper also provided a comprehensive and compelling discussion of the need for bank participation in or control of export trading companies.

Mr. President, I ask to have printed in the RECORD Mr. Cooper's testimony.

STATEMENT OF W. PAUL COOPER

I. INTRODUCTION

Good morning, my name is W. Paul Cooper. I am Chairman of the Board of Acme-Cleveland Corporation. Accompanying me today is Mr. James H. Mack, Public Affairs Director of the National Machine Tool Builders' Association (NMTBA), the national trade association of which Acme-Cleveland is one of over 400 member companies.

Although we are of course pleased to be of service to this Subcommittee, we are here today with somewhat mixed emotions in that it was nearly a year ago that we appeared before a similar panel in the other house. At that time, we conveyed nearly the same message that we will convey to you today. Improved export policy is an area of vital interest to both my own corporation and the U.S. machine tool industry as well as the U.S. economy generally.

The legislation which we will be commenting on today, Senator Heinz's bill, S. 144, is very similar to the legislation which this Subcommittee reported last year, S. 2718. We strongly supported that legislation, and we strongly support this year's bill. At this time we would like to address some of the objections raised to last Congress' legislation, S. 2718, in the hopes of allaying the fears of those who attempted to block export trading company legislation during the 96th Congress.

To some extent this may be preaching to the choir. The Senate passed S. 2718 during last Congress by an overwhelming vote of 77–0. Nevertheless, we believe it is important to reiterate the reasons why export trading companies are of vital importance to our national interest, in order that a strong and complete record might be built upon which to base passage of export trading company legislation early in the first session of the 97th Congress. Specifically, we would like to particularly emphasize the importance of drafting this legislation so as to allow U.S. banking institutions to become directly involved as integral parts of export trading companies. Of course, as we are all aware, it was the inclusion of such direct banking involvement provisions in last year's bill which unfortunately blocked passage of ETC legislation in the House of Representatives, even after the Senate had overwhelmingly passed S. 2718. For this reason, we believe it is even more imperative this session of Congress that the Senate take as early an aggressive lead in developing and passing export trading company legislation, in order that the objections raised to S. 2718 last year, which will undoubtedly again be raised to S. 144 this year, will be addressed so as to develop a consensus which will ultimately lead to enactment into law of this vitally needed export trading company legislation.

Again, for the sake of completeness of the record, before proceeding with my comments, we would first like to briefly outline Acme-Cleveland's activities in the metalworking manufacturing industry, as well as the corporation's recent experience in the export market.

Acme-Cleveland, a New York Stock Exchange listed corporation, has existed in its present form since 1968. However, several of its predecessor companies and present major components have long histories in the industry, dating back over one hundred years in some cases. The corporation is in the business of manufacturing the tools of metalworking productivity: machine tools, cutting and threading tools, foundry tooling and equipment, electrical and electronic controls, and automated production systems. Currently, these products, including replacement parts, are manufactured by six operating divisions, supported by two service companies with a combined domestic employment of approximately 5,700 workers.

In addition to these domestic U.S. operations, Acme-Cleveland also consists of a number of foreign subsidiaries. Finally, relationships with several foreign licensees and one overseas joint-venture round out the corporation's worldwide business activity.

Acme-Cleveland views foreign trade as an extremely significant part of what has come to be recognized as a worldwide machine tool market. Even prior to Acme-Cleveland's worldwide expansion, several of its predecessor companies enjoyed long and active involvement in foreign trade. A high point of this foreign activity occurred in 1975 when over one fifth (21.5 percent) of Acme-Cleveland's domestic production had its destination in the export market. Unfortunately, however, even with an overall increase in total business volume there has been a steady decline in export sales, until in 1979 only 6.0 percent of domestic production was shipped overseas, for an annual average of 10.3 percent for the years 1975 through 1979.

Shifting from my own corporation's experience to that of the industry generally, it is important to point out that while the domestic U.S. machine tool market has been oscillating with very little real growth since the middle 1960's, the world market has grown substantially. Unfortunately, most of this worldwide expansion has been absorbed by our foreign competitors, eroding our market share.

In the middle 1960's, the American machine tool industry supplied approximately one-third of the total global market. In other words, one out of every three machine tools consumed in the world was produced by an American machine tool builder. However, according to American Machinist, as of the end of 1979, that portion had fallen to only 17.1 percent. In short, over the past 13 years, our share of the world market has plummeted by almost 50 percent.

This dramatic decline is the result of two factors. First, our domestic market has been invaded by foreign competitors on a scale never before dreamed of. For example, since 1964, America's imports of foreign machine tools have more than tripled, growing from 7% of total consumption 15 years ago to over 25% in 1980. It is obvious that, because the United States is the largest open machine tool market in the world, our foreign competitors have pulled out the stops and are aiming their export marketing efforts directly at America.

Second, and this is the aspect that we wish to focus on at this time, our share of the export market has also declined. When we look at the dollar value of our exports, the results of our efforts look encouraging. But if we look at American exports as a percentage of all of the machine tool exports in the world, the results are indeed very discouraging. We have been losing export market share at an alarming rate. Our share of the world's machine tool exports fell from 21% in 1964 to just 7% last year, placing us well behind West Germany and Japan as a machine tool exporting nation.

Finally, and perhaps most alarmingly, in

1978 the United States suffered its first machine tool trade deficit in history, with imports exceeding exports by some $155 million. And, to make matters even worse, this deficit trend continued through 1980. Even though our exports grew by 15.8% over 1978 levels, imports soared by more than 45% to produce an even larger trade deficit of almost $400 million in 1980.

The National Machine Tool Builders' Association is a national trade association representing over 400 American machine tool manufacturing companies, which account for approximately 90% of United States machine tool production. Although the total machine tool industry employs approximately 110,000 people with a combined annual output of around four billion dollars, most NMTBA member companies are small businesses with payrolls of 250 or fewer employees.

While relatively small by some corporate standards, American machine tool builders comprise a very basic segment of the U.S. industrial capacity, with a tremendous impact on America. It is the industry that builds the machines that are the foundation of America's industrial-military strength. Without machine tools, there could be no manufacturing; there would be no trains, no planes, no ships, no cars; there would be no power plants, no electric lights, no refrigerators and no agricultural machinery.

II. NATIONAL MACHINE TOOL BUILDERS' ASSOCIATION EXPORT PROMOTION ACTIVITIES

NMTBA and its member companies have devoted considerable time and effort to increasing exports.

NMTBA, on behalf of the American machine tool industry is devoting its own resources to the development and maintenance of international markets everywhere in the world. The Association has two people who spend virtually their full time overseas promoting United States machine tool exports with considerable assistance from the Department of Commerce.

NMTBA develops seminars and workshops to train our members' people on international financing, export licensing, or any other subject that will benefit a machine tool builder. We conduct market research to locate new and promising markets for industry development. We have conducted roughly thirty Industry Organized, Government Approved (IOGA) trade missions to help gain a foothold in these new markets, and approximately half a dozen are planned for 1982 and 1983. We sponsor foreign exhibitions so that our members will have more opportunities to display their products overseas. In addition, we often work in close conjunction with the Commerce Department on such activities as recruiting exhibitors for export promotion events such as catalog shows, video tape shows and technical seminars. We organize reverse trade missions to bring foreign buyers to our plants. And we bring large groups of foreign visitors to the International Machine Tool Show in Chicago every two years. The Commerce Department has worked closely with us in the development and implementation of these programs, as have the commercial officers in our embassies and trade centers around the world.

III. BANK INVOLVEMENT IN EXPORT TRADING COMPANIES

In an economy which has until only recently been primarily oriented to the domestic market, it is not hard to understand why export trade has been deprived of significant financial resources. Because of such an overwhelmingly domestic orientation, the investment and entrepreneurship to establish export trading companies on an economical scale has been difficult.

With a gigantic domestic market to produce for, many American businessmen have shied away from what they often perceive to be the complex world of international trade. While countries like Canada export 25% of their gross national product, Germany 22.6%, and the United Kingdom 23%, the U.S. consumes all but 7.5% of domestic production. Recent statistics indicate that only 8% of this country's 250,000 manufacturers ship their goods abroad and, of those, a mere 100 industrial giants account for more than half of all U.S. exports. And while it is true that our enormous trade deficit is caused primarily by oil imports, it is striking to note that had we maintained the share of manufactured exports that we enjoyed in 1960 we could be paying for our oil bill in 1981 without a trade deficit. Since 1960, the U.S. share of manufactured exports has slid from 22.8% to 17.4% of the world total.

We, therefore, commend you Mr. Chairman for your sponsorship of S. 144, a bill designed to stimulate exports, by spurring the creation of large scale American trading companies that would provide a much needed export vehicle for small and medium-sized businesses, and also facilitate joint-ventures and barter deals by already big exporters. To accomplish these goals, S. 144 attempts to stimulate initiative from at least three possible sources: (1) accelerated internal growth by existing U.S. export management or export trading companies; (2) formation of independent export trading companies fostered by major corporations with international trade experience; and (3) investments by U.S. banking institutions in new or existing export trading companies. This third source of increased stimulus—specifically the provision that banks may have ownership participation in export trading companies—is the aspect of the bill which has been the most controversial and has drawn the criticism of those who believe that commerce and banking should continue to remain separate activities.

Presumably, this legislation was inspired to some extent by Japanese "sogo shosha," multi-billion dollar trading conglomerates with huge asset bases and close ties to government, bankers and manufacturers. These "sogo shosha" in addition to their trading companies, each have numerous subsidiaries in such areas as auto, steel and textiles. The trading arm in turn has its own subsidiaries in manufacturing, farming and resource development, and it draws on the entire conglomerate organization for products to sell and for assistance in financing them.

Moreover, the trading company isn't limited to its organization. It will also buy or sell products from any other source wherever it finds the opportunity. With some 80,000 employees spread around the globe drumming up billions of dollars worth of business, the "sogo shosha" as a group account for more than 50% of Japan's exports and imports, and 30% of GNP.

Because fundamental differences between our two societies should discourage the belief that America can or should attempt to duplicate the Japanese model for its own economy, we concur in the belief of most trade experts that the U.S. must develop its own brand of trading company that is consistent with our nation's tradition of competitiveness rather than consensus. This, we believe, is what S. 144 is designed to do.

We believe that banks can bring not only financial resources, but almost all of the supporting facilities and services which U.S. exporters now most lack by contrast with their foreign competitors. They will make it possible for American companies to combine their resources in a variety of ways and configurations in the interest of more competitive overseas marketing of American products and services. More importantly, banks can encourage and help exporters develop a long term view of, and presence in, export markets. Moreover, bank affiliated trading companies would have special effect on encouraging more medium and small exporters who are now discouraged by the remoteness and strangeness of foreign markets and buyers, exchange risks, and by the complexity and expense of documentation.

Although NMTBA supports the general principal of separation of banking and commerce, we believe there is good, sufficient, and, indeed, compelling reason to make an exception on a controlled basis for limited and conditional bank ownership of export trading companies in order to strengthen U.S. capacity to meet non-traditional international trade competition. Moreover, we further believe that as drafted, S. 144 contains prohibitions, restrictions, limitations, conditions and requirements more than ample to meet each of the objections raised concerning bank ownership of export trading companies.

In our view, any legislation purporting to encourage U.S. exports through the facility of export trading companies, which does not permit bank participation and (in some cases) the right of bank control is only a half step. Adequate financing is one of the most critical elements of export promotion. To continue to prohibit bank participation in export trading companies is to continue a halfway policy of half steps leading to halfway results.

In this regard, the following comments are addressed to the specific requirements of S. 144 which we believe are the most advantageous provisions concerning direct bank involvement in export trading companies.

A. Provisions designed to protect the financial integrity of banks participating in ETCs

Title I of S. 144 contains numerous provisions which are specifically designed to safeguard the financial integrity of banks. By definition, the bill precludes export trading companies from being used as vehicles for investment in domestic industries. Furthermore, U.S. government banking regulatory agencies would have clear authority to prevent ETCs from violating this restriction, since any significant investment by bank-owned ETCs would require prior approval from these agencies.[1]

Additionally, the many safeguards against undue risks by bank-owned ETCs will insure against the type of public policy concerns which have traditionally been associated with bank involvement in non-banking activities. Moreover, S. 144 has adopted the specific recommendations of the Federal Reserve by incorporating the same restrictions contained in Sec. 23A of the Federal Reserve Act.[2]

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[1] Senate Bill 144, Sec. 103(a)(9) states: the term "appropriate Federal banking agencies" means—(A) the Comptroller of the Currency with respect to a national bank or any District bank; (B) the Board of Governors of the Federal Reserve System with respect to a State member bank, bank holding company, Edge Act corporation, or Agreement Corporation; (C) the Federal Deposit Insurance Corporation with respect to a State non-member insured bank, except a District bank; (D) the Federal Home Loan Bank Board with respect to a Federal savings bank.

Moreover in any situation where the bank organization holding or making an investment in an export trading company is a subsidiary of another banking organization which is subject to jurisdiction of another agency, and some form of agency approval or notification is required, such approvals or notifications need only be obtained from or made to, as the case may be, the appropriate Federal Banking agency for the banking organization making or holding the investment in the export trading company.

[2] Sec. 23A of the Federal Reserve Act generally prohibits member banks from lending or investing more than 10% of their capital and surplus in any one affiliate, and more than 20% of their capital and surplus in all affiliates.

Specifically, Sec. 105 of S. 144 contains the following general guidelines for bank involvement in ETCs:

(1) Banks may invest up to an aggregate amount of $10 million in one or more export trading companies without prior approval of the appropriate federal banking agency, if such investment does not cause an export trading company to become a subsidiary of the investing bank.

(2) Banks may make investments in excess of an aggregate amount of $10 million in one or more export trading companies or make any investment which would cause an export trading company to become a subsidiary or which would cause more than 50% of the voting stock of the export trading company to be owned or controlled by the bank only with the prior approval of the appropriate federal agency.

(3) The total cost of the direct and indirect investment by a bank in an export trading company combined with extensions of credit by the bank to the trading company shall not exceed 10% of the bank's capital and surplus.

(4) Appropriate federal banking agencies may impose such conditions as they deem necessary to limit a banking organization's financial exposure to an export trading company or to prevent possible conflicts of interest or unsound banking practices.

(5) And finally, nothing in this bill would in any way prevent any state from adopting a law prohibiting banks chartered under the laws of such state from investing in export trading companies or applying conditions, or restrictions on investments by banks chartered under the laws of such state in export trading companies in addition to any conditions, limitations, or restrictions provided under the federal law itself.

B. Provisions designed to protect against unfair competitive advantages by bank-owned ETCs

In addition to expressing concerns about the potential for impairment of the financial integrity of banking institutions, critics of direct bank involvement in ETCs also expressed the fear that bank-owned ETCs will have unfair competitive advantages over ETCs owned by non-banking firms. Additionally, there is the worry that big banks and big companies would form joint-ventures, increasing what some perceive as an already dangerous trend toward concentration of economic power. However, to allay these fears S. 144 contains provisions which will specifically ensure that such unfair competitive circumstances will not develop.

Under S. 144 bank-owned ETCs will be much more heavily regulated than ETCs owned by non-banking firms. The legislation specifically prohibits banks and their affiliates from making preferential loans to any ETC in which they have an equity interest, including customers of any such ETC. Specifically incorporating the request of the Federal Reserve, S. 144 prohibits a banking organization or any of its affiliates from extending credit "to an export trading company or to customers of such company on terms more favorable than those afforded similar customers under similar circumstances, and such extension of credit shall not involve more than the normal risk of repayment or present other unfavorable features." [3]

Moreover, prohibitions on direct bank involvement in ETCs will put banks (of all sizes) at a serious disadvantage with so-called "near banks" (such as money market mutual funds), since under such restrictions near banks would be allowed to invest directly in ETCs while regular banks would not. And perhaps most importantly from a competitive perspective, with over 1,400 banks in the United States (certainly not all of which will be investing in ETCs) there will be more than ample financing alternatives for non-bank owned ETCs.

Certainly, if the risks of direct bank involvement in ETCs were so great there should be an experience of foreign failures resulting from unwise operation of trading affiliates. Instead, the reverse appears to be true. Therefore, we see no reason why if foreign banks can manage these risks, U.S. banks, which would be under the close scrutiny and supervision of numerous federal regulatory agencies, would not be able to do so also.

C. Currrently existing export management firms and financing alternatives are inadequate to compete effectively with foreign based export trading companies

Finally, opponents of direct bank participation in export trading companies have alleged that such vehicles as are proposed by S. 144 are not needed, because there are already existing export management firms or brokers which can adequately handle the needs of U.S. exporters. More specifically, it has also been argued that there is no need for direct bank participation in ETCs because the Export-Import Bank of the United States (Eximbank) already is capable of meeting the financial needs of U.S. exporters. In response to these two erroneous contentions we would point out that although the Department of Commerce estimates that there are about 3,800 export management firms or brokers in the United States, most are quite small (92 percent employing fewer than 5 people). Moreover, these firms normally limit themselves to a specific product line for a geographic area. Additionally, it is also very important to note that one of the major reasons these firms have not continued to grow is that they are normally severely under-capitalized. Banks as a result are unwilling to give them substantial lines of credit. While Japanese trading companies have debt/equity ratios of 15 or 20 to 1, small U.S. companies cannot operate anywhere near that level.

Addressing the argument that bank-owned ETCs are not necessary, because the Eximbank is already capable of providing sufficient export financing assistance, we begin by pointing out that Eximbank is an independent agency of the U.S. Government that works in cooperation with commercial banks to provide special financing services for U.S. exporters. In contrast, bank-owned export trading companies, as foreseen by S. 144, would be private entities with the internal ability to both finance and market goods in foreign commerce. While in no way depreciating the important role that Eximbank plays in furthering U.S. exports in world markets, it is obvious from the above two descriptions that the Eximbank and bank-owned ETCs are generically dissimilar entities with different goals and objectives. Simply stated, Eximbank is designed to offer targeted government financial assistance in special exporting circumstances, whereas bank-owned ETCs would provide U.S. exporters with a one-stop financing and marketing package designed to address a much broader range of export trade opportunities.

However, one response to this position has been to suggest that many, if not all, of these advantages are already currently available via Eximbank assistance, with the supposedly logical conclusion being that there is no need currently unfulfilled by Eximbank to be met by bank-owned ETCs.

Admittedly, Eximbank has a financing network with hundreds of U.S. and foreign financial institutions. Nor is there disagreement that these close working relationships have made it possible to further extend Eximbank's resources in cases where it is critical for American exporters to be able to offer financing which is competitive with that available to government-leveraged foreign sellers. However, although Eximbank may to some extent have access to the financial resources of private banking institutions, a critical factor governing the utilization of these resources is the funding level of Eximbank. Indeed, in the two most recent years for which complete data is available (1978 and 1979) Eximbank financed exports have amounted to only 1.5% of total U.S. exports. These figures clearly point out the limited, albeit vital, role Eximbank is designed to serve. Indeed, Eximbank's statutory authorization itself states that "the Bank in the exercise of its functions should supplement and encourage, and not compete with private capital." [4]

Moreover, although Eximbank is primarily a self-sustaining U.S. corporation required to provide adequate earnings to cover costs—just like any other business—it is, nevertheless, also a government institution subject to official United States policy and regulations in a variety of spheres ranging from foreign policy to economic concerns to environmental considerations. Given these additional considerations, Eximbank is therefore inherently less flexible than bank-owned ETCs would be in similar commercial circumstances.

As a matter of fact, the very future of Eximbank and its ability to promote U.S. exports is under serious attack as we meet here today. Even if the proposed cuts in Eximbank's lending authority (cuts, which, I might add, will effectively shut down the Bank's role as a major player in the export process) are not enacted, the projected needs of Eximbank are almost certain to go unfilled. Thus, to expect an under-financed (or perhaps even an *un*-financed) Eximbank to provide a major source of credit for U.S. exports is but a fool's dream. Many of S. 144's strongest opponents are also the strongest and loudest critics of the Eximbank. How do they expect to finance U.S. exports?

Finally, it appears almost self-evident that the major resource available to Eximbank is the very resource that bank-owned ETCs would tap one step closer to the original source, the financing capacity of private banking institutions. But just as important, bank-owned ETCs would also be able to provide the critical export marketing services necessary for successful export trade. Such export marketing services, which are beyond the capacity and purpose of Eximbank, would be an integral and vital part of bank-owned ETCs

To reiterate, the Eximbank is a very important effort by the United States Government to give targeted official assistance furthering U.S. overseas trade, and as such is highly commendable. Its lending authority should be increased, not cut back, as some have proposed. However, there remain vast export trade opportunities which for the reasons already stated would be much more effectively pursued via privately operated bank-owned export trading companies.

D. Reasons for bank ownership of ETC's

Mr. Chairman, to this point in our testimony we have to a great extent been on the defensive, that is attempting to rebut arguments of the opponents of direct bank participation in export trading companies. At this point we believe it is important to state affirmatively some of the benefits that we see accruing to the United States by virtue of export trading companies as envisioned under S. 144.

We would begin by emphasizing that our domestic laws separating banking and commerce are designed to preserve domestic competitive equality, not to meet the relatively recent challenge of foreign competition. However, because of this new foreign

[3] Senate Bill 144, Sec. 105(c)(4).

[4] The Export-Import Bank Act of 1945, as amended through November 10, 1978, 12 U.S.C. 635(b).

competition direct bank involvement in ETCs is absolutely necessary for American business to be competitive abroad.

In this regard, S. 144 would alter the laws separating banking and commerce only as they apply to the area of export trade, an area where the United States has always recognized the need for special rules to meet foreign competition (e.g., the Eximbank, Commodity Credit Corporation, Webb-Pomerene and DISC legislation, etc.). Thus, S. 144, rather than unnecessarily involving banks in commercial activities, actually follows the long tradition in U.S. law of not applying domestic rules to export trade activities, when to do so would only impede U.S. competitiveness in world markets.

Clearly, bank expertise would be both transferable and important to ETC management, organization and operation. Indeed, banks, with their international offices, experience in trade financing, business contacts at home and abroad, and international marketing knowledge are the most likely source of leadership in forming export trading companies.

Currently, a number of European banks operate some of the largest trading companies, and are able to supply those ETCs with almost all of the supporting facilities and services which U.S. exporters now most lack by contrast with these competitors.

What often happens is that foreign ETCs employ U.S. banks as intermediaries in arranging and financing initial transactions with U.S. exporters. However, after the initial contact with these American firms has been made, the foreign ETCs substitute their own internal financing for that of the original U.S. bank intermediary. The result of this procedure is a short term profit, but a long term loss for both the U.S. bank and America generally. Although more American-made goods are exported (a result we obviously support as highly desirable) export service fees are needlessly being shipped overseas along with U.S. products, with a resulting loss in income and jobs to American financial institutions.

Therefore, NMTBA strongly urges the direct involvement of U.S. banks in U.S. export trading companies. Such direct bank participation is the fuel needed to power the ETC vehicle. Direct incorporaton in U.S. ETCs of the many export services that American banks are able to offer would be of great competitive assistance to U.S. exporters who now incur additional delays and expense in obtaining similar service. Furthermore, certain services now either unprofitable or illegal (e.g., putting buyers in touch with sellers for a fee, or providing credit and political risk insurance to U.S. manufacturers) would also be available under this approach.

For all of these reasons, we strongly urge support for the banking provisions of S. 144 in comprehensive U.S. export trading company legislation.

IV. ANTITRUST LAW MODIFICATION PROPOSALS

The Webb-Pomerene Act, enacted in 1918, allows American companies to join together in developing foreign sales while enjoying limited immunity from the U.S. domestic antitrust laws. The current statute is administered by the Federal Trade Commission (FTC).

Unfortunately, the role of Webb associations has declined drastically over the years. From a high-water mark of about 19% of total U.S. exports between 1930 and 1935, Webb associations have slipped to less than a 2% share today.

Within the past year the merits of the Webb-Pomerene Act have been reexamined by the National Commission for the Review of Antitrust Laws and Procedures. At the conclusion of this study it was the Commission's recommendation that Congress reexamine the Act, and modify it where necessary.

In enacting the Webb-Pomerene Act, Congress envisioned an eager American business community availing itself of the opportunity to pool its facilities, resources, and expertise in such a fashion as to implement an ambitious joint exporting program. As we have seen that vision never materialized. One of the major reasons for the lack of development of export trading companies under the existing Webb-Pomerene Act has been the continuing uncertainty of the American business community as to what would or would not be within the scope of the Webb-Pomerene antitrust exemption.

Throughout the history of the Webb Act there have been a number of advisory opinions issued by the Federal Trade Commission, which in a case by case fashion have attempted to draw the parameters of the law's antitrust exemption.

Further clarification as to the parameter of the antitrust exemption provided under the Webb Act has been gained through adjudication of a number of cases brought by the Department of Justice.

The opinion of the court in the case of United States v. Minnesota Mining Mfg. (District Court, Massachusetts, 1950) provides the most authoritative interpretation of the scope and rationale of the antitrust exemption under the Webb-Pomerene Act. As stated by the Court:

"Now it may very well be that every successful export company does inevitably affect adversely the foreign commerce of those not in the joint enterprise and does bring the members of the enterprise so closely together as to affect adversely the members' competition in domestic commerce. Thus every export company may be a restraint. But if there are only these inevitable consequences, an export association is not an unlawful restraint. The Webb-Pomerene Act is an expression of Congressional will that such a restraint shall be permitted."

Title II of the Export Trading Company Act of 1981, S. 144, modifies the Webb-Pomerene Act in a way that will permit many more American firms to make use of its update provisions to promote exports. Title II does the following:

(1) It makes the provisions of the Webb-Pomerene Act explicitly applicable to the exportation of services. (The National Commission for the Review of Antitrust Laws and Procedures made this same recommendation in its report to the President.)

(2) It expands and clarifies the Act's antitrust exemption for export trade associations, and provides an antitrust exemption for export companies formed under Title I of the Act.

(3) It requires that the antitrust immunity be made contingent upon a preclearance procedure.

(4) It transfers the administration of the Act from the FTC to the Department of Commerce.

(5) It creates within the Department of Commerce an office to promote the formation of export trade associations and trading companies.

(6) Finally, it provides for the establishment of a task force whose purpose will be to evaluate the effectiveness of the Webb-Pomerene Act in increasing U.S. exports and to make recommendations regarding its future to the President.

We note that, as pointed out by Senator Danforth in his comments upon introduction of this legislation, with the exception of the requirements in paragraphs (1), (4), and (6), of section 2(a) of the Act (provisions which impose additional criteria for eligibility in addition to those found in the standards of the current Webb-Pomerene Act) the substantive law of antitrust as modified by the amended Webb-Pomerene Act has not been altered by S. 144. Instead, these amendments are simply a codification of court interpretations of the Webb-Pomerene exemption to the domestic antitrust laws. Also, according to testimony by a spokesman for the Antitrust Division of the Justice Department during hearings on last Congress' legislation, these amendments are consistent with the present enforcement policy of both the Department of Justice and the Federal Trade Commission.

However, we are aware that during debate on S. 2718 last year critics questioned the needs for amending this section of the Webb Act if, as we have just stated, these amendments are nothing more than a codification of not only current judicial understanding of Sec. II of the Webb Act but also the enforcement intent of both the Department of Justice and the Federal Trade Commission.

In response to this criticism, we would point out that the record clearly evidences that these amendments are necessary in order to provide certainty to the business community in their international trade activities, assuring them that their activities do not run afoul of domestic antitrust laws. This we believe will alleviate as a deterrent to broader utilization of the Webb-Pomerene Act what has previously been perceived by the business community as the Department of Justices', as well as the Federal Trade Commission's thinly veiled hostility toward Webb-Pomerene associations.

Closely allied with the issue of certain antitrust law exemption for export trading companies formed under the auspices of S. 144 is the question of who would be able to bring an antitrust complaint against such an export trading company. Sec. 4(e)(3) of the Act provides that only the Department of Justice or Federal Trade Commission has standing to bring a cause of action in court against a trading company or Webb association for violation of sec. 2 of the Act. Therefore, apart from the complained against activity being ultravires to the certification, a private party has no standing to bring suit. We fully support these provisions.

Additionally, Sec. 205 of S. 144 authorizes the Secretary of Commerce, with the concurrence of the Attorney General and the Chairman of the Federal Trade Commission, and after a period of public comment, to formulate and publish proposed guidelines to be applied in determining whether an association, its members, and its export trade meet the statutory requirements that would be established by this bill.

Additionally, we strongly support the expanded export trading company concept embodied in S. 144. We believe that S. 144's expansion of the scope of export trading companies current activities under Webb-Pomerene to include both goods and services is a major and significant improvement. It is apparent from this provision that the sponsors of this legislation have recognized that a greater and greater portion of the U.S. economy deals in the service sector, and, therefore, it is entirely appropriate that such service activities be included under the provisions of this legislation.

Finally, we commend and strongly support the requirement of confidentiality for applications and annual reports required under S. 144.

V. CONCLUSION

In conclusion, we commend you Mr. Chairman, as well as the other cosponsors of S. 144 for your legislative initiative in this area.

The expansion of currently permissible activities under Webb-Pomerene to include services in addition to goods is of vital importance if the U.S. is to remain an aggressive and effective competitor in the ever expanding global economy. Additionally, clarification of the antitrust laws in this area, specifically those concerning which government agencies will be empowered to enforce such laws, will remove the legal uncertain-

ties which heretofore have posed significant, and for many insurmountable, barriers to active involvement in the export market.

As we have stated, by restructuring the contours of export trading company activities, this legislation will provide the vehicle for increased export activity. However, the active and integral involvement of banks and other financial institutions in export trading companies is the absolutely essential element needed to power this vehicle. We believe that these two elements working together are the necessary and sufficient requirements of an effective export trading company bill.

We have noted that earlier versions of this legislation contained a third title which would have extended the tax deferral available under the DISC (Domestic International Sales Corporation) provisions of the tax code to exports of export trading companies, including exports of services. Moreover, it would also have allowed in some cases the use of the subpart S of the tax code which permits certain passthroughs to shareholders to closely held corporations. However, we understand that the sponsors of S. 144 have for jurisdictional reasons this time decided not to include Title III in this particular piece of legislation, instead apparently anticipate introducing a revised version of Title III as a separate bill. In our testimony on these provisions during last Congress' hearings on S. 2718 we for the most part felt very favorably toward the addition of such provisions to the Internal Revenue Code and continue to do so.

Finally, we thank this subcommittee for affording us the opportunity to relate the experiences of Acme-Cleveland and the U.S. machine tool industry in the export market. We believe that the proposals contained in the bills we have addressed today, in conjunction with the improved export administration controls and executive branch international trade reorganization plan will do much to encourage and promote overseas trade by both experienced and new exporters. We thank the Subcommittee for its attention and would be happy to respond to questions.

EXPORT COAL: THE GREAT LAKES ALTERNATIVE

● Mr. GLENN. Mr. President, the world coal study recently concluded that even moderate economic growth worldwide over the next 20 years will require tripled world coal use and a tenfold to fifteenfold increase in world steam coal trade in order to meet energy needs.

At present, however, America's ability to meet heightened demand for coal exports is being impaired by congestion at U.S. coastal ports and by competitive disadvantages caused by excessive delays in the loading of coal onto ships.

The recent surge in steam coal exports has created severe problems. With demurrage charges ranging upward from $10,000 to $20,000 daily, the cost of delaying a vessel for days or weeks can be enormous. Let me stress that these are not future problems; they are with us today. We continue to receive reports of dozens upon dozens of ships—often totaling 100 or more—waiting their turn to load export coal at major east coast ports.

This situation is more than just unfortunate; at a time when our coal industry has unused capacity and numerous unemployed workers, it is completely unacceptable. The demand for coal is clearly growing. But if we are to meet that demand, we must upgrade our transportation infrastructure and be better able to move our coal to ports with sufficient capacity. Successfully marketing U.S. coal overseas requires that we be able to convince potential buyers that the problems of congestion and inadequate facilities can and will be resolved.

Unfortunately, previous efforts to upgrade our coal-loading capacity have overlooked the substantial contribution that can be made through the ports of the Great Lakes and the St. Lawrence Seaway.

A recent study prepared by the Maritime Administration's Great Lakes Region states:

The demand for export U.S. steam coal is increasing. Consideration should be given to alternative U.S. coastal routes in order to meet this increased tonnage and to maintain the U.S. competitive position in the world market place. As the market for steam coal increases the most logical first step in meeting that demand is to use all competitive existing port facilities and transportation routes including the Great Lakes-St. Lawrence Seaway System.

Mr. President, Seaway Review is the excellent magazine of the Great Lakes-St. Lawrence Seaway transportation system. In the winter 1981 issue, there appears an excellent article by D. Ward Fuller, executive vice president of the American Steamship Co. Mr. Fuller presents an alternative solution to our present problems—the Great Lakes-St. Lawrence Seaway alternative. I ask that Mr. Fuller's article be printed in the RECORD, and I commend it to the attention of my colleagues.

The article follows:

EXPORT COAL: THE GREAT LAKES ALTERNATIVE

(By D. Ward Fuller)

The United States presently exports more coal than any other country in the world, and with over 30 percent of the worldwide reserves, it is well positioned to maintain its leadership position far into the next century.

In 1980 we witnessed an explosion in demand for steam coal to Europe and Far Eastern utilities brought upon by a combination of circumstances including the Iranian crisis, a doubling of OPEC oil prices, growing concerns over nuclear power, as well as a commitment by the free world to shift away from imported oil.

But as demand has accelerated, numerous questions have been raised about the ability of America's domestic transportation system and its port facilities to handle current export coal traffic, let alone the anticipated growth in this valuable export commodity. From Forbes to Fortune we have read about the congestion at our Atlantic ports, and numerous task forces and studies have analyzed the East and West Coast and the Gulf, searching for solutions to meet this growing demand and alleviate the current pressures. However, one viable solution has been largely overlooked by those seeking answers to this transportation bottleneck, i.e., the Great Lakes/St. Lawrence Seaway alternative.

It is a transportation system that is in place today, well experienced in the movement of coal, and capable of moving millions of tons to foreign buyers at meaningful cost savings over comparable movements in 1980.

The long-awaited demand for this frequently overlooked energy resource finally surfaced in 1930. The National Coal Association forecast for overseas exports of U.S. coal in 1980 stands at 70 million tons, an increase of over 50 percent over 1979. By 1990, this figure is estimated to be between 125 and 150 million tons annually.

And according to the Director of the International Energy Agency, the U.S. could be exporting 300 million tons of coal annually by the year 2000. A European Economics Community report issued in 1980 said the community's coal consumption would double by the year 2000 while its coal imports would reach 280 million tons annually by the year 2000, or quadruple the 1980 imports.

Finally, the World Coal Study, compiled by 16 nations, estimated that even moderate economic growth worldwide over the next 20 years would require tripled world coal use and a 10 to 15 fold increase in world steam coal trade to fulfill energy needs. Thus it would appear that the growing demand for steam coal is real and here to stay.

Inability to transport. But just as real is the large number of colliers lying at anchor at East Coast ports collecting demurrage fees upwards of $20,000 per day.

The impact has been not only to stifle the free flow of export coal but also to unnecessarily raise its price in the world marketplace. During the fall of 1980, it was reported that well over 100 colliers were waiting in line to load export coal at East Coast ports. And the average waiting time was not days, but weeks, and in a number of instances as long as one and one-half to two months with average demurrage rates amounting to $10 per ton and up.

That is a sad commentary for an industry that currently has excess capacity, hundreds of mines shut down and thousands of workers unemployed—all at a time when our country is striving to improve its national economy and its foreign balance of payments.

The barrier is certainly not demand but the inability to transport the coal once it is sold. The problems of the traditional East Coast and Gulf exporting ports appear to be a combination of limited drafts, lack of ground storage and, by modern standards, relatively slow and antiquated coal loading equipment.

A number of industrial and governmental groups have actively sought solutions to overcome the deficiencies in our transportation infrastructure and port facilities so as to alleviate this bottleneck for export coal. The International Energy Agency set up a Coal Industry Advisory Board.

The White House organized an Interagency Coal Export Task Force. The American Coal Exchange was formed by the investment community and the Senate Energy and Natural Resources Committee held hearings throughout the summer. Legislation has been sponsored, books have been written and a plethora of articles have appeared in a wide array of publications.

Unquestionably, progress has been made and numerous investment plans have been announced for St. Louis, New Orleans, Savannah, Moorehead City, Hampton Roads, Baltimore and Philadelphia. Unfortunately, these plans will require large amounts of both time and capital to bring them to fruition.

An alternative and an opportunity. But in spite of all the research, the studies, the task force groups and the discussions, one very logical remedial alternative has largely been overlooked—the Great Lakes/St. Lawrence Seaway alternative.

SUMMARY DELIVERED PRICES—ESTIMATED PRICE OF U.S. EXPORT COAL TO WESTERN EUROPE

Great Lakes port	Origin State	Rail route	Ocean-port	Maximum vessel size (dead-weight tons)	Delivered price[1]
Western coal:					
Superior, Wis.	Wyoming	Burlington Northern	Quebec City	100,000	[2] $44.56
			Direct ocean top-off	33,000	[2] 44.77
(St. Louis)	do	do	New Orleans	45,000	48.35
Appalachian coal:					
	Pennsylvania	B. & L. E. /Chessie	Baltimore	60,000	51.36
	Ohio	do	do	60,000	52.68
	do	do	Newport News	60,000	54.18
Erie, Pa.	Pennsylvania [5]	(Truck)	Quebec City	100,000	[2] 55.38
	Ohio	N. & W	Norfolk	80,000	55.47
Conneaut, Ohio	do	B. & L. E	Quebec City	100,000	[2] 56.65
Toledo, Ohio	do [5]	Chessie	do	100,000	[4] 57.72
Sandusky, Ohio	do [5]	N. & W	do	100,000	[2] 58.26
Ashtabula, Ohio	do [5]	Conrail	do	100,000	[3] [4] 58.46
	do [5]	B. & L. E./Conrail	Philadelphia	35,000	60.10
Toledo	do	Chessie		33,000	[2] 60.70
Conneaut	Pennsylvania	B. & L. E.		33,000	[2] 60.86
	Ohio	Conrail	Philadelphia	33,000	[2] 61.47
Sandusky	do	N. & W		33,000	[2] 62.47
Ashtabula	do	Conrail		33,000	[3] [4] 62.67

[1] Includes price f.o.b. mine, inland transportation, and water carriage to destination.
[2] 33,000 dwt top-off at Quebec.
[3] Lake feeder (25k dwt) to Quebec 100k dwt.
[4] Proposed rail rate.
[5] Proposed service.

As Carl Bagge, President of the National Coal Association, so candidly acknowledged last December to a group of Great Lakes port directors, "We have made a study of the port problem, but frankly, we never looked at the potential of the Great Lakes. We simply haven't; its been off our radar scopes."

Perhaps it would be easy to criticize Mr. Bagge for having such a limited range on his radar scope, but we would be remiss if we did not accept a large part of the responsibility ourselves.

Those of us within the Great Lakes shipping community know the advantage and capabilities of the system to move Eastern, Midwestern and Western coal to Europe in a reliable and cost effective manner—we must now begin to do a better job of imparting this information to the foreign buyers and coal exporters, as well as our own coal producers and transportation specialists.

One of the principal advantages of the Great Lakes/St. Lawrence Seaway System for the movement of coal to Europe is that it is in place today, capable of moving steam coal to Europe in 1981. It may come as something of a surprise to many people that Toledo, the most westerly coal port on Lake Erie, is closer to most North European ports than Baltimore and over 1,000 miles closer than the Port of New Orleans.

The standard Great Lakes vessel is a self-unloading, dry bulk vessel that provides the least expensive mode for moving bulk material available in the United States. It is also the most fuel-efficient and environmentally clean mode of transportation. Additionally, a number of traditional oceangoing vessels come into the System each season.

The Great Lakes has a wealth of experience in the storage, transshipment and transportation of coal—a commodity moved within the system since the turn of the century. And the Great Lakes takes great pride in its innovative transportation concepts. Contained within the system is the world's most modern, automated and sophisticated intermodal transportation system for the movement of coal.

This system encompasses the intermodal movement of Western coal from Decker, Montana to Superior, Wisconsin, by Burlington Northern's 110-car unit trains and then from Superior to Detroit Edison's St. Clair, Michigan, power plant by American Steamship Company's specially designed supercolliers that automatically unload themselves at 10,000 net tons per hour.

The entire 1,700 mile rail-water movement from Montana to Michigan takes less than five days. To effect the rail-water transfer at Superior, Dr. Tobey Yu of Orba Corporation designed the Midwest Energy Coal Terminal that has the world's largest and fastest underground feed-reclaim system and a shiploader rated at 11,000 net tons per hour.

It is a coal transportation system that has proven itself to be both a conceptual and operational success.

And what about transporting clean burning Western coal to Europe? A recent Maritime Administration study concluded the Superior-Great Lakes-St. Lawrence Seaway route to be the lowest cost route when compared to the St. Louis-New Orleans-Gulf route.

Six coal handling facilities in operation. Superior is only one of six coal handling facilities on the Great Lakes. Rail-to-Water at East Chicago on Lake Michigan serves the Midwestern coal market which includes Northern Indiana, West Kentucky and Southern Illinois.

They can accommodate over five million tons annually and currently have available capacity. Lake Erie has four coal receiving ports including Toledo, Sandusky, Ashtabula and Conneaut which serve the Ohio, Pennsylvania, Kentucky, Tennessee, Virginia and West Virginia coal producing regions. Coal handling capability has recently been added at Erie, Pennsylvania, and Buffalo, New York which can handle limited amounts of coal and is studying the feasibility of a major coal transshipment facility.

Toledo has been a major coal port for over 25 years, reaching an annual peak of over 34 million net tons in 1965. There are two coal docks in Toledo, the larger, Presque Isle Docks operated by the Chessie System, can handle 20 million tons of coal annually but operated at only 55 percent capacity in 1980.

This facility provides for direct transfer of coal from hopper cars to vessel. It is served by the Chessie, C&O, B&O and Conrail, all of which have "catch all" rates similar to export rates.

The modern Conneaut facility is owned by the Bessemer & Lake Erie Railroad and provides over five million net tons of ground storage with a maximum annual throughput of 14 million net tons. B & LE serves the Appalachian coal trade between Conneaut and interior points in the State of Pennsylvania and connects with Conrail in Ohio and Pennsylvania.

Supporting its aggressive marketing effort to export Eastern coal, last summer the B & LE published a reduced level of export rates from B & LE origins and Conneaut became the first Great Lakes facility to ship coal for export to Europe.

The B & LE's export rates have been further enhanced by support from Conrail in publishing joint rates with the B & LE from Conrail origins in Ohio and Pennsylvania. B & LE has also indicated a willingness to design rail rates to meet the customers' needs through long range contracts. In addition to ground storage and blending capabilities, Conneaut has a high speed shiploader as well. All of the Great Lakes coal ports have available throughput capacity and stand ready to serve the export market.

Once the coal arrives at a Great Lakes receiving port, the coal can be transported to Europe via two transportation alternatives.

The first alternative would be to ship the coal in a self-unloading Seaway size vessel (between 21,000 and 27,000 net tons) to one of the deep water ports at the Northern end of the St. Lawrence Seaway system.

Quebec City is the only St. Lawrence River port that is currently involved in the movement of export U.S. coal. It has 1.5 million tons of ground storage with plans to expand to 3 million tons. The port can load a 100,000 dwt. vessel at a 50 ft. draft and has available throughput capacity.

Contrecour offers 60,000 tons of active ground storage and can accommodate a Panamax size vessel.

Both Montreal and Sept Iles could potentially participate in the export coal market if warranted by demand. In addition to these existing St. Lawrence ports, consideration is being given for major new transshipment facilities to be located at Gross Cacouna and Pointe Noire in Quebec.

The second alternative would be to ship coal received on the Great Lakes directly to Europe in a major Seaway-size collier or have an ocean vessel take on a partial load at a Great Lakes port and then "top off" at a St. Lawrence River port to its maximum capacity.

The advantage of running direct to Europe would be the elimination of the St. Lawrence transshipment fee as well as a European transshipment fee for coal destined for one of the 49 European ports receiving coal with restrictions similar to the St. Lawrence Seaway or ports unable to receive the jumbo colliers. At this time, only four European ports can accept colliers whose drafts exceed fifty feet—Rotterdam, Hamburg, LeHavre and Fos Sur Mer. The economic advantage of the first alternative versus the second would depend on the particular European destination.

Distinct savings via Lakes. Exactly what are the economics of the Great Lakes/St. Lawrence Seaway alternatives? To help answer this question, the Port of Toledo prepared a comparative economic analys's using both alternatives, i.e., transshipping in the lower

St. Lawrence versus sailing direct to Europe from Toledo.

In analyzing the first alternative, comparisons were made of an annual movement of 660,000 net tons of coal to Antwerp moving over Toledo for transshipment at Quebec City versus moving the same tonnage through Hampton Roads.

Both scenarios presumed use of 63,200 dwt. ocean bulker carrying 60,000 net tons at $15,000 per day excluding fuel. A delay factor of 30 days was used at Hampton Roads versus two days at Quebec City, a realistic assumption based on 1980 operating experience. Due to the excessive delay time and longer distance from Hampton Roads (over 500 miles), the vessel in our example could only make six round trips in a year out of Hampton Roads compared to 11 round trips from Quebec City.

Thus, while the vessel could carry the full 666,000 net tons out of Quebec City, the same vessel could only carry 360,000 net tons out of Hampton Roads, necessitating the use of a second vessel for five more trips.

After calculating in the cost of moving the coal from Toledo to Quebec City in a self-unloading vessel, the Seaway tolls, and the transshipment fee at Quebec City, the movement out of Toledo would effect a savings to the coal purchaser in excess of $7.50 per net ton or almost $5 million on the entire movement in our example.

In analyzing our second alternative, direct to Europe from Toledo, actual cost figures were made available from a shipper after he became aware that his vessel could have been loaded at Toledo rather than Norfolk. The small spot contract shipment from Norfolk to Leghorn in a 19,400 dwt. bulker could have been loaded at Toledo effecting a savings in excess of $10 per ton after factoring in the actual amount of demurrage paid.

Although the amount of savings may vary one way or another depending on the actual delay experience of a particular vessel, these examples do strongly indicate that the Great Lakes/St. Lawrence Seaway is a viable alternative for transporting coal to Europe. The findings of these examples are supported by a recent Maritime Administration study which indicated that if a $5 to $10 per ton vessel demurrage charge was to be added to the East Coast delivered price, the Great Lakes would be extremely cost competitive in all cases analyzed. Additionally, the Maritime Administration concluded that Great Lakes ports could be even more competitive if a lower level of export coal rail rates were established from origin mines to Great Lakes ports.

This is not to suggest that the Great Lakes/St. Lawrence Seaway System replace the East Coast or Gulf ports; they are needed as are the proposed improvements and modifications.

It is intended to suggest, however, that the Great Lakes/St. Lawrence Seaway System can be an active and beneficial participant in the export coal movement. With the projected forecasts for export coal, there should be enough demand for all of our port facilities to participate. And logic would seem to dictate that the more efficiently and effectively we can transport our coal to foreign buyers, the lower the ultimate cost.

And the lower the ultimate cost, the greater the likelihood that the international market will purchase more of our coal. In short, everybody wins if we utilize all of our port facilities—the coal industry, the railroads, the ports, the shippers and the buyers.

The System is now functional, it is experienced in handling coal, and the economic incentives are apparent. 1980 was the year the media and our elected officials rediscovered export coal; hopefully, 1981 will be the year they rediscover America's Fourth Seacoast.

MAJOR COAL IMPORTING COUNTRIES

Coal, Algeria, Argentina, Australia, Belgium, Brazil, Canada, Chile, Denmark, Egypt, France, Guatemala, Indonesia, Ireland. Italy, Japan, Lazaro Cardenas Mx, Netherlands, Netherlands Antilles, New Caledonia, Norway, Peru.

Philippines, Port Talbot, Rep. of South Africa, Republic of China, Republic of Korea, Romania, Spain, Sweden, Turkey, United Kingdom, Venezuela, West Germany, Yugoslavia.

COKE

Balboa, Brazil, Canada, Colombia, Denmark, France, Ghana, India, Italy, Jamaica, Japan, Mexico, Netherlands, Norway, Romania, United Kingdom, Venezuela, West Germany, Yugoslavia.

WHY NOT A GREAT LAKES TRADE COMMISSION ON COAL?

The Great Lakes/St. Lawrence Seaway System may just be the best kept international transportation secret in the world today.

Perhaps now is the appropriate time to form a Great Lakes Export Coal Trade Commission comprised of port directors and vessel operators to put together a detailed presentation delineating the entire system and its many fine advantages and attributes.

Special attention could be given to its existing capability to accommodate the movement of Eastern, Midwestern and Western coal to Europe in an economical and expedient manner. After initial presentations to our domestic coal producers, our elected representatives and appropriate agencies in Washington, D.C.—not to mention those brokers and exporters in Manhattan—could travel to Europe to meet with foreign coal buyers in Sweden, Norway, Denmark, the Netherlands, West Germany, Belgium, France, England, Ireland, Portugal, Spain and Italy.

We have a good story to tell and the Trade Commission just may find a number of interested listeners, both at home and abroad.

COPING WITH TERRORISM

Mr. SCHMITT. Mr. President, the Reagan administration has put the world on notice that the United States will not tolerate terrorism against our citizens. This Senator supports that policy. The danger, however, is that we may not be prepared to effectively prevent or deal with terrorist acts.

We have become accustomed to classifying hostage taking, skyjackings, and the bombing of buildings as major terrorist activities. The fact is that terrorism spans a whole spectrum of activities, many of which are far more extensive in their damage and far more difficult to control. As time passes, these types of terrorist activities will become more and more possible and attractive to terrorist groups.

Robert Kupperman, executive director of the Georgetown University Center for Strategic and International Studies, discusses some of these possibilities and the need for contingency planning in this area in an article which appeared in the March 18 issue of the New York Times. Mr. Kupperman is eminently qualified in this field and is the coauthor of "Terrorism—Threat, Reality, Response" and served as director of the Reagan transition team for the Federal Emergency Management Agency (FEMA).

Mr. Kupperman argues that we are entering into a period of what he calls low-intensity warfare. While a tough policy is needed to deter terrorism, just as important is the need to understand the motivation of terrorists and to have the necessary tools to combat them. The last thing we want to do is to provide a President with only the options of giving in to terrorists or responding with a major military action. FEMA, our intelligence community, law enforcement authorities, and various other agencies of Government must begin planning for the possibilities of terrorism being used against U.S. citizens on American soil.

The article in the New York Times serves to initiate a discussion of these various issues. It is now the responsibility of the administration and the Congress to begin formulating policies in this area.

Mr. President, I submit for the RECORD the article by Robert Kupperman entitled "Coping With Terrorism."

COPING WITH TERRORISM

(By Robert H. Kupperman)

WASHINGTON.—The United States has not yet experienced anything like the full potential of international terrorism. And we are quite unprepared to absorb that impact because of our current attitudes, lack of organization, and lack of contingency planning.

Terrorist operations are becoming more sophisticated and, at times, more technologically oriented. While nuclear or biological terrorism may be discounted in the near future, it is difficult to ignore the possibility that Palestinian terrorists or other groups will attack highly vulnerable networks, such as an electric-power grid, and darken a large metropolitan area for weeks. The United States Government has given little thought to preventing or dealing with extraordinary acts of terror.

Toughness is the generic prescription but no dogmatic policy is feasible. Proffering a magical remedy merely increases the risk of terrorists' accepting the Government's challenge, changing the nature of their tactics, and placing the United States in an untenable situation.

It may be painful but correct to say that the United States never again will pay tribute to hostage-takers—and, as a result, write off the lives of future hostages. However, it is foolhardy to believe that a rigid, no-concessions, punitive policy would succeed if terrorists were threatening a large city with a nuclear weapon or biological agent.

The principal security problem of this decade is low-intensity warfare, especially terrorism. President Reagan and Secretary of State Alexander M. Haig Jr. have made terrorism a crucial issue. They have correctly taken a tough line, promising swift retribution against nations or groups taking Americans hostage, and indicting the Soviet Union for sponsoring international terrorism.

Whatever the degree of Soviet support of terrorist groups, there is no question that the Soviet Union has for years sought to destabilize Western governments, and that now terrorism has proved cost-effective in achieving that end. While Americans should be outraged, moral indignation about well-known Soviet practices is of marginal value. Rather, the United States must recognize terrorism for what it is and deal with it realistically.

If the United States and other Western democracies are to cope with terrorism, they

must understand that it cannot be eradicated without the prospect of inflicting serious self-injury. Terrorism is a theatrical, well-choreographed drama exploiting the mass media in order to disrupt government and generate fear.

What can be done? Part of the prescription lies in attitudes—the United States must deal with international and domestic terrorist attacks as national-security problems, not just isolated acts of violence.

Good intelligence-gathering appears fundamental. Yet, even timely information may not be enough by itself to avoid situations with only two choices: to turn the other cheek, or take a disproportionately large military action. No President should be faced with such extremes and have no intermediate course of action.

It has been suggested by various Government officials, present and past, that the United States must have an agile special-operations force, as well as reliable diplomatic and logistical support, in order to take covert action against terrorist camps in any part of the globe and to deal adroitly with other proxy-warfare operations such as insurgencies. Such operations must be undertaken with the utmost discretion and care. For example, they must signal regimes aiding terrorists that the United States will take drastic action if they support terrorism within the United States.

Contingency planning is basic if America is to meet the challenges ahead. Despite our best efforts, the United States may be assaulted. More hostage situations could occur, a commercial jetliner might be shot down with a rocket, or a city's electrical power might be attacked, as was attempted in Rome after the Red Brigades' slaying of Aldo Moro, the former Prime Minister.

Paranoia about terrorism need not prevail, for coping with the consequences of a major terrorist act is analogous to dealing with those arising from other emergencies, such as natural disasters and large industrial accidents. At present, the United States is prepared to deal effectively only with terrorist incidents of little consequence.

We need to overhaul our counterterrorism effort. A small task force of experts outside of the Government should review the program and make practical recommendations. If, as the Carter Administration did, President Reagan were to ask the antiterrorism bureaucratic machinery to review itself, we would receive a pablum-like report suggesting that nearly all is well. Unfortunately, it is not.●

COMMENDATION OF DR. ERNST WYNDER

● Mr. D'AMATO. Mr. President, I rise to commend Dr. Ernst Wynder, who because of distinguished accomplishments in medical research is the recipient of the first annual New York State Health Education and Illness Prevention Award. Dr. Wynder was accorded this great honor on February 25 of this year by Gov. Hugh Carey of my State.

Currently, Dr. Wynder is serving as president of the American Health Foundation in New York, and as professor of clinical medicine at New York Medical College. Over the years he has distinguished himself as a pioneer in cancer research and preventive medicine, and has written more than 300 publications on those subjects.

Thirty-one years ago, Dr. Wynder carried out the first epidemiological study which linked lung cancer with cigarette smoking, and also was a leader in studying the relationship between nutritional deficiencies and cancer and heart disease.

We owe a great debt to men such as Dr. Wynder. Because of the advances they have made in preventive medicine, Americans are living longer and healthier lives. Preventive medicine is our best hope to hold down the spiraling costs of health care to our people and our Government.

Mr. President, it is with great pride that I recognize the accomplishments of this fellow New Yorker and pay tribute to this outstanding American physician for all he has done to help our people.●

REAGAN SHOULD ADD GOVERNMENT CORRUPTION TO HIS HIT LIST

● Mr. DECONCINI. Mr. President, I would like to call the Senate's attention to an article which appeared in the February 26, 1981, edition of the Boston Herald American. Authored by Clark Mollenhoff, a journalism professor at Washington and Lee University and former national correspondent for the Des Moines Register well known to most of us, and Greg Rushford, a Washington-based freelance writer, the article makes a succinct and convincing argument in favor of President Reagan adopting a strong policy toward combating organized crime and, in particular, government corruption.

Without question, and I am sure my colleagues will agree with this assessment, a forceful policy against organized criminal activity in the United States has been absent from the Federal Government since the days of Attorney General Robert F. Kennedy. I would like to echo the sentiments contained in this article, and strongly urge the President to adopt this battle as a top priority. With that in mind, I ask that the article be reprinted in the RECORD.

The article follows:

REAGAN SHOULD ADD GOVERNMENT CORRUPTION TO HIS HIT LIST

(By Greg Rushford and Clark Mollenhoff)

If Lincoln Steffans, the pioneering investigative reporter who muckraked American cities at the turn of the century were to return today, he would feel right at home. Steffans could update his "shame of the cities" series to include entire states and the federal government.

Where politicians and public building contracts have been concerned, the Massachusetts special corruption commission report convincingly demonstrated that the state has long been "for sale." This is only a small part of a disturbing national pattern.

In recent years there have been equally convincing exposes of entrenched corruption, ranging from the traditional "mob" to crooked political and business establishments, in such states as New York, New Jersey, Pennsylvania, Louisiana, Arizona and California.

These are more than isolated local problems.

Specialists in organized crime and political corruption investigations see many nationwide links. To show how the mob operates in California, last year the San Francisco Bay Guardian took readers on a whirlwind national tour of swindles and shakedowns from Boston to Honolulu—and even across the Pacific to the Philippines.

In recent years organized crime has moved into dominant positions in segments of major industries that touch the lives of all Americans: trucking, food, banking, clothing, perhaps 10,000 businesses, according to some estimates. Illicit drug profits alone are estimated at $40 billion and considerably higher, making narcotics more profitable than any major oil company.

To compound the above dismal portrait, cynicism has been fostered when local reform efforts have been frustrated by politicians, lawyers, reluctant prosecutors and judges.

Massachusetts citizens have watched the slow pace of reforms in the aftermath of the latest blue ribbon commission. They could exchange knowing glances with their counterparts in places like New York and Pennsylvania, where special prosecutors have been openly fired by frightened politicians and corrupt legislatures. While all these exposes gather dust, corruption continues.

The answers to these frustrated reform efforts ultimately depend upon a myriad of local struggles. But there is much that could be done at the national level to help spark effective reforms.

President Reagan, if he sees the opportunity and decides that organized crime is an issue worth spending presidential time on, could make a difference.

Consider the situation the new President inherits.

The Federal Government Services Administration is riddled with corruption. The Justice Department, as Sen. Orrin Hatch, R.-Utah, has pointed out, has mishandled a long string of criminal prosecutions. Sen. Dennis DeConcini, D.-Ariz., has exposed serious weaknesses in the drug enforcement agency. Sen. Sam Nunn, D.-Ga., has done likewise in the Labor Department, which has a long track record of being unwilling to crack down on organized crime in labor unions.

None of these legislators has been able to create the kind of nationwide concern about corruption as did the late Sen. Estes Kefauver and Robert Kennedy in their crime probes of the 1950s and '60s.

But a President, particularly one with the flair for seizing an issue like Ronald Reagan, can make himself heard. If Reagan speaks out—and follows through by initiating a housecleaning in the tarnished federal agencies—he could set off a wave of reforms coast to coast. The recent flurry of attention when Chief Justice Warren Burger aired his ideas concerning the criminal justice system would pale by comparison.

Any President's time is limited. There are only so many broad themes that even a President can address and hope to be reasonably effective. President Reagan has made a good start by focusing attention on the bloated federal budget and wasteful social expenditures.

It remains to be seen whether the President will recognize how deep-seated and important the corruption issue really is, and speak and act forcefully.●

CONCORD, N.H., HONORS VIETNAM VETERANS

● Mr. HUMPHREY. Mr. President, I rise today to express my support for a resolution introduced by my esteemed colleague from Michigan, Senator RIEGLE, to designate April 26, 1981, as "National Recognition Day for Veterans of the Vietnam Era." I am proud to be a cosponsor of this resolution.

As a country, we have never appropriately recognized the contributions and sacrifices of those men and women who served their country during a difficult period in our history. Many of them con-

tinue to suffer both the physical and emotional scars of that era. While there are still serious issues for the Congress to address which affect the Vietnam veteran such as the yet unresolved question of those listed as missing in action, the GI bill, and the agent orange, perhaps this gesture of a day of recognition will help to relieve some of the feelings of abandonment and resentment.

Such a day will provide an excellent opportunity for Americans to show to the Vietnam veterans their support and understanding. We should all be proud of our Vietnam veterans.

As one indication of the widespread local recognition of the need to honor our Vietnam veterans, I would submit for the RECORD a series of resolutions passed by the city of Concord, N.H., earlier this year.

The resolutions follow:

RESOLUTIONS

Resolution relative to recognizing Vietnam era veterans.—

Now therefore be it resolved, That the City Council of Concord wishes to thank the three million men and women who served their Country during a very trying time in our history.

Be it further resolved, That the City Council wishes to give special thanks to the men and women of Concord and New Hampshire for their service to our Country in its time of need.

Resolution relative to the possibility that North Vietnam still has American Prisoners of War.—

Now therefore be it resolved, That the City Council of Concord respectfully requests the Congress of the United States to: Investigate and insure that no Americans are presently held by the North Vietnamese. If at all possible to resolve the Missing in Action question. (1,359 still unaccounted for)

Resolution relative to Thanking Vietnam era Prisoners of War.—

Now therefore be it resolved, That the City Council of Concord recognizes the extreme suffering and deplorable conditions under which these Brave Men survived.

Be it further resolved, That the City Council wishes to express its sincere thanks for the services these Brave Men rendered at a very difficult time in the history of our Great Land. By the following:

Declaring March 29 as a special day to commemorate the release of the last group of Prisoners of War from North Vietnam, and that henceforth on said date all flags in the control of the City of Concord shall be lowered to Half-Staff for five minutes at noon.●

SENATOR CRANSTON'S EFFORTS ON BEHALF OF NUCLEAR NONPROLIFERATION

● Mr. PELL. Mr. President, on March 17 the distinguished senior Senator from California, Mr. CRANSTON, made an important statement in the Senate outlining his concerns about the nuclear programs of Iraq and Pakistan. In that statement, Senator CRANSTON called upon the administration to seek cooperation from our European friends and allies in placing more effective safeguards on nuclear cooperation with Iraq and Pakistan. I support this recommendation and hope that others of my colleagues will as well.

Today's issue of the Los Angeles Times contains a very thoughtful editorial on this subject, and I commend it to my colleagues. In order that my colleagues may have an opportunity to be made aware of the views of the Los Angeles Times on this subject, I ask that the full text of today's editorial be printed in the RECORD.

The editorial follows:

THE FRIGHTENING FUTURE

Sen. Alan Cranston (D-Calf.) warned the other day that Iraq has launched a crash program to develop nuclear weapons and that Pakistan will be able to produce a nuclear arsenal by the end of 1982.

The prospect is frightening. The Indians would react to a Pakistani A-bomb by building a nuclear arsenal of their own. And, if the Iraqi program results in giving a nuclear cast to the Arab-Israeli confrontation, the dangers to world peace are obvious.

Although the timetable that Cranston described is a bit shorter than most earlier projections, the Iraqi and Pakistani nuclear programs have been a matter of deep concern for some time. But little has been done about them, and probably won't be now.

An official of the Nuclear Regulatory Commission has confirmed the thrust of Cranston's remarks about Iraq.

It has obtained stockpiles of uranium from Portugal weapons-grade reactor fuel from France and sensitive equipment from Italy. France and Italy are training large numbers of Iraqi scientists in Europe, and the two countries have several hundred skilled technicians working on nuclear research projects in Iraq.

Iraq does not even have the excuse of needing all this for a commercial nuclear power program; it has none. The French reactor under construction is a research facility.

Cranston, who indicated that his information came mostly from U.S. government sources, acknowledged that Iraq has only a theoretical capability of building a single A-bomb this year; for several years Iraq would not be able to do much more.

However, Pakistan—which has also depended on the overt and covert importing of key materials and technology from Europe for its nuclear program—is about five years further along. Some analysts believe that the Pakistanis already have designed a nuclear weapon and are moving rapidly toward the capability to produce them.

Cranston, putting the finger on European suppliers for being dangerously careless in their nuclear aid and export programs, repeated a charge that these countries hotly deny: that Iraq successfully "blackmailed" them into trading sensitive nuclear materials and technology for oil.

The California senator urges the Reagan Administration to seek cooperation from the Europeans in placing more effective safeguards on nuclear cooperation with Iraq and Pakistan. He argues that if such cooperation is not forthcoming, American nuclear fuel and hardware should be withheld from the Europeans.

Considering the perils that would be posed by a nuclear arms race in Southwest Asia and the Middle East, it is not an unreasonable proposal. But the Administration, though worried by the situation, is in no mood to pick a serious quarrel with its NATO allies over this issue. U.S. leverage may not be strong enough at this late date to assure that such tactics would work, anyway.

The dangers spotlighted by Cranston are frightening real, nonetheless. If President Reagan and Secretary of State Alexander M. Haig Jr. are as worried about the problem of terrorism as they say, they cannot avoid the responsibility for making a major new effort to avert the catastrophe that would be posed by the spread of nuclear weapons in one of the world's most volatile areas.

If friendly coercion isn't practical, it's up to the Administration to come up with something that will work.●

REPORT OF THE SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY: A SHORTSIGHTED EFFORT

● Mr. SCHMITT. Mr. President, The Select Commission on Immigration and Refugee Policy has recently issued its final report to the President and Congress. Unfortunately when reviewing the problems caused by illegal migration, the Commission focused almost exclusively on enforcement of existing law without any substantive analysis of what that would mean. The Select Commission failed to discuss the impact of a strict immigration policy on Mexico and the strategic implications that would flow from such a policy. The Commission's report also refused to seriously treat the issue of domestic labor shortages for certain types of employment. These are complex issues and the short shrift given to them in the Commission's report—2½ pages out of a 453-page report—does not do justice to the arguments on either side.

During this statement, I am going to discuss the section of the report which discusses the temporary worker program alternative and amplify the discussion, where appropriate, with particular reference to S. 47, the United States-Mexico Good Neighbor Act of 1981, which I introduced on January 5, and now cosponsored by Senators GOLDWATER, HATFIELD, LAXALT, LUGAR, and MCCLURE. Furthermore, over 60 percent of undocumented workers in the United States emigrate from Mexico, the discussion will deal solely with workers from that country.

I. THE SELECT COMMISSIONS' REPORT

The Select Commission stated—

The Commission has heard testimony in favor of and opposed to the introduction of a new temporary worker program as a solution to undocumented/illegal migration. Some persons have argued that an expanded temporary worker program would help ensure the success of the proposed legalization and enforcement programs and even that a large scale temporary worker program could substitute for them. They have reasoned that a large-scale program would give employers access to a supply of low-skilled, seasonal workers, and would cushion the impact of enforcement on major sending countries whose nationals would no longer have access to the U.S. labor market through illegal channels.

This does describe some of the major reasons why a temporary worker program should be adopted. The Commission, however, then went on to state arguments against such a program saying—

Others who testified before the Commission have maintained, however, that a large-scale temporary worker program would still fail to satisfy the pressures for migration in these countries. Some experts have pointed to the failures of the bracero program, the United States previous experience with a large-scale temporary worker program. This program employed between four and five million Mexican agricultural workers over a 22 year period. Although the program was instituted with strict provisions guaranteeing worker rights and privileges, these provisions fre-

quently were violated. In addition, the existence of a large-scale temporary worker program did not stop employers from hiring undocumented workers. The flow of these migrants continued until a massive repatriation program—Operation Wetback—was begun and the bracero program was greatly expanded. Experts have further testified that temporary workers in European countries—so called questworkers—who were brought in during times of economic growth often became permanent additions to the host societies, even when their labor was no longer needed. They argue that temporary worker programs have often precipitated additional illegal movement when families tried to reunite in the host country and that these programs have also created internal, political and social problems. In general, these opponents find any large-scale temporary worker program, especially when entry is limited by marital status, geography and the nature of the proposed employment, an ineffective means of reducing undocumented/illegal migration.

This analysis, which is intended to negate the policy behind S. 47, fails for three reasons:

First. S. 47 is not structured like the often abused bracero program. No employee-employer contract is required by S. 47.

Second. S. 47 does not resemble European plans disregarding cultural differences.

Third. Most importantly, the present-day illegal aliens are already conforming to the migratory incentives of the temporary worker program without threat of enforcement. This final issue will be discussed in more detail later.

Finally, the report presented socio-economic arguments as follows:

The Commission has also heard arguments that the economic and social effects of temporary worker programs must be weighed apart from their effects on illegal migration. Supporters of such programs have testified that U.S. workers are not readily available for many jobs and that the employment of foreign workers is the only alternative to labor shortages. In response, their opponents have argued that U.S. sources of labor do exist, but employers prefer foreign workers because they are more docile and will accept lower wages and/or inferior working conditions. Large-scale temporary worker programs have also been criticized by those who believe that such programs tend to identify some kinds of work, generally perceived to be undesirable, with certain foreign nationals or particular ethnic groups. The Commission has carefully weighed these arguments. Most Commissioners has concluded that the Commission should not recommend the introduction of a large-scale temporary worker program.* Some oppose the concept of such a program under any circumstances. Others believe that until the precise effects of the proposed recommendations to deal with undocumented/illegal migration are known, the institution of a new temporary worker program would be inadvisable.

To control illegal migration, the Commissioners proposed:

Better border and interior controls;

Economic deterrents in the workplace; and

Once new enforcement measures have been instituted, legalization of certain undocumented/illegal aliens who are already in this country.

*See Recommendation VI.E. for Commission proposals regarding changes in the current H–2 program.

These proposals are, in my opinion, shortsighted for they are:

Unnecessarily expensive; projected to cost in excess of $60 million, but in fact would need to be far greater;

Will cause great harm to many small businesses who will be without labor and then forced out of business;

Employer sanctions will cause an increased regulatory/enforcement burden on American businesses at a time when the Reagan administration is attempting to reduce that burden;

The sanctions approach will probably fail since the undocumented workers will use counterfeit identity documents; and

The Commissioners completely ignore the foreign policy implications of stringent enforcement at this time on Mexico.

II. MIGRATORY CAUSES AND EFFECTS

Nowhere else in the world does such an industrialized nation as the United States share such a lengthy land border with a significantly less developed country like Mexico. This naturally has a decided impact on the migration problem. Because of a very young population and unequal opportunity at home, Americans tend to emphasize the fact that many Mexicans are "pushed" to leave home in search of work. Those who view this so-called push factor as the primary cause of illegal migration believe Mexico should do more to relieve its internal problems and not use migration as a "safety valve."

Mexican policymakers, however, believe that migration would not take place if there was no need for the migrants labor. Thus they are "pulled north" by the promise of better jobs. Like most policy arguments, both factors undoubtedly contribute to the migratory problem. Poor economic conditions do "push" many Mexicans to look elsewhere for work and better unfilled jobs in the United States "pull" them in our direction.

The most unusual fact revealed by modern research on this subject—notably, "Mexican Migration to the United States: Causes, Consequences and U.S. Responses," by Dr. Wayne Cornelius, now of the University of California at San Diego—is that most migrants do not come to stay. Recent studies indicate the return rate is very close to 90 percent (see Cornelius at p. 25). The typical migratory worker is a young male with a sixth grade education who comes alone. These young men are the group most likely to attempt to evade increased enforcement efforts. Thus migration should not be viewed as a steady increase in permanent residents, as the Commission does, but more realistically as an ebb and flow with some returning, some coming. The difficulty in recrossing the border undoubtedly causes part of the permanence problem, that is, migrants becoming permanently but illegally located in the United States.

The Commission did corroborate what a number of other studies have previously confirmed; namely, that illegal aliens do not place a substantial burden on social services. The Commission noted that the undocumentados have a high rate of taxpayment and pay for medical services in generally the same percentage as the domestic population.

Finally, the Commission notes that economists are divided on whether the presence of illegal aliens depresses domestic wages or displaces U.S. workers. As stated earlier, some economists maintain that the illegal alien often preserves some business' success, thus assisting in job maintenance. Certainly, products are introduced into the consumer system which otherwise would not be or would cost far more to produce.

III. S. 47 THE UNITED STATES-MEXICO GOOD NEIGHBOR ACT OF 1981

The viability of S. 47 is enhanced by the fact that it reflects reality and would, in large part, be self-enforcing. Since most migrants return home now after an average stay of 5½ months, there is no demonstrated reason to doubt that visa holders would unduly abuse their 240-day legal stay in this country any more than as illegals.

By freeing workers to seek work nationwide—except in those areas certified by the Secretary of Labor to have adequate domestic workers—the abuses prevalent under the bracero program would be eliminated. A legal status would guarantee the visa holder full protection of U.S. law, especially important in wage rates and safety conditions. Such workers would be free to unionize as well. The legal status would thus insure no adverse domestic wage depression or job displacement effects. By diverting an illegal stream of migrants into a legal program, scarce enforcement assets could be more efficiently utilized. Along with other Immigration and Naturalization Service improvements, such a program over the next 10 years would, in my opinion, do a better job of controlling illegal migration with far less of a negative strategic impact than the Commissions proposals.

Finally, some have argued that a temporary worker program creates a permanent underclass of cheap labor degrading U.S. citizens of that ethnic background. Such a view of S. 47 would be a mistake. The bill has a 10-year sunset provision so that it would automatically expire. This section gives Mexico fair notice that the migration safety valve will end soon. Meanwhile, a decade is given to cushion the adverse domestic and international impact certain to flow from a decision to terminate the use of Mexican nationals in the U.S. economy.

Mr. President, I request that S. 47 and a factsheet explaining the bill be printed in the RECORD.

S. 47

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 "United States-Mexico Good Neighbor Act of 1981.

FINDINGS

SEC. 2. The Congress finds that—

(a) strong economic and political cooperation between the United States and Mexico will benefit not only the people of these countries, but will also help to eliminate western hemisphere tensions;

(b) the root cause of illegal migration from Mexico into the United States is the lack of reasonable alternatives for economic well-being in Mexico relative to those in the United States;

(c) the mutual benefit of past economic cooperation through legal work programs and investment opportunities is well documented;

(d) in order to eliminate the present large and uncontrolled influx of undocumented workers a system of temporary legal admissions should be established;

(e) the vast majority of jobs that will be taken by Mexicans are in the agricultural and service industries where jobs are not now greatly in demand by American workers;

(f) many of the short-term economic needs of Mexicans and the short-term labor needs of American agricultural and service industries can be met by a temporary worker visa program for Mexicans seeking temporary employment in the United States;

(g) the value to Mexico of temporary employment of Mexican workers in the United States is in the direct flow of dollars into its economy and in the increase in skills within its labor force;

(h) a program of temporary worker visas would encourage the existing temporary nature of most Mexican migration into the United States;

(i) attempts to seal our vast border with Mexico to the flow of migrants are doomed to failure and only increase the exploitation of such workers by smugglers and unscrupulous employers;

(j) employer sanctions against the hiring of illegal Mexican migrants could result in discrimination against Hispanic Americans and/or in an unprecedented national identification system; and

(k) it is necessary to establish a legal framework for Mexican labor in the United States in order to harmonize the use of such workers, to prevent abuse of them by smugglers and unscrupulous employers, to better protect American workers from unfair competition, to reduce the flow of illegal migrants, and to permit a better understanding of the scope of the opportunities and problems related to Mexican workers in the United States and Mexico.

ESTABLISHMENT OF VISA PROGRAM

SEC. 3 Section 214 of the Immigration and Nationality Act is amended by adding the following new subsection at the end thereof:

"(e)(1) The Attorney General, in consultation with the Secretary of State, shall by regulation establish a program for the admission as nonimmigrants into the United States under section 101(a)(15)(M) of Mexican nationals who desire to temporarily perform services or labor in the United States. The regulations shall establish methods for establishing monthly and annual numerical quotas for the issuance of temporary worker visas in accordance with subsection (g). Visas shall be made available on the basis of such quotas to qualified applicants in the chronological order for which they are applied. Such visas shall permit each alien to temporarily perform services or labor within the United States for a period not to exceed 240 days during any calendar year, such period not necessarily a 240 day consecutive period. Such aliens shall not be required to obtain a petition of any prospective employer within the United States in order to obtain such a visa. Such visas shall not limit the geographical areas within which the alien may be employed nor set any limitations on the type of employment for which the alien may be employed, except as provided in subsection (f).

"(2) Any alien who obtains a visa under the program established under paragraph (1) who (A) violates the restrictions with respect to the amount of time for which the alien is allowed to remain in the United States, or (B) violates any restriction required under subsection (f), shall be ineligible to obtain another visa under such program for a period of 5 years. Any alien who, after the inception of this program, enters the United States unlawfully shall be prohibited from obtaining a visa under such program for a period of 10 years.

"(f) The Attorney General, upon request from the Secretary of Labor, shall place specific restrictions on employment of aliens holding temporary work visas under this program at a specific business or agricultural site if employees or employers demonstrate that such aliens will displace available, qualified, and willing domestic workers. The Secretary of Labor shall establish the criteria under which such restrictions may be requested.

"(g) When appropriate, the Attorney General shall seek the assistance of the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor in establishing the regulations under subsection (e), and in computing the annual and monthly numercial quotas for temporary worker visas, based upon the number of seasonal or cyclical workers sought by employers in the United States. In computing such quotas, the Attorney General shall also consider historical needs, availability of domestic labor, and the projected needs of prospective employers.".

UNITED STATES CONSULATES IN MEXICO

SEC. 4. (a) The Secretary of State is authorized to take such steps as are necessary in order to establish and expand the United States Consulates in Mexico in order to implement the program established in section 214 (e), (f), and (g) of the Immigration and Nationality Act, as added by section 3 of this Act.

(b) The Secretary of State shall coordinate with appropriate officials of Mexico in order to insure maximum awareness in Mexico of the nature and restrictions of the program established in section 214 (e), (f), and (g) of the Immigration and Nationality Act, as added by section 3 of this Act.

(c) The Secretary of Labor shall undertake to insure, to the extent practicable, that the nature and restrictions of the programs established in section 214 (e), (f), and (g) of the Immigration and Nationality Act, as added by section 3 of this Act are known to aliens of Mexican citizenship residing in the United States.

NONIMMIGRANT CATEGORY

SEC. 5. Section 101(a)(15) of the Immigration and Nationality Act is amended by adding at the end thereof the following:

"(M) a Mexican national who has no intention of abandoning his or her residence in Mexico who is coming to the United States for a period of not to exceed 6 months during any calendar year, for an indefinite number of such periods, to temporarily perform services or labor.".

EFFECT OF DEPORTATION

SEC. 6. Section 212(a) is amended—

(1) by inserting before the semicolon at the end of paragraph (16) a comma and the following: "except that the Attorney General shall not consent to the reapplying for admission of an alien described in section 101(a)(15)(M)"; and

(2) by inserting before the semicolon at the end of paragraph (17) a comma and the following: "except that the Attorney General shall not consent to the applying or reapplying for admission of an alien described in section 101(a)(15)(M)".

PROHIBITION ON ADJUSTMENT OF STATUS UNDER TEMPORARY WORKER VISA PROGRAM

SEC. 6. Section 245(c) of the Immigration and Nationality Act is amended—

(1) by striking out "or", and

(2) by inserting immediately after "section 212(d)(4)(C)" a semicolon and the following: "or (4) any alien described in section 101(a)(15)(M)".

REPORT TO CONGRESS

SEC. 8. The Attorney General shall report semiannually to the Congress on the temporary worker visa program established in section 214 (e), (f), and (g) of the Immigration and Nationality Act, as added by section 3 of this Act, and shall include in that report a summary of the number of visas issued under the program, the effectiveness of the program, enforcement problems related to the program, and any recommendations for legislative change in the program.

BILATERAL ADVISORY COMMISSION

SEC. 9. It is the sense of the Congress that the President should negotiate with the appropriate officials of the government of Mexico to establish an Advisory Commission on the Mexico-United States Temporary Worker Visa Program to consult with and advise the Attorney General in establishing the regulations, and in computing the monthly and annual numerical quotas, for the temporary worker visa program established under section 214 (e), (f), and (g) of the Immigration and Nationality Act, as added by section 3 of this Act.

AUTHORIZATIONS

SEC. 10. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

TERMINATION

SEC. 11. This program shall terminate ten years after the date of enactment.

THE UNITED STATES-MEXICO GOOD NEIGHBOR ACT OF 1979

This bill would amend the Immigration and Nationality Act to establish a temporary worker visa program between the United States and Mexico. Under the program, workers would be issued six month visas which would allow them to enter the United States to seek employment.

THE CURRENT IMMIGRATION SITUATION

The United States shares a 2,000 mile border with Mexico. In no other part of the world does a developing country with severe economic problems border such a technologically advanced country. The combination of unfilled jobs in this country and substantial unemployment and underemployment in Mexico has created a massive migration to the United States. Changes in the immigration law have caused much of this migration to become illegal. From 1942 to 1964, the bracero program admitted large numbers of Mexican workers to perform agricultural work in the United States. The end of this program and the imposition of a ceiling of 20,000 immigrant visas per year in 1976 have contributed to the problem.

Most illegal workers enter this country to seek temporary employment. They come for short periods of time, work to meet specific economic needs and then return to Mexico. They have no intention of permanently migrating to the United States.

The workers normally take jobs which are unattractive to American workers who have unemployment compensation and welfare as an alternative. While over two-thirds of illegal aliens contribute to Social Security and pay income taxes, fewer than one-tenth collect unemployment or welfare benefits, enroll their children in public schools or receive free medical assistance in the United States.

This illegal migration benefits Mexico by absorbing workers who would otherwise be unemployed or underemployed. It also helps slow migration to the overcrowded cities. Finally, Mexican workers in the United States send large portions of their income home, providing income for their families and improving Mexico's balance of payments.

PROVISIONS OF THE BILL

Findings. This section recognizes the necessity of establishing a legal framework for Mexican labor in the United States and points out the advantages of this program over other proposals.

Establishment of Visa Program. Section (e)(1). This section directs the Attorney General to establish the program in consultation with the Secretary of State. The section specifically mandates that the visas shall "permit each alien to temporarily perform services or labor within the United States for a period not to exceed 240 days during any calendar year". Further, the section disallows the requirement of a petition from a prospective employer. Finally, the section prohibits any limitations on geographical area or type of employment.

Section (e)(2). This section sets a penalty for violation of the visa restrictions of ineligibility for five years. It also sets a ten year ineligibility as a penalty for illegal entry into the United States.

Section (f). This section allows the Attorney General to put specific restrictions on employment under this program at the request of the Secretary of Labor. This request would follow a demonstration by employers or employees that aliens would displace domestic workers at a specific site.

Section (g). This section directs the Attorney General to set numerical quotas for visas, considering such factors as the number of workers sought, the availability of domestic labor and the projected needs of prospective employers.

United States Consulates in Mexico. This section authorizes the Secretary of State to expand the Consulates to implement the program (paragraph A) and act with Mexican officials to insure awareness of the program (paragraph B). It also directs the Secretary of Labor to take steps to inform Mexican aliens in the United States about the program (paragraph C).

Nonimmigrant Category. This section amends the classes of nonimmigrants in the definitions section of the Immigration and Nationality Act, 8 U.S.C. 1101 (15).

Effect of Deportation. This section amends 8 U.S.C. 1182 to prohibit the Attorney General from consenting to the readmission of an alien deported for violating provisions of this program.

Prohibition on Adjustment of Status under Temporary Worker Visa Program. This section amends 8 U.S.C. 1255 to prohibit the Attorney General from adjusting the status of a temporary worker to that of a permanent resident.

Report to Congress. This section requires the Attorney General to report to Congress semi-annually about the program.

Bilateral Advisory Commission. This section proposes the establishment of an Advisory Commission to advise the Attorney General in establishing the program.

Authorization. This section authorizes the necessary appropriations.

Termination. This program would terminate 10 years after enactment.

THE EFFECT OF THE PROGRAM

This program will bring a large proportion of Mexican labor within the law, increasing the credibility of the immigration law. As legal workers, Mexicans can insist on adequate wages and decent working conditions. By eliminating the need for smugglers and dangerous border crossings, the program will attract those workers who are currently entering the country illegally.

The program will allow U.S. employers to obtain needed workers in a free market system. At the same time, it will benefit domestic workers by changing an exploitable competitor into a legal work force, competing on equal terms. The restriction of certain worksites will insure that domestic workers are not displaced by the temporary workers, while avoiding the abuses of a prearranged contract system.

This bill recognizes that a significant number of Mexicans supplement their income by temporary work in the United States and that this country has need for such short term labor. The temporary worker visa program provides a legal framework for this situation.●

ORDER OF BUSINESS

Mr. BAKER. Madam President, is there an order for the convening of the Senate on tomorrow?

The PRESIDING OFFICER. Yes, there is; 11 a.m.

Mr. BAKER. I thank the Chair.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Madam President, in view of the fact that there are a number of requests for special orders in the morning, I ask unanimous consent that the time of the convening of the Senate on tomorrow be changed to 9:30 a.m.

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

ORDER FOR THE RECOGNITION OF SENATORS ON TOMORROW

Mr. BAKER. Madam President, I ask unanimous consent that on tomorrow, after the recognition of the two leaders under the standing order, that there be special orders of 15 minutes each in favor in the following Senators in the following order: Senator PACKWOOD, Senator BOSCHWITZ, Senator BAKER, Senator STEVENS, Senator MCCLURE, Senator TOWER, and Senator ROBERT C. BYRD.

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

ORDER OF BUSINESS

Mr. BAKER. Madam President, I observe that the distinguished minority leader is in the Chamber.

I inquire of him if the minority is in a position to consider the two nominations on today's Executive Calendar.

Mr. ROBERT C. BYRD. Madam President, those two nominations are cleared on this side of the aisle.

Mr. BAKER. I thank the distinguished minority leader.

EXECUTIVE SESSION

Mr. BAKER. Madam President, I ask unanimous consent that the Senate proceed into executive session for the purpose of considering the nominations appearing on today's Executive Calendar.

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

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The legislative clerk read the nomination of Donald I. Hovde, of Wisconsin, to be Under Secretary of Housing and Urban Development.

(By request of Mr. ROBERT C. BYRD the following statement was ordered to be printed in the RECORD:)

● Mr. PROXMIRE. Mr. President, I am pleased the nomination of Donald I. Hovde is now before the Senate. He has been very successful in all of his endeavors, including establishing his own real estate firm in Madison, Wis., and serving as president of the National Association of Realtors. I support this nomination and urge my colleagues to vote for his confirmation.

The Banking, Housing, and Urban Affairs Committee has completed a thorough review of Mr. Hovde's background and suitability to be Under Secretary of HUD, and its members also conclude that his nomination should be confirmed. I took it upon myself to contact Madison residents who know Mr. Hovde's work in order to get their impressions of his suitability for the No. 2 job at HUD. They spoke highly of his civic consciousness and commitment to local fair housing.

My constituents' approval of Mr. Hovde and his own responses to questions I put to him at the banking hearing were very important to alleviating a single concern I had about his nomination. HUD's Under Secretary must have a clear commitment to furthering fair housing. Mr. Hovde's statement that "we need an amendment to the Civil Rights Act * * * a way in which the aggrieved party can seek redress in the court system" is something to which I will hold him as we work to get a fair housing enforcement bill passed early in this session.●

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

Mr. BAKER. Madam President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

OFFICE OF PERSONNEL MANAGEMENT

The legislative clerk read the nomination of Donald J. Devine, of Maryland, to be Director of the Office of Personnel Management.

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

Mr. BAKER. Madam President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President. I ask unanimous consent that the President be immediately notified that the Senate has given consent to these nominations.

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

LEGISLATIVE SESSION

Mr. BAKER. Madam President, I ask unanimous consent that the Senate re-

turn to the consideration of legislative business.

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

PROGRAM

Mr. BAKER. Madam President, on tomorrow the Senate will convene at 9:30 a.m.

After the recognition of the two leaders under the standing order, seven Senators will be recognized under special orders for not to exceed 15 minutes each, as previously outlined and provided for.

After the recognition of the seven Senators under the special orders just mentioned, it is the intention of the leadership to provide for a period for the transaction of routine morning business.

I inquire of the Chair: After the close of routine morning business is provided for, assuming that the same is disposed of as I have just suggested, what will be the business before the Senate?

The PRESIDING OFFICER. The business before the Senate will be S. 509.

Mr. BAKER. I thank the Chair.

Madam President, the Senate then, of course, will resume the consideration of that measure. The milk price support bill will still be open to amendment. It is my understanding that a number of amendments have been stacked and will occur beginning at 2:30 in the afternoon on tomorrow. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Will the Chair advise me as to the number of amendments that have been provided for in that way?

The PRESIDING OFFICER. There are four amendments that have been provided for at this time.

Mr. BAKER. And rollcall votes have been ordered in each instance?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. So on tomorrow there will be rollcall votes on at least four amendments, unless the order for the yeas and nays is vacated by unanimous consent.

I fully expect that on tomorrow there will be a call for the yeas and nays on final passage of this bill, if indeed we reach final passage tomorrow, as I hope we will. There may be other amendments as well.

After the disposition of that measure the Senate will turn to such other business as may come before it by unanimous consent or which may be done without objection and in a routine way.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Madam President, it is clear to me now that there are no further amendments that can conveniently be offered this afternoon to the pending bill; and since provision already has been made for the further disposition of the amendments thus far debated, I know of no useful purpose to be served by the Senate remaining in session further this afternoon.

So, in accordance with the order previously entered, I move that the Senate stand in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 3:02 p.m. the Senate recessed until tomorrow, Tuesday, March 24, 1981, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 23, 1981:

DEPARTMENT OF COMMERCE

Joseph Robert Wright, Jr., of New York, to be Deputy Secretary of Commerce, vice Luther H. Hodges, Jr., resigned.

Lionel H. Olmer, of Maryland, to be Under Secretary of Commerce for International Trade, vice Robert E. Herzstein, resigned.

DEPARTMENT OF STATE

Robert D. Hormats, of Maryland, to be an Assistant Secretary of State, vice Deane R. Hinton.

DEPARTMENT OF THE INTERIOR

G. Ray Arnett, of California, to be Assistant Secretary for Fish and Wildlife, Department of the Interior, vice Robert L. Herbst, resigned.

FEDERAL AVIATION ADMINISTRATION

J. Lynn Helms, of Connecticut, to be Administrator of the Federal Aviation Administration, vice Langhorne McCook Bond.

U.S. ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Robert Gibbons Gard, Jr., 449–36–3971 (age 53), Army of the United States (major general, U.S. Army).

U.S. AIR FORCE

The following named officer for promotion in the United States Air Force, under the appropriate provisions of Chapter 839, Title 10, United States Code, as amended.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Wiles, James K., xxx-xx-xxxx.

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, Title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force:

To be captain

Clymer, Gregg N., xxx-xx-xxxx.
Fowler, Donald R., xxx-xx-xxxx.
Gerhardt, Robert L., xxx-xx-xxxx.
Higgins, Kevin S., xxx-xx-xxxx.
Mandros, Harry R., xxx-xx-xxxx.
Medlin, John M., xxx-xx-xxxx.
Milan, Donald W., xxx-xx-xxxx.
Minze, Larry D., xxx-xx-xxxx.
Sobol, Anthony J., III, xxx-xx-xxxx.
Sokolowski, Frank P., xxx-xx-xxxx.
Weinzierl, Thomas C., xxx-xx-xxxx.

To be first lieutenant

Abbott, Darwin W., xxx-xx-xxxx.
Abernathy, Dale E., xxx-xx-xxxx.
Adair, John J., Jr., xxx-xx-xxxx.
Adams, David G., xxx-xx-xxxx.
Adams, Philip E., xxx-xx-xxxx.
Adams, Richard S., xxx-xx-xxxx.
Albert, Vincent L., xxx-xx-xxxx.
Alexander, Gary R., xxx-xx-xxxx.
Alicea, Joseph M., xxx-xx-xxxx.
Allen, Philip B., xxx-xx-xxxx.
Allen, Shelley M., xxx-xx-xxxx.
Allen, Thomas E., xxx-xx-xxxx.
Allred, Doyle E., xxx-xx-xxxx.
Almeida, Richard L., Jr., xxx-xx-xxxx.
Alquist, Richard J., xxx-xx-xxxx.
Alsbrooks, John R., xxx-xx-xxxx.
Alvis, David W., xxx-xx-xxxx.
Amerine, William E., xxx-xx-xxxx.
Anaya, Minerva, xxx-xx-xxxx.
Anders, Melvin R., xxx-xx-xxxx.
Anderson, Allen F., xxx-xx-xxxx.
Anderson, Donald J., Jr., xxx-xx-xxxx.
Anderson, John M., III, xxx-xx-xxxx.
Andrews, William B., II, xxx-xx-xxxx.
Angell, Gregory S., xxx-xx-xxxx.
Anzalone, Chris T., xxx-xx-xxxx.
Apple, Kent K., xxx-xx-xxxx.
Archambeault, Bruce R., xxx-xx-xxxx.
Archambeault, Gary R., xxx-xx-xxxx.
Armstrong, Frank A., xxx-xx-xxxx.
Armstrong, John C., xxx-xx-xxxx.
Arnold, Robert M., xxx-xx-xxxx.
Ashby, Evan H., III, xxx-xx-xxxx.
Attard, Steven L., xxx-xx-xxxx.
Austin, Jeffrey S., xxx-xx-xxxx.
Averill, Reid J., xxx-xx-xxxx.
Avery, Mark R., xxx-xx-xxxx.
Baca, Eugene R., xxx-xx-xxxx.
Bailey, Charles W., xxx-xx-xxxx.
Bailey, Charles, xxx-xx-xxxx.
Bailey, Frank, xxx-xx-xxxx.
Bailey, Rosanne, xxx-xx-xxxx.
Baillargeon, Joseph G., Jr., xxx-xx-xxxx.
Baker, Allen D., xxx-xx-xxxx.
Baker, John H., xxx-xx-xxxx.
Baker, William E., Jr., xxx-xx-xxxx.
Baldwin, Gregory D., xxx-xx-xxxx.
Bandy, Cheryl A., xxx-xx-xxxx.
Bannerman, David C., xxx-xx-xxxx.
Barbero, Russell C., xxx-xx-xxxx.
Bardo, Garry M., Jr., xxx-xx-xxxx.
Barker, William D., xxx-xx-xxxx.
Barnes, Keith L., xxx-xx-xxxx.
Barnoske, David M., xxx-xx-xxxx.
Barr, John W., xxx-xx-xxxx.
Barrett, John A., xxx-xx-xxxx.
Bass, Carla D., xxx-xx-xxxx.
Batista, Pedro D., xxx-xx-xxxx.
Batteas, Frank W., xxx-xx-xxxx.
Bauerle, William L., xxx-xx-xxxx.
Baugh, Harold J., Jr., xxx-xx-xxxx.
Baxley, Coy S., II, xxx-xx-xxxx.
Baxter, Dennis A., xxx-xx-xxxx.
Baxter, James C., xxx-xx-xxxx.
Beach, James L., xxx-xx-xxxx.
Beach, Paul R., xxx-xx-xxxx.
Bean, Robert F., xxx-xx-xxxx.
Beck, William J., Jr., xxx-xx-xxxx.
Becker, Bruce W., xxx-xx-xxxx.
Becker, Larry J., xxx-xx-xxxx.
Beddome, Michael A., xxx-xx-xxxx.
Bejsovec, Glenn J., xxx-xx-xxxx.
Belair, Arthur, xxx-xx-xxxx.
Beldin, Bernard E., xxx-xx-xxxx.
Bell, John S., xxx-xx-xxxx.
Belongia, Carol A., xxx-xx-xxxx.
Belongia, Kenneth J., xxx-xx-xxxx.
Beltz, Ronald K., xxx-xx-xxxx.
Ben, Robert, xxx-xx-xxxx.
Benner, Philip E., xxx-xx-xxxx.
Benson, Kurt A., xxx-xx-xxxx.
Benson, Scott W., xxx-xx-xxxx.
Bentkowski, Roy E., xxx-xx-xxxx.
Bentzien, Lynnette L., xxx-xx-xxxx.
Berehulka, Arthur R. S., xxx-xx-xxxx.
Berehulka, Susan M., xxx-xx-xxxx.
Bettes, James M., xxx-xx-xxxx.
Betts, Bruce L., xxx-xx-xxxx.
Bez, Duane R., xxx-xx-xxxx.
Binkley, Richard D., xxx-xx-xxxx.
Birdsall, Elizabeth Y., xxx-xx-xxxx.
Bishop, Mark A., xxx-xx-xxxx.
Bitler, Mary B., xxx-xx-xxxx.
Blackwell, Stuart W., xxx-xx-xxxx.
Blair, Gene E., xxx-xx-xxxx.
Blaylock, Michael E., xxx-xx-xxxx.
Blevins, Robert D., xxx-xx-xxxx.
Blizzard, David M., xxx-xx-xxxx.
Bodenhamer, Todd A., xxx-xx-xxxx.
Bofinger, James, xxx-xx-xxxx.
Bohun, Michael H., xxx-xx-xxxx.
Bonkofsky, Thomas B., xxx-xx-xxxx.
Bontrager, Mark E., xxx-xx-xxxx.
Boots, Mark L., xxx-xx-xxxx.

Boozer, David R., xxx-xx-xxxx
Borges, Scott K., xxx-xx-xxxx
Bosler, Clayton D., xxx-xx-xxxx
Bostick, Steven S., xxx-xx-xxxx
Boudreaux, Vincent C., xxx-xx-xxxx
Bouffard, William J., xxx-xx-xxxx
Boughman, James W., xxx-xx-xxxx
Bouley, Joseph R., xxx-xx-xxxx
Bourne, Cynthia A., xxx-xx-xxxx
Bowen, Sherry L., xxx-xx-xxxx
Bower, Steven M., xxx-xx-xxxx
Bowers, Donald B., xxx-xx-xxxx
Bowling, Gary L., xxx-xx-xxxx
Brackett, David S., xxx-xx-xxxx
Bradshaw, Carl W., xxx-xx-xxxx
Brady, John E., xxx-xx-xxxx
Braley, Claude C., xxx-xx-xxxx
Bray, Carolyn F., xxx-xx-xxxx
Brett, David R., xxx-xx-xxxx
Brewer, John B., xxx-xx-xxxx
Bridgman, James H., Jr., xxx-xx-xxxx
Briggs, James P., Jr., xxx-xx-xxxx
Bright, Daryl C., xxx-xx-xxxx
Brocki, Sheila B., xxx-xx-xxxx
Brooks, Bruce K., xxx-xx-xxxx
Brown, Donell, xxx-xx-xxxx
Brown, Jerry D., xxx-xx-xxxx
Brown, Lavell W., III, xxx-xx-xxxx
Brown, Mary R., xxx-xx-xxxx
Brown, Ralph W., xxx-xx-xxxx
Brown, Thomas C., III, xxx-xx-xxxx
Brumfield, Thad., Jr., xxx-xx-xxxx
Brunson, Carolyn, xxx-xx-xxxx
Buchanan, Doyle P., xxx-xx-xxxx
Buckley, William J., xxx-xx-xxxx
Budde, Michael J., xxx-xx-xxxx
Buettner, Ronald P., xxx-xx-xxxx
Bunda, Rosauro, xxx-xx-xxxx
Bungay, Robert V., xxx-xx-xxxx
Bunning, Paul M., xxx-xx-xxxx
Bunton, Howard W., xxx-xx-xxxx
Burg, James R., xxx-xx-xxxx
Burke, James R., xxx-xx-xxxx
Burks, Mark E., xxx-xx-xxxx
Burleson, William O., xxx-xx-xxxx
Burlew, Michael E., xxx-xx-xxxx
Busto, Sandra A., xxx-xx-xxxx
Bzik, John P., xxx-xx-xxxx
Cahoon, William T., xxx-xx-xxxx
Callender, James T., xxx-xx-xxxx
Callicutt, Kenneth S., xxx-xx-xxxx
Calloway, Ronald J., xxx-xx-xxxx
Campbell, David C., xxx-xx-xxxx
Campbell, Deborah L., xxx-xx-xxxx
Campbell, Pamela L., xxx-xx-xxxx
Campbell, Ted R., xxx-xx-xxxx
Camps, Jeffrey L., xxx-xx-xxxx
Capehart, Steven R., xxx-xx-xxxx
Card, Kathleen M., xxx-xx-xxxx
Carey, Lance, xxx-xx-xxxx
Caron, Gerard John, xxx-xx-xxxx
Carpenter, Floyd L., xxx-xx-xxxx
Carpenter, Michael R., xxx-xx-xxxx
Carrero, Davy A., xxx-xx-xxxx
Carrero, Nidia S., xxx-xx-xxxx
Carter, Thomas J. III, xxx-xx-xxxx
Carty, Robert C., xxx-xx-xxxx
Cashio, Mark D., xxx-xx-xxxx
Castro, Felipe Jr., xxx-xx-xxxx
Caufield, Clyde C., xxx-xx-xxxx
Cebula, Karen E. W., xxx-xx-xxxx
Chambers, James D., xxx-xx-xxxx
Chambers, Michael N., xxx-xx-xxxx
Chandler, Larry S., xxx-xx-xxxx
Chapman, Mark D., xxx-xx-xxxx
Chapman, Suzann, xxx-xx-xxxx
Charlton, Howard A., Jr., xxx-xx-xxxx
Chaves, Manuel A., xxx-xx-xxxx
Chavis, Richard W., xxx-xx-xxxx
Cicotello, Christine, xxx-xx-xxxx
Clark, Otis F., xxx-xx-xxxx
Clark, Rita F., xxx-xx-xxxx
Clark, Terrance J., xxx-xx-xxxx
Clay, Maureen M., xxx-xx-xxxx
Clearwater, Burton J., xxx-xx-xxxx
Clement, Steven, xxx-xx-xxxx
Clendenen, William S., xxx-xx-xxxx
Cleveland, Glenn D., xxx-xx-xxxx
Cloer, Donald R., Jr., xxx-xx-xxxx
Clyburn, James P., xxx-xx-xxxx
Cochran, Douglas R., xxx-xx-xxxx
Cochran, Robert M., xxx-xx-xxxx
Cogdell, Darrell, xxx-xx-xxxx
Cohen, Martin R., xxx-xx-xxxx
Cohen, Samuel D., xxx-xx-xxxx
Coit, Thomas M., xxx-xx-xxxx
Cole, David S., xxx-xx-xxxx
Cole, Norman E., xxx-xx-xxxx
Cole, Richard M., xxx-xx-xxxx
Coleman, Phyllis K., xxx-xx-xxxx
Collins, David J., xxx-xx-xxxx
Collins, Joseph H., xxx-xx-xxxx
Colon, William, Jr., xxx-xx-xxxx
Coloney, Steven J., xxx-xx-xxxx
Colvin, John T., xxx-xx-xxxx
Conley, Michael L., xxx-xx-xxxx
Conn, Michael G., xxx-xx-xxxx
Conrad, Janice M., xxx-xx-xxxx
Contreras, Raymond, xxx-xx-xxxx
Cook, Ava Nell, xxx-xx-xxxx
Copeland, William R., xxx-xx-xxxx
Corbett, Thomas P., xxx-xx-xxxx
Cordes, Gregory J., xxx-xx-xxxx
Corley, Cathy A., xxx-xx-xxxx
Corley, Jerry T., xxx-xx-xxxx
Corppetts, Hezekiah, xxx-xx-xxxx
Cosner, James P., xxx-xx-xxxx
Costa, David M., xxx-xx-xxxx
Counihan, Michael A., xxx-xx-xxxx
Courson, David A., xxx-xx-xxxx
Coutee, Paul W., xxx-xx-xxxx
Couzins, James J., xxx-xx-xxxx
Craig, Michael R., xxx-xx-xxxx
Crawford, Steven J., xxx-xx-xxxx
Cribbs, William A., xxx-xx-xxxx
Crisler, Tommy C., xxx-xx-xxxx
Crouse, Samuel V., xxx-xx-xxxx
Croushore, Sandy, xxx-xx-xxxx
Crownover, Bruce W., xxx-xx-xxxx
Cruz, Gregory, xxx-xx-xxxx
Culpepper, Louis S., Jr., xxx-xx-xxxx
Cummings, Robert A., xxx-xx-xxxx
Cummins, Charles K., Jr., xxx-xx-xxxx
Cunningham, Ronnie W., xxx-xx-xxxx
Curley, James P., xxx-xx-xxxx
Curry, Kevin E., xxx-xx-xxxx
Curtis, Leland S., xxx-xx-xxxx
Curtis, Lewis G., xxx-xx-xxxx
Cyr, Guy E., xxx-xx-xxxx
Czapor, Peter W., xxx-xx-xxxx
Daffern, Nicholas F., xxx-xx-xxxx
Dalpias, Ernest A., xxx-xx-xxxx
Daly, John D., xxx-xx-xxxx
Dandridge, Melvin L., xxx-xx-xxxx
Daneu, Karen, xxx-xx-xxxx
Danielson, Camden, xxx-xx-xxxx
Danielson, James T., xxx-xx-xxxx
Darnell, Michael L., xxx-xx-xxxx
Davidson, Paul A., xxx-xx-xxxx
Davis, Jeffrey M., xxx-xx-xxxx
Davis, Jeffrey A., xxx-xx-xxxx
Davis, Jimmy A., xxx-xx-xxxx
Davis, Michael B., xxx-xx-xxxx
Dawson, James F., Jr., xxx-xx-xxxx
Deacy, Michael K., xxx-xx-xxxx
Deberry, Melissa S., xxx-xx-xxxx
Deberry, Paul C., Jr., xxx-xx-xxxx
Decenso, Michael L., xxx-xx-xxxx
Decurtis, Francis A., xxx-xx-xxxx
Degenhart, Kenneth R., xxx-xx-xxxx
Deloney, Thurmon L., II, xxx-xx-xxxx
Deppe, Thomas F., xxx-xx-xxxx
Despinoy, Dean J., xxx-xx-xxxx
Desrosiers, Mark E., xxx-xx-xxxx
Detzel, John E., xxx-xx-xxxx
Devore, Charles R., xxx-xx-xxxx
Devoto, Donald A., xxx-xx-xxxx
Dewind, Gilbert J., xxx-xx-xxxx
Dickes, Raymond N., III, xxx-xx-xxxx
Dickey, David E., Jr., xxx-xx-xxxx
Diehl, Debra A., xxx-xx-xxxx
Dieken, John H., xxx-xx-xxxx
Diew, Herbert L., xxx-xx-xxxx
Digiovanni, Jerome, xxx-xx-xxxx
Dilbert, Thomas F., xxx-xx-xxxx
Dilorenzo, Peter V., xxx-xx-xxxx
Dinning, David L., xxx-xx-xxxx
Dirago, Joseph B., Jr., xxx-xx-xxxx
Dodson, Kent K., xxx-xx-xxxx
Doles, Joanne T., xxx-xx-xxxx
Donaldson, Sherill Lee, xxx-xx-xxxx
Donley, Raymond G., III, xxx-xx-xxxx
Doody, James M., xxx-xx-xxxx
Dorgan, Thomas, xxx-xx-xxxx
Dorsey, Gary J., xxx-xx-xxxx
Doucette, Robert G., xxx-xx-xxxx
Dougless, Grady L., xxx-xx-xxxx
Doumit, Patrick F., xxx-xx-xxxx
Dowdle, Terence L., xxx-xx-xxxx
Dowmont, Mary S., xxx-xx-xxxx
Downing, Alfonso Q., Jr., xxx-xx-xxxx
Doyle, William J., III, xxx-xx-xxxx
Driggs, Stuart R., xxx-xx-xxxx
Drinkard, Jeffrey I., xxx-xx-xxxx
Drinkwater, Peter L., xxx-xx-xxxx
Drobezko, Joseph M., xxx-xx-xxxx
Dron, Lucy M., xxx-xx-xxxx
Dron, Steven B., xxx-xx-xxxx
Druckenbrdot, Richard L., xxx-xx-xxxx
Dubray, Joseph M., III, xxx-xx-xxxx
Ducey, Roger H., III, xxx-xx-xxxx
Duffin, Andrew V., xxx-xx-xxxx
Dugan, Richard A., xxx-xx-xxxx
Dukauskas, Gerald J., xxx-xx-xxxx
Duke, Charles G., III, xxx-xx-xxxx
Dukes, Janet M., xxx-xx-xxxx
Duncan, Katrina A., xxx-xx-xxxx
Duncan, William K., xxx-xx-xxxx
Dunivin, Karen O., xxx-xx-xxxx
Dunivin, Stephen M., xxx-xx-xxxx
Dunn, Jane M., xxx-xx-xxxx
Dunn, John T., xxx-xx-xxxx
Duran, Henry F., xxx-xx-xxxx
Dye, Anita F., xxx-xx-xxxx
Dyer, Donald D., xxx-xx-xxxx
Dyer, Thomas T., xxx-xx-xxxx
Eacker, Orville L., Jr., xxx-xx-xxxx
Easley, Nathan S., xxx-xx-xxxx
Eastman, George J., xxx-xx-xxxx
Eastman, Ross F., Jr., xxx-xx-xxxx
Eckert, Larry A., xxx-xx-xxxx
Edelen, Philip B., xxx-xx-xxxx
Edger, Lawrence W., xxx-xx-xxxx
Edmundson, Jerry H., xxx-xx-xxxx
Edwards, Johnny P., xxx-xx-xxxx
Egginton, Jack B., xxx-xx-xxxx
Egloff, Mark D., xxx-xx-xxxx
Eldridge, Willie E., xxx-xx-xxxx
Elliott, Lance E., xxx-xx-xxxx
Ellis, Douglas A., xxx-xx-xxxx
Ellis, William R., xxx-xx-xxxx
Emery, Kenneth R., II, xxx-xx-xxxx
Emmons, Kathleen M., xxx-xx-xxxx
England, James M., xxx-xx-xxxx
English, Wilson L., xxx-xx-xxxx
Eonta, John P., xxx-xx-xxxx
Erickson, Denise D., xxx-xx-xxxx
Erickson, Kim E., xxx-xx-xxxx
Ernst, Ellen C., xxx-xx-xxxx
Escobedo, Janet J., xxx-xx-xxxx
Eshleman, Mark O., xxx-xx-xxxx
Eslaire, Robert W., xxx-xx-xxxx
Evan, Gary J., xxx-xx-xxxx
Evans, David L., xxx-xx-xxxx
Everitt, Andrea S., xxx-xx-xxxx
Fachetti, Donna J., xxx-xx-xxxx
Faenza, Bernard J., xxx-xx-xxxx
Farr, Russell D., xxx-xx-xxxx
Faulkner, Daniel P., xxx-xx-xxxx
Fearneyhough, Jack M., xxx-xx-xxxx
Feightner, Donald L., xxx-xx-xxxx
Feirick, Paul R., xxx-xx-xxxx
Felker, Edward J., xxx-xx-xxxx
Ferguson, Gary A., xxx-xx-xxxx
Ferguson, Joan S., xxx-xx-xxxx
Fernandez, Jorge A., xxx-xx-xxxx
Ferrato, William P., xxx-xx-xxxx
Ferrell, Kirk A., xxx-xx-xxxx
Ferrell, Mark E., xxx-xx-xxxx
Ferris, Richard F., xxx-xx-xxxx
Fetter, Clifford C., xxx-xx-xxxx
Fiene, James E., xxx-xx-xxxx
Filios, Patricia R., xxx-xx-xxxx
Finnern, Frank Robert, Jr., xxx-xx-xxxx
Finnerty, Christopher S., xxx-xx-xxxx
Fischer, David L., xxx-xx-xxxx
Fitterer, Arthur L., xxx-xx-xxxx
Flaugher, Jonathan S., xxx-xx-xxxx
Fleenor, John K., xxx-xx-xxxx

Flom, John A., xxx-xx-xxxx.
Floyd, Horace J., Jr., xxx-xx-xxxx.
Foerster, Sheryl A., xxx-xx-xxxx.
Ford, Lila K., xxx-xx-xxxx.
Ford, Mary R., xxx-xx-xxxx.
Foresman, Craig L., xxx-xx-xxxx.
Forsen, Janice H., xxx-xx-xxxx.
Fortenberry, Curtis B., xxx-xx-xxxx.
Foster, Kathleen J., xxx-xx-xxxx.
Fouche, Eldred J., xxx-xx-xxxx.
Fowlkes, Robert F., xxx-xx-xxxx.
Fox, Teresa A., xxx-xx-xxxx.
Francis, Charles A., xxx-xx-xxxx.
Francis, Stanley W., xxx-xx-xxxx.
Frank, Larry R., xxx-xx-xxxx.
Frederick, John J., xxx-xx-xxxx.
Freiberger, Lawrence J., xxx-xx-xxxx.
Freund, Darral J., xxx-xx-xxxx.
Friar, James A., xxx-xx-xxxx.
Frye, Stephen L., xxx-xx-xxxx.
Fryer, Richard L., xxx-xx-xxxx.
Fults, William W., xxx-xx-xxxx.
Funk, Brian D., xxx-xx-xxxx.
Futrell, Dena Z., xxx-xx-xxxx.
Gadboys, Jeffrey A., xxx-xx-xxxx.
Gaitros, David A., xxx-xx-xxxx.
Gallagher, Robert M., xxx-xx-xxxx.
Gallentine, Anita R., xxx-xx-xxxx.
Gamache, Robert N., xxx-xx-xxxx.
Garcia, Hector L., xxx-xx-xxxx.
Garcia, James C., xxx-xx-xxxx.
Garcia, Marcelo B., Jr., xxx-xx-xxxx.
Gardner, Teddy S., xxx-xx-xxxx.
Gardner, Thomas E., xxx-xx-xxxx.
Garrett, Elijah, xxx-xx-xxxx.
Garrett, Russell R., xxx-xx-xxxx.
Garshnek, Anna, xxx-xx-xxxx.
Garza, Gerardo H., xxx-xx-xxxx.
Gatlin, Sandra D., xxx-xx-xxxx.
Gault, Richard W., xxx-xx-xxxx.
Gavares, Carolyn A., xxx-xx-xxxx.
Gentry, Rebecca J., xxx-xx-xxxx.
George, Michael R., xxx-xx-xxxx.
Georges, Mark Dennis, xxx-xx-xxxx.
Gerhart, Frederick A., xxx-xx-xxxx.
Gernert, Timothy R., xxx-xx-xxxx.
Getzen, Phillip M., xxx-xx-xxxx.
Gibbs, Cynthia, xxx-xx-xxxx.
Gibson, Alan D., xxx-xx-xxxx.
Gifford, Paul A., xxx-xx-xxxx.
Gill, John H., xxx-xx-xxxx.
Gillam, Donald E., xxx-xx-xxxx.
Gillette, Robert B., xxx-xx-xxxx.
Gilliam, Clinton C., II, xxx-xx-xxxx.
Gisler, Joseph A., xxx-xx-xxxx.
Gitt, Dennis L., xxx-xx-xxxx.
Gladman, Gayden M., xxx-xx-xxxx.
Gladstone, Stephen H., xxx-xx-xxxx.
Glass, Jeffrey A., xxx-xx-xxxx.
Glausier, Clarence E., III, xxx-xx-xxxx.
Glaze, Tom, III, xxx-xx-xxxx.
Gleason, Ann M., xxx-xx-xxxx.
Goebel, Douglas J., xxx-xx-xxxx.
Goldfinger, Abigail L., xxx-xx-xxxx.
Golej, Thomas A., xxx-xx-xxxx.
Goodwin, Paul E., Jr., xxx-xx-xxxx.
Gorczynski, Janet K., xxx-xx-xxxx.
Gordon, Frederick, xxx-xx-xxxx.
Gordon, Michael A., xxx-xx-xxxx.
Gott, Robert R., xxx-xx-xxxx.
Granda, Jeffrey B., xxx-xx-xxxx.
Grant, Cary B., xxx-xx-xxxx.
Gray, Susan C., xxx-xx-xxxx.
Gray, William F., Jr., xxx-xx-xxxx.
Greco, Christopher F., xxx-xx-xxxx.
Green, Donald E., Jr., xxx-xx-xxxx.
Green, Joseph R., xxx-xx-xxxx.
Green, Robert A., xxx-xx-xxxx.
Greenwood, James R., xxx-xx-xxxx.
Gregory, Michael D., xxx-xx-xxxx.
Grieshaber, Gordon J., xxx-xx-xxxx.
Griffith, Jeffrey B., xxx-xx-xxxx.
Griffith, Blackwell Jill A., xxx-xx-xxxx.
Grigsby, Bennie H., Jr., xxx-xx-xxxx.
Groff, Thoms J., xxx-xx-xxxx.
Gross, Darryl F., xxx-xx-xxxx.
Grous, Tracey A., xxx-xx-xxxx.
Gryczewski, Luan J., xxx-xx-xxxx.
Gunning, Robert J., xxx-xx-xxxx.
Hachida, Howard M., xxx-xx-xxxx.
Hackl, Thomas J., xxx-xx-xxxx.
Hagen, Michael D., xxx-xx-xxxx.
Haggerty, Daniel F., xxx-xx-xxxx.
Haines, John L., xxx-xx-xxxx.
Haldeman, Stephen D., xxx-xx-xxxx.
Hale, Carla K., xxx-xx-xxxx.
Hale, Daniel A., xxx-xx-xxxx.
Hall, George E., xxx-xx-xxxx.
Hall, George R., xxx-xx-xxxx.
Hall, Jesse L., xxx-xx-xxxx.
Hall, John P., Jr., xxx-xx-xxxx.
Hall, Karen L., xxx-xx-xxxx.
Hall, Ricky G., xxx-xx-xxxx.
Hallett, Audrey D., xxx-xx-xxxx.
Hamblin, Donald E., xxx-xx-xxxx.
Hamel, Robert T., xxx-xx-xxxx.
Hamilton, Gary W., xxx-xx-xxxx.
Hamilton, Marilyn H., xxx-xx-xxxx.
Hamilton, Ned F., Jr., xxx-xx-xxxx.
Hammond, Jonathan E. C., xxx-xx-xxxx.
Hanafin, Robert L., xxx-xx-xxxx.
Hand, Montgomery S., xxx-xx-xxxx.
Haney, Paul E., xxx-xx-xxxx.
Hanks, Michael G., xxx-xx-xxxx.
Hansen, Randy M., xxx-xx-xxxx.
Hansen, Ronnelle A., xxx-xx-xxxx.
Harden, Dawn M., xxx-xx-xxxx.
Harding, Roger R. J., xxx-xx-xxxx.
Hardy, Linda L., xxx-xx-xxxx.
Hardy, Philip W., xxx-xx-xxxx.
Harger, Scott K., xxx-xx-xxxx.
Harlan, Terri J., xxx-xx-xxxx.
Harper, James G., II, xxx-xx-xxxx.
Harper, John J., xxx-xx-xxxx.
Harrell, David D., xxx-xx-xxxx.
Harrington, Billy J., Jr., xxx-xx-xxxx.
Harrington, Brian P., xxx-xx-xxxx.
Harris, Bobbie D., xxx-xx-xxxx.
Harris, Robert B., xxx-xx-xxxx.
Hartnett, Richard L., xxx-xx-xxxx.
Harvey, Benjamin K., xxx-xx-xxxx.
Harvey, David R., xxx-xx-xxxx.
Haseltine, Frank T., Jr., xxx-xx-xxxx.
Haskins, Wayne G., xxx-xx-xxxx.
Hassler, Edward P., xxx-xx-xxxx.
Hasson, Vester M., III, xxx-xx-xxxx.
Hatcher, Steven W., xxx-xx-xxxx.
Hatfield, Ronald L., xxx-xx-xxxx.
Haupt, Stephen W., xxx-xx-xxxx.
Hayden, Sherman F., xxx-xx-xxxx.
Hayes, Edward A., xxx-xx-xxxx.
Haynes, Tommy, xxx-xx-xxxx.
Healy, Michael F., xxx-xx-xxxx.
Heath, William J., Jr., xxx-xx-xxxx.
Hebner, Christopher J., xxx-xx-xxxx.
Heinz, Peter J., xxx-xx-xxxx.
Henderson, George D., xxx-xx-xxxx.
Hendricks, John W., xxx-xx-xxxx.
Hendricks, Michael R., xxx-xx-xxxx.
Hergesell, Carl K., xxx-xx-xxxx.
Herring, Thomas G., xxx-xx-xxxx.
Herron, Billy E., xxx-xx-xxxx.
Herron, Cranford E., xxx-xx-xxxx.
Hertler, Frank E., xxx-xx-xxxx.
Herzog, Alfred J., xxx-xx-xxxx.
Hess, Dale A., xxx-xx-xxxx.
Hesselbein, Robert M., xxx-xx-xxxx.
Hewitt, Dale J., xxx-xx-xxxx.
Hewitt, Emmitt C., xxx-xx-xxxx.
Hewlett, Jeffrey G., xxx-xx-xxxx.
Hibshman, John L., xxx-xx-xxxx.
Higdon, Daniel E., xxx-xx-xxxx.
Higginbotham, Emmett L., xxx-xx-xxxx.
Higgins, Kitsie E., xxx-xx-xxxx.
High, Charles E., xxx-xx-xxxx.
Highfill, Dwight E., xxx-xx-xxxx.
Hildenbrandt, Stephen R., xxx-xx-xxxx.
Hileman, Kirt A., xxx-xx-xxxx.
Hill, Bruce, xxx-xx-xxxx.
Hill, Wesley W., xxx-xx-xxxx.
Hillman, Charles E., xxx-xx-xxxx.
Hilton, Val J., xxx-xx-xxxx.
Hinojosa, Maximilian, III, xxx-xx-xxxx.
Hinrichs, Rodney G., xxx-xx-xxxx.
Hintermeyer, Mark G., xxx-xx-xxxx.
Hitt, Richard E., Jr., xxx-xx-xxxx.
Hoag, Jesse S., xxx-xx-xxxx.
Hoard, James T., xxx-xx-xxxx.
Hobbs, Daniel E., xxx-xx-xxxx.
Hodges, Clarence E., II, xxx-xx-xxxx.
Hoefler, James M., xxx-xx-xxxx.
Hoeft, Edward J., xxx-xx-xxxx.
Holland, Elmer, xxx-xx-xxxx.
Holland, Norma H., xxx-xx-xxxx.
Holland, Roger A., xxx-xx-xxxx.
Holley, Willie J., xxx-xx-xxxx.
Holmes, Janice M., xxx-xx-xxxx.
Holmes, Todd J., xxx-xx-xxxx.
Hoopes, John M., xxx-xx-xxxx.
Horner, John W., xxx-xx-xxxx.
Hostage, Gilmary M., III, xxx-xx-xxxx.
Hovatter, Jessie L., xxx-xx-xxxx.
Hover, Bruce J., xxx-xx-xxxx.
Howard, Joseph C., xxx-xx-xxxx.
Howard, Stanley Doyle, xxx-xx-xxxx.
Howell, Bryon E., xxx-xx-xxxx.
Howell, Richard C., xxx-xx-xxxx.
Hrabak, Robert J., Jr., xxx-xx-xxxx.
Huben, William P., xxx-xx-xxxx.
Hudock, Terry J., xxx-xx-xxxx.
Huffman, Lon, xxx-xx-xxxx.
Hugghins, Susan J., xxx-xx-xxxx.
Huggins, Joann, xxx-xx-xxxx.
Hughes, James J., xxx-xx-xxxx.
Hughes, John W., xxx-xx-xxxx.
Hughes, Peter, xxx-xx-xxxx.
Hughes, Steven M., xxx-xx-xxxx.
Hughey, Robin A., xxx-xx-xxxx.
Huhn, Michael J., xxx-xx-xxxx.
Hunt, Stanley A., xxx-xx-xxxx.
Hunter, Michael P., xxx-xx-xxxx.
Hurd, Bruce E., xxx-xx-xxxx.
Hurd, Douglas B., xxx-xx-xxxx.
Hutchinson, Michael L., xxx-xx-xxxx.
Hutton, Mark D., xxx-xx-xxxx.
Huyler, Susan E., xxx-xx-xxxx.
Huxtable, Donald A., xxx-xx-xxxx.
Hayler, Susan E., xxx-xx-xxxx.
Hyatt, Robert T., xxx-xx-xxxx.
Ianelli, Joseph L., xxx-xx-xxxx.
Idell, Paul S., xxx-xx-xxxx.
Imker, Eric F., xxx-xx-xxxx.
Ingenloff, Richard J., xxx-xx-xxxx.
Ingram, Jerry B., Jr., xxx-xx-xxxx.
Inskeep, Thomas J., xxx-xx-xxxx.
Irwin, Lloyd C., Jr., xxx-xx-xxxx.
Ivey, Hugh D., xxx-xx-xxxx.
Jackson, Michael E., xxx-xx-xxxx.
Jacobsen, Robert M., xxx-xx-xxxx.
Jacques, Steven D., xxx-xx-xxxx.
James, Joseph E., xxx-xx-xxxx.
James, Kenneth R., xxx-xx-xxxx.
Jaskilka, Peter F., xxx-xx-xxxx.
Jean, Arthur K., xxx-xx-xxxx.
Jeffries, Richard Allen, xxx-xx-xxxx.
Jellerson, Raymond E., xxx-xx-xxxx.
Jennings, Kenneth A., xxx-xx-xxxx.
Jewell, Linda A., xxx-xx-xxxx.
Johanns, Michael A., xxx-xx-xxxx.
Johnshoy, Michael C., xxx-xx-xxxx.
Johnson, David W., xxx-xx-xxxx.
Johnson, Delores A., xxx-xx-xxxx.
Johnson, Gregory D., xxx-xx-xxxx.
Johnson, Gregory V., xxx-xx-xxxx.
Johnson, Jennifer C., xxx-xx-xxxx.
Johnson, Keith E., xxx-xx-xxxx.
Johnson, Larry, xxx-xx-xxxx.
Johnson, Stuart C., xxx-xx-xxxx.
Jolissaint, Dennis J., xxx-xx-xxxx.
Jones, Donald E., xxx-xx-xxxx.
Jones, Jeffery H., xxx-xx-xxxx.
Jones, Michael A., xxx-xx-xxxx.
Jones, Michael C., xxx-xx-xxxx.
Jones, Richard W., xxx-xx-xxxx.
Jones, Richard W., xxx-xx-xxxx.
Jones, Ronald P., xxx-xx-xxxx.
Jordan, Donald S., xxx-xx-xxxx.
Jordan, Joseph E., xxx-xx-xxxx.
Jouett, Terry R., xxx-xx-xxxx.
Juhl, Ronald J., xxx-xx-xxxx.
Jusinski, Leonard E., xxx-xx-xxxx.
Kaelin, William A., xxx-xx-xxxx.
Kalansky Gary M., xxx-xx-xxxx.
Kapes, William J., III, xxx-xx-xxxx.
Kastler, Kenneth D., xxx-xx-xxxx.
Kautz, Judith F., xxx-xx-xxxx.
Kay, Gilles L., Jr., xxx-xx-xxxx.
Kearns, Michael G., xxx-xx-xxxx.
Kelley, John M., Jr., xxx-xx-xxxx.
Kelley, Stephen N., xxx-xx-xxxx.
Kelley, Thomas D., xxx-xx-xxxx.

Kelly, John V., xxx-xx-xxxx
Kelly, Ricky B., xxx-xx-xxxx
Kelly, Virginia S., xxx-xx-xxxx
Kennedy, James M., xxx-xx-xxxx
Kennedy, Thomas A., xxx-xx-xxxx
Kerby, Jerry M., xxx-xx-xxxx
Kessler, Kenneth R., xxx-xx-xxxx
Keuning, James N., xxx-xx-xxxx
Key, Lawrence E., xxx-xx-xxxx
Kierce, Steve R., xxx-xx-xxxx
Kilgariff, Jeffrey J., xxx-xx-xxxx
King, George H., xxx-xx-xxxx
King, Robert J., xxx-xx-xxxx
Klaameyer, Theodore E., xxx-xx-xxxx
Kleve, Virgil W., xxx-xx-xxxx
Kling, Terry R., xxx-xx-xxxx
Kluepfel, Charles K., xxx-xx-xxxx
Koerner, William L., xxx-xx-xxxx
Kohlhaas, Mildred B., xxx-xx-xxxx
Kolbeck, John A., xxx-xx-xxxx
Kollars, Daniel L., xxx-xx-xxxx
Koonce, Gregory, xxx-xx-xxxx
Kopanski, David A., xxx-xx-xxxx
Koslov, Daniel K., xxx-xx-xxxx
Kowal, Brian W., xxx-xx-xxxx
Kozloski, Richard E., xxx-xx-xxxx
Krajci, Gary S., xxx-xx-xxxx
Krause, Wayne R., Jr., xxx-xx-xxxx
Krell, Carl R., xxx-xx-xxxx
Krenek, Gerald W., xxx-xx-xxxx
Kubicki, John J., xxx-xx-xxxx
Kucharczyk, Barbara A., xxx-xx-xxxx
Kucinsky, Gregory J., xxx-xx-xxxx
Kuehl, Susan P., xxx-xx-xxxx
Kuhn, Carol A., xxx-xx-xxxx
Kumasaka, Neal S., xxx-xx-xxxx
Kurjanowicz, Ronald J., xxx-xx-xxxx
Lachel, Alan R., xxx-xx-xxxx
Lamb, Dihl D., xxx-xx-xxxx
Lamb, Hastings J., III, xxx-xx-xxxx
Lamkin, Douglass A., xxx-xx-xxxx
Lampard, Greg E., xxx-xx-xxxx
Landgren, Larry A., xxx-xx-xxxx
Landry, Robert L., xxx-xx-xxxx
Lange, Theodore J., Jr., xxx-xx-xxxx
Langlois, John M., xxx-xx-xxxx
Larned, John K., xxx-xx-xxxx
Larrison, James G., xxx-xx-xxxx
Larson, Arthur T., Jr., xxx-xx-xxxx
Larson, Dean L., xxx-xx-xxxx
Larson, Patricia M., xxx-xx-xxxx
Lashey, David V., xxx-xx-xxxx
Laski, Richard T., xxx-xx-xxxx
Lassonde, Maynard W., III, xxx-xx-xxxx
Laszakovits, Gerald F., xxx-xx-xxxx
Lauritzen, Kris T., xxx-xx-xxxx
Laviolette, Ned J., Jr., xxx-xx-xxxx
Law, Richard R., xxx-xx-xxxx
Lawrence, Anita L., xxx-xx-xxxx
Lawson, Terry L., xxx-xx-xxxx
Leboeuf, Harry E., Jr., xxx-xx-xxxx
Ledet, Lonnie R., xxx-xx-xxxx
Lee, Nathanial G., xxx-xx-xxxx
Lee, Ronald G., xxx-xx-xxxx
Lees, David R., xxx-xx-xxxx
Leiser, James H., xxx-xx-xxxx
Leister, Harvey J., xxx-xx-xxxx
Leister, Maureen K., xxx-xx-xxxx
Lekawa, Laraine L., xxx-xx-xxxx
Lemons, Wallace L., xxx-xx-xxxx
Lewis, Mark D., xxx-xx-xxxx
Lewis, Michael C., xxx-xx-xxxx
Lewis, Preston E., xxx-xx-xxxx
Lewis, Teresa A., xxx-xx-xxxx
Ley, John P., xxx-xx-xxxx
Lieber, Richard A., xxx-xx-xxxx
Liepis, Steven J., xxx-xx-xxxx
Lihani, J. Brian, xxx-xx-xxxx
Lindhorst, Michael D., xxx-xx-xxxx
Lines, Robert J., Jr., xxx-xx-xxxx
Lipcsak, Michael R., xxx-xx-xxxx
Lipps, Michael D., xxx-xx-xxxx
Little, Brian W., xxx-xx-xxxx
Littrell, Dennis R., xxx-xx-xxxx
Livingston, Christopher P., xxx-xx-xxxx
Loftin, Jeff C., xxx-xx-xxxx
Logan, James S., xxx-xx-xxxx
Lokaj, Stanley, xxx-xx-xxxx
Lombardi, Daniel M., xxx-xx-xxxx
Loughrey, Gary T., xxx-xx-xxxx
Lower, William M., Jr., xxx-xx-xxxx
Lundgren, Michael J., xxx-xx-xxxx
Luper, John F., xxx-xx-xxxx
Luther, Paul E., xxx-xx-xxxx
Lycke, Steven J., xxx-xx-xxxx
Lynn, Leo L., Jr., xxx-xx-xxxx
Lyon, James D., xxx-xx-xxxx
Lyon, Scott W., xxx-xx-xxxx
Maas, Paul A., xxx-xx-xxxx
Mabe, Richard D., xxx-xx-xxxx
MacGuire, Priscilla, xxx-xx-xxxx
Mack, Kervin L., xxx-xx-xxxx
Mack, Sandra A., xxx-xx-xxxx
Mack, Thomas P., Jr., xxx-xx-xxxx
MacPhail, Thomas R., xxx-xx-xxxx
Madden, Donna L., xxx-xx-xxxx
Maderas, Ronald G., Jr., xxx-xx-xxxx
Madison, Dale R., xxx-xx-xxxx
Madison, Rebecca A., xxx-xx-xxxx
Maedke, John O., xxx-xx-xxxx
Maher, Scott L., xxx-xx-xxxx
Mahoney, Thomas P., xxx-xx-xxxx
Makrides, Spiros, xxx-xx-xxxx
Malingowski, James W., xxx-xx-xxxx
Malone, Raymond A., xxx-xx-xxxx
Mandley, Kenneth N., xxx-xx-xxxx
Manfra, Kenneth L., xxx-xx-xxxx
Mann, Eric L., xxx-xx-xxxx
Mann, Gordon W., xxx-xx-xxxx
Marin, Laddie, Jr., xxx-xx-xxxx
Markovich, Bruce M., xxx-xx-xxxx
Marshall, Candace G., xxx-xx-xxxx
Marshall, Wade A., xxx-xx-xxxx
Martin, Frances C., xxx-xx-xxxx
Martin, Raymond L., Jr., xxx-xx-xxxx
Mason, Robert S., xxx-xx-xxxx
Mathis, Bobby Graham, xxx-xx-xxxx
Mauck, Candace W., xxx-xx-xxxx
Maurmann, Steven F., xxx-xx-xxxx
Maxwell, Gerald C., xxx-xx-xxxx
Maxwell, James M., xxx-xx-xxxx
Mayer, Jerome B., xxx-xx-xxxx
Mayo, Diane M., xxx-xx-xxxx
Mayton, Rodney L., xxx-xx-xxxx
McAllister, John M., xxx-xx-xxxx
McCanless, Donald P., xxx-xx-xxxx
McCarthy, Timothy J., xxx-xx-xxxx
McCauley, James L., Jr., xxx-xx-xxxx
McClain, Kay C., xxx-xx-xxxx
McLean, David N., xxx-xx-xxxx
McClellan, Julius, xxx-xx-xxxx
McCloud, Marvin L., xxx-xx-xxxx
McCormick, Douglas I., xxx-xx-xxxx
McCormick, James A., xxx-xx-xxxx
McCusker, Daniel A., xxx-xx-xxxx
McDaniels, Arthur F., xxx-xx-xxxx
McDermid, Michael W., xxx-xx-xxxx
McElfresh, Patrick A., xxx-xx-xxxx
McFerrin, Robert J., Jr., xxx-xx-xxxx
McGhee, Dwight R., xxx-xx-xxxx
McGibney, David P., xxx-xx-xxxx
McGuire, Edward P., Jr., xxx-xx-xxxx
McHargue, Chauncey A., III, xxx-xx-xxxx
McIsaac, Daniel V., Jr., xxx-xx-xxxx
McKay, Daryl J., xxx-xx-xxxx
McKeithen, Jack A., xxx-xx-xxxx
McKethan, Colton, xxx-xx-xxxx
McKnight, Beverly J., xxx-xx-xxxx
McKnight, Wayne R., xxx-xx-xxxx
McKown, Clarence W., Jr., xxx-xx-xxxx
McNabb, Richard C., II, xxx-xx-xxxx
McNair, Gerald A., xxx-xx-xxxx
McNally, William P., xxx-xx-xxxx
McNamee, David, xxx-xx-xxxx
McPhail, Michael J., xxx-xx-xxxx
McQuade, Marilyn K., xxx-xx-xxxx
McQuade, Peter D., xxx-xx-xxxx
Meacham, Charles E., xxx-xx-xxxx
Meade, Constance L., xxx-xx-xxxx
Mecsics, James, xxx-xx-xxxx
Medellin, Donna L., xxx-xx-xxxx
Meder, Marjorie L., xxx-xx-xxxx
Meeks, Laurence S., xxx-xx-xxxx
Mega, William P., xxx-xx-xxxx
Meleton, Marcus P., xxx-xx-xxxx
Menges, Brian L., xxx-xx-xxxx
Mercer, James L., II, xxx-xx-xxxx
Merchant, Rick H., xxx-xx-xxxx
Merrill, Geoffrey D., xxx-xx-xxxx
Methot, David M., xxx-xx-xxxx
Meyers, Cheryl L., xxx-xx-xxxx
Middlebrooke, Michael G., xxx-xx-xxxx
Middleton, Richard G., xxx-xx-xxxx
Mihok, Christopher R., xxx-xx-xxxx
Miles, Robert A., xxx-xx-xxxx
Miller, Brian L., xxx-xx-xxxx
Miller, Douglas P., xxx-xx-xxxx
Miller, Doyle E., xxx-xx-xxxx
Miller, James V., xxx-xx-xxxx
Miller, John W., xxx-xx-xxxx
Miller, Willie J., xxx-xx-xxxx
Mills, William G., xxx-xx-xxxx
Mims, Rufus M., Jr., xxx-xx-xxxx
Mitchell, Jesse L., xxx-xx-xxxx
Mitzel, Dennis R., xxx-xx-xxxx
Mixon, Donald E., xxx-xx-xxxx
Moe, Kent A., xxx-xx-xxxx
Mogavero, Gary D., xxx-xx-xxxx
Moll, Dawn M., xxx-xx-xxxx
Molloy, Kyle S., xxx-xx-xxxx
Molnar, Lon W., xxx-xx-xxxx
Monaghan, Glen E., xxx-xx-xxxx
Monks, Kevin, xxx-xx-xxxx
Mock, Richard Lee, xxx-xx-xxxx
Moore, David A., xxx-xx-xxxx
Moore, Keith M., xxx-xx-xxxx
Mora, Leo G., Jr., xxx-xx-xxxx
Morales, Peter D., xxx-xx-xxxx
Moran, Ralph G., xxx-xx-xxxx
Morris, Curtis L., xxx-xx-xxxx
Morris, Robert T., xxx-xx-xxxx
Morrison, Ira T., Jr., xxx-xx-xxxx
Morrow, Jonathan B., xxx-xx-xxxx
Moten, Jackie, xxx-xx-xxxx
Motley, Sandra T., xxx-xx-xxxx
Moxness, Greg E., xxx-xx-xxxx
Muller, William K., xxx-xx-xxxx
Mullins, Oswaldo Y., xxx-xx-xxxx
Muolo, Michael J., xxx-xx-xxxx
Murray, Jeffrey J., xxx-xx-xxxx
Murray, Roger W., xxx-xx-xxxx
Murrell, Clifford B., xxx-xx-xxxx
Myers, Gary D., xxx-xx-xxxx
Narron, John M., xxx-xx-xxxx
Natalizio, Donato A., Jr., xxx-xx-xxxx
Near, James B., Jr., xxx-xx-xxxx
Neer, William W., xxx-xx-xxxx
Negri, Anthony P., xxx-xx-xxxx
Nelsen, Terron W., xxx-xx-xxxx
Nelson, Albert R., xxx-xx-xxxx
Nelson, Clifford C., xxx-xx-xxxx
Nelson, Dexter D., xxx-xx-xxxx
Nelson, Susan L., xxx-xx-xxxx
Nerger, Paul S., xxx-xx-xxxx
Nettie, Ronald G., xxx-xx-xxxx
Newman, David W., xxx-xx-xxxx
Newman, Robert M., xxx-xx-xxxx
Newton, Billy W., Jr., xxx-xx-xxxx
Neyland, David L., xxx-xx-xxxx
Nicely, Debra J., xxx-xx-xxxx
Nichols, William D., xxx-xx-xxxx
Nielson, Scott E., xxx-xx-xxxx
Noe, John S., xxx-xx-xxxx
Noe, Mark D., xxx-xx-xxxx
Novack, Albert J., xxx-xx-xxxx
Nunez, Lisa K., xxx-xx-xxxx
Nurss, Douglas E., xxx-xx-xxxx
Nuss, Robert G., xxx-xx-xxxx
O'Brien, George D., xxx-xx-xxxx
O'Connell, Dennis E., xxx-xx-xxxx
O'Connell, Patrick D., xxx-xx-xxxx
O'Dea, Patrick J., xxx-xx-xxxx
Oehme, Jane A., xxx-xx-xxxx
Ohms, Charles H., Jr., xxx-xx-xxxx
Olivarri, Rudy C., Jr., xxx-xx-xxxx
O'Miccioli, Edward D., Jr., xxx-xx-xxxx
O'Neal, James L., xxx-xx-xxxx
O'Neill, Peter M., xxx-xx-xxxx
Orton, Anne R., xxx-xx-xxxx
Osborne, James M., xxx-xx-xxxx
Oscilia, Joseph E., xxx-xx-xxxx
Ostendorf, Susan J., xxx-xx-xxxx
Ozioli, Daniel L., Jr., xxx-xx-xxxx
Page, Richard C., xxx-xx-xxxx
Pagoni, Robert P., xxx-xx-xxxx
Pahls, Anthony C., xxx-xx-xxxx
Painter, James V., xxx-xx-xxxx
Palac, Donald T., xxx-xx-xxxx
Palmer, Robert C., xxx-xx-xxxx

Pardue, William S., xxx-xx-xxxx.
Park, Theresa R., xxx-xx-xxxx.
Parkis, Steven E., xxx-xx-xxxx.
Parson, Michael T., xxx-xx-xxxx.
Parsons, Jeffrey P., xxx-xx-xxxx.
Pastor, Donna L., xxx-xx-xxxx.
Patni, Karim G., xxx-xx-xxxx.
Patterson, James A., xxx-xx-xxxx.
Patterson, Kathleen S., xxx-xx-xxxx.
Patterson, Roderick H., xxx-xx-xxxx.
Paul, Harry E., xxx-xx-xxxx.
Peacher, Jimmie, II, xxx-xx-xxxx.
Peaden, Robert L., xxx-xx-xxxx.
Pearsall, Kenneth L., xxx-xx-xxxx.
Pearson, James C., xxx-xx-xxxx.
Pelletier, Gerald A., xxx-xx-xxxx.
Peloquin, Armand J., Jr., xxx-xx-xxxx.
Penaskovic, Stephen, xxx-xx-xxxx.
Pennington, Steven, xxx-xx-xxxx.
Pennock, James M., xxx-xx-xxxx.
Peranteaux, John H. D., xxx-xx-xxxx.
Perkins, Edward R., III, xxx-xx-xxxx.
Perkins, William H., xxx-xx-xxxx.
Perry, Scott S., xxx-xx-xxxx.
Pestana, Steven E., xxx-xx-xxxx.
Petersen, Kelvin H., xxx-xx-xxxx.
Peterson, Dennis W., xxx-xx-xxxx.
Phelps, Paul K., xxx-xx-xxxx.
Phelps, Shanna S., xxx-xx-xxxx.
Piat, Darrol W., xxx-xx-xxxx.
Pickens, Deborah J., xxx-xx-xxxx.
Pingsterhaus, Virgil H., xxx-xx-xxxx.
Pippins, Jerry L., Jr., xxx-xx-xxxx.
Platt, Phillip, xxx-xx-xxxx.
Plott, Ernest H., Jr., xxx-xx-xxxx.
Plum, Frank III, xxx-xx-xxxx.
Plunkett, Patrick A., xxx-xx-xxxx.
Pohlmann, Rodney C., xxx-xx-xxxx.
Pollard, William T., Jr., xxx-xx-xxxx.
Polock, David J., xxx-xx-xxxx.
Popp, Raymond F., xxx-xx-xxxx.
Portale, James P., xxx-xx-xxxx.
Porter, Harold K., III, xxx-xx-xxxx.
Porzio, Paul A., xxx-xx-xxxx.
Posvar, Michael J., xxx-xx-xxxx.
Praska, Douglas J., xxx-xx-xxxx.
Praytor, Bobby F., xxx-xx-xxxx.
Presuhn, Gary G., xxx-xx-xxxx.
Prewitt, Dwight L., xxx-xx-xxxx.
Prior, Thomas A., xxx-xx-xxxx.
Pugh, Charles A., xxx-xx-xxxx.
Purcell Gerald T., xxx-xx-xxxx.
Quaderer, Daniel D., xxx-xx-xxxx.
Quesinberry, Rory A., xxx-xx-xxxx.
Quinn, Marian E., xxx-xx-xxxx.
Rabern, David W., xxx-xx-xxxx.
Radford, Bruce W., xxx-xx-xxxx.
Raissle, William J., xxx-xx-xxxx.
Ramey, Guy A., xxx-xx-xxxx.
Ramold, Gerald F., xxx-xx-xxxx.
Raper, Randall D., xxx-xx-xxxx.
Ratcliffe, David K., xxx-xx-xxxx.
Rathgeber, David D., xxx-xx-xxxx.
Raymond, Robert A., xxx-xx-xxxx.
Redmann, John W., xxx-xx-xxxx.
Reed, Jay F., xxx-xx-xxxx.
Reeves, Mary B., xxx-xx-xxxx.
Regan, Thomas J., xxx-xx-xxxx.
Reilly, John F., xxx-xx-xxxx.
Reilly, Kevin J., xxx-xx-xxxx.
Reinert, Kevin L., xxx-xx-xxxx.
Rendleman, James D., xxx-xx-xxxx.
Reutner, Curtis A., xxx-xx-xxxx.
Reynolds, Kenneth L., xxx-xx-xxxx.
Ribuffo, Stephen, xxx-xx-xxxx.
Rice, Rodney P., xxx-xx-xxxx.
Rich, Paul B., xxx-xx-xxxx.
Richardson, Cardell K., xxx-xx-xxxx.
Richardson, Edd W., xxx-xx-xxxx.
Richardson, Harold, xxx-xx-xxxx.
Richardson, Joyce B., xxx-xx-xxxx.
Richardson, Kendall W., xxx-xx-xxxx.
Richmond, David H., xxx-xx-xxxx.
Riddle, Michael H., xxx-xx-xxxx.
Riebe, Thomas L., xxx-xx-xxxx.
Rienstra, Jeffrey L., xxx-xx-xxxx.
Riley, Johnny D., xxx-xx-xxxx.
Rios, Jose M., xxx-xx-xxxx.
Riva, Louis J., xxx-xx-xxxx.
Rivera, Elva A., xxx-xx-xxxx.
Rivera, Roberto R., xxx-xx-xxxx.
Robb, Leslie J., xxx-xx-xxxx.
Robbins, Kevin D., xxx-xx-xxxx.
Roberson, Lee A., xxx-xx-xxxx.
Roberson, Lynne R., xxx-xx-xxxx.
Roberts, Ben P., xxx-xx-xxxx.
Roberts, Thomas F., xxx-xx-xxxx.
Robertson, Michael P., xxx-xx-xxxx.
Robilotta, James R., xxx-xx-xxxx.
Robinson, David G., xxx-xx-xxxx.
Robinson, Michael J., xxx-xx-xxxx.
Robinson, Steven E., xxx-xx-xxxx.
Rodriguez, Richard D., xxx-xx-xxxx.
Rodriguezalvarez, Luis A., xxx-xx-xxxx.
Rogan, Joseph V., xxx-xx-xxxx.
Rogers, Garry G., xxx-xx-xxxx.
Rogers, Rhonda M., xxx-xx-xxxx.
Rogers, Ronald E., xxx-xx-xxxx.
Rohr, Charles E., Jr., xxx-xx-xxxx.
Roland, Mark K., xxx-xx-xxxx.
Romo, Anthony R., xxx-xx-xxxx.
Rondash, Eugene A., xxx-xx-xxxx.
Root, Jeffrey N., xxx-xx-xxxx.
Rose, Kevin W., xxx-xx-xxxx.
Rosenberg, Kenneth W., xxx-xx-xxxx.
Ross, Kevin D., xxx-xx-xxxx.
Ross, Myron E., xxx-xx-xxxx.
Ross, Robert N., xxx-xx-xxxx.
Rossow, Robert R., xxx-xx-xxxx.
Roth, Robert H., xxx-xx-xxxx.
Rouse, Marcia F., xxx-xx-xxxx.
Rowe, Lloyd J., II, xxx-xx-xxxx.
Rowell, Jeffrey A., xxx-xx-xxxx.
Ruark, William J., xxx-xx-xxxx.
Ruffin, David W., xxx-xx-xxxx.
Ruiz, Stephen G., xxx-xx-xxxx.
Rumbley, Rosalyn R., xxx-xx-xxxx.
Rumsey, Paul J., xxx-xx-xxxx.
Russell, Christopher J., xxx-xx-xxxx.
Russell, David Lee, xxx-xx-xxxx.
Rutan, Robert H., xxx-xx-xxxx.
Rutkiewic, David M., xxx-xx-xxxx.
Rutter, Carolyn M., xxx-xx-xxxx.
Ryan, Donald E., Jr., xxx-xx-xxxx.
Ryan, James F., xxx-xx-xxxx.
Sabree, Phillip M., xxx-xx-xxxx.
Saenz, Abelino, Jr., xxx-xx-xxxx.
Salceies, Richard W., xxx-xx-xxxx.
Salvino, Daniel, xxx-xx-xxxx.
Sampson, David B., xxx-xx-xxxx.
Sampson, William S., xxx-xx-xxxx.
Sanchez, Jose R., xxx-xx-xxxx.
Sanchez, Peter M., xxx-xx-xxxx.
Sandburg, Paul A., xxx-xx-xxxx.
Sander, Thomas A., xxx-xx-xxxx.
Sands, James A., xxx-xx-xxxx.
Sargent, John Arthur, xxx-xx-xxxx.
Sauve, Kenneth C., xxx-xx-xxxx.
Scaparra, Joseph C., Jr., xxx-xx-xxxx.
Schablik, Jay H., xxx-xx-xxxx.
Schagh, Michael J., xxx-xx-xxxx.
Schavrien, Steven P., xxx-xx-xxxx.
Scheschy, Terry L., xxx-xx-xxxx.
Schiff, Jeannie H., xxx-xx-xxxx.
Schmedake, John W., xxx-xx-xxxx.
Schmidt, Jill M., xxx-xx-xxxx.
Schmidt, Robert C., xxx-xx-xxxx.
Schneidhorst, Elizabeth A., xxx-xx-xxxx.
Schott, Thomas B., xxx-xx-xxxx.
Schultz, Mark D., xxx-xx-xxxx.
Schurr, William J., II, xxx-xx-xxxx.
Schwarting, James N., xxx-xx-xxxx.
Schweitzer, Ginger A., xxx-xx-xxxx.
Scott, James Ernest, xxx-xx-xxxx.
Scott, Laura A., xxx-xx-xxxx.
Seale, Donald B., xxx-xx-xxxx.
Seckman, Thomas C., Jr., xxx-xx-xxxx.
Seibert, Edward B., xxx-xx-xxxx.
Selapack, Richard P., xxx-xx-xxxx.
Self, David A., xxx-xx-xxxx.
Self, William M., Jr., xxx-xx-xxxx.
Seratt, Timothy G., xxx-xx-xxxx.
Seyler, Donald P., xxx-xx-xxxx.
Shade, Briggs M., xxx-xx-xxxx.
Shannon, Bruce D., xxx-xx-xxxx.
Sharer, Faith A., xxx-xx-xxxx.
Sharp, David C., xxx-xx-xxxx.
Shearer, Larry J., xxx-xx-xxxx.
Shearl, Ernest M., xxx-xx-xxxx.
Sheffield, Kim L., xxx-xx-xxxx.
Sherburne, Charles B., Jr., xxx-xx-xxxx.
Sheridan, Nancy B., xxx-xx-xxxx.
Shively, Stephen D., xxx-xx-xxxx.
Short, John, xxx-xx-xxxx.
Shrader, Dale G., xxx-xx-xxxx.
Shuman, Robert P., xxx-xx-xxxx.
Sikes, Robert L., xxx-xx-xxxx.
Siler, James H., xxx-xx-xxxx.
Silva, Carlos O., xxx-xx-xxxx.
Silver, Robert M., xxx-xx-xxxx.
Simard, Loraine C., xxx-xx-xxxx.
Simmons, Earl W., xxx-xx-xxxx.
Simmons, Robert F., xxx-xx-xxxx.
Simons, Paul A., xxx-xx-xxxx.
Simpson, Daniel R., xxx-xx-xxxx.
Sims, Diane C., xxx-xx-xxxx.
Sims, John W., xxx-xx-xxxx.
Skalski, David L., xxx-xx-xxxx.
Skapik, Patricia M., xxx-xx-xxxx.
Skokowski, Stephen T., xxx-xx-xxxx.
Slany, Edward F., xxx-xx-xxxx.
Sluder, Michael H., xxx-xx-xxxx.
Small, Walter L., xxx-xx-xxxx.
Smith, Billy R., Jr., xxx-xx-xxxx.
Smith, Carla K., xxx-xx-xxxx.
Smith, Deborah L., xxx-xx-xxxx.
Smith, Jimmy D., xxx-xx-xxxx.
Smith, Kim L., xxx-xx-xxxx.
Smith, Kruse C., xxx-xx-xxxx.
Smith, Lynn M., xxx-xx-xxxx.
Smith, Melinda E., xxx-xx-xxxx.
Smith, Michael R., xxx-xx-xxxx.
Smith, Parke A., xxx-xx-xxxx.
Smith, Philip R., xxx-xx-xxxx.
Smith, Richard G., xxx-xx-xxxx.
Smith, Robert B., xxx-xx-xxxx.
Smith, Stephen G., xxx-xx-xxxx.
Smith, Steven L., xxx-xx-xxxx.
Soby, Richard J., xxx-xx-xxxx.
Sokolowsky, Brian W., xxx-xx-xxxx.
Solinski, James E., xxx-xx-xxxx.
Solinski, Thomas, xxx-xx-xxxx.
Sonoda, Raymond S., xxx-xx-xxxx.
Sorenson, Graham B., xxx-xx-xxxx.
Soukup, Michael S., xxx-xx-xxxx.
Sowers, Troy W., xxx-xx-xxxx.
Speake, Jack E., xxx-xx-xxxx.
Staib, David P., Jr., xxx-xx-xxxx.
Stamper, Laurie S., xxx-xx-xxxx.
Stancati, Bernard, xxx-xx-xxxx.
Staton, Charles W., xxx-xx-xxxx.
Stauffer, Jacob L., Jr., xxx-xx-xxxx.
Stcyr, Bruce D., xxx-xx-xxxx.
Steele, Bruce D., xxx-xx-xxxx.
Steele, Robert H., xxx-xx-xxxx.
Steinbauer, John F., xxx-xx-xxxx.
Steinke, Gregory V., xxx-xx-xxxx.
Stenger, Mark A., xxx-xx-xxxx.
Steuterman, Erika C., xxx-xx-xxxx.
Stevens, Kevin J., xxx-xx-xxxx.
Stollbrink, Michael, xxx-xx-xxxx.
Stone, Laura E., xxx-xx-xxxx.
Stonebraker, Lon M., xxx-xx-xxxx.
Story, Wade C., xxx-xx-xxxx.
Strand, William M., xxx-xx-xxxx.
Strathearn, Richard A., xxx-xx-xxxx.
Strathman, Fred H., xxx-xx-xxxx.
Stratton, Joseph L., Jr., xxx-xx-xxxx.
Street, Mary J., xxx-xx-xxxx.
Strickland, James R., xxx-xx-xxxx.
Stroup, Darryl R., xxx-xx-xxxx.
Stroup, John A., xxx-xx-xxxx.
Strum, Rupert K., xxx-xx-xxxx.
Stuck, Richard A., xxx-xx-xxxx.
Stuhldreher, Christopher M., xxx-xx-xxxx.
Stump, Eugene A., xxx-xx-xxxx.
Stuntz, Richard A., xxx-xx-xxxx.
Sudderth, Steven K., xxx-xx-xxxx.
Sullivan, Jeffrey J., xxx-xx-xxxx.
Sulloway, Mark L., xxx-xx-xxxx.
Summers, William C., Jr., xxx-xx-xxxx.
Sumsion, James E., xxx-xx-xxxx.
Sunada, George R., xxx-xx-xxxx.
Supan, Curtis J., xxx-xx-xxxx.
Surratt William P., xxx-xx-xxxx.
Susnik, Robert M., xxx-xx-xxxx.
Swims, Howard E., xxx-xx-xxxx.
Symanowicz, Mark A., xxx-xx-xxxx.
Szafarz, Stephen L., xxx-xx-xxxx.
Tabak, Debra A., xxx-xx-xxxx.
Tachau, Robert D. M., xxx-xx-xxxx.

Taint, Michael H., xxx-xx-xxxx
Tantsits, Frank A., Jr., xxx-xx-xxxx
Taylor, Martha J., xxx-xx-xxxx
Taylor, Raymond A., Jr., xxx-xx-xxxx
Tebo, Michael A., xxx-xx-xxxx
Teffer, Garry E., xxx-xx-xxxx
Tench, Vicki L., xxx-xx-xxxx
Teson, Thomas L., xxx-xx-xxxx
Thigpen, Michael W., xxx-xx-xxxx
Thode, Kirk J., xxx-xx-xxxx
Thomas, Charles L., xxx-xx-xxxx
Thomas, Joseph M., xxx-xx-xxxx
Thomas, Lawrence A., xxx-xx-xxxx
Thompson, David E., xxx-xx-xxxx
Thompson, Julia A., xxx-xx-xxxx
Thompson, Probyn, III, xxx-xx-xxxx
Thompson, Ricky J., xxx-xx-xxxx
Thompson, Roy D., xxx-xx-xxxx
Thompson, Thomas D., xxx-xx-xxxx
Thomsen, Richard C., xxx-xx-xxxx
Thomson, Bruce A., xxx-xx-xxxx
Thorstrom, Rodney G., xxx-xx-xxxx
Tillery, Randy G., xxx-xx-xxxx
Tilley, Gregory A., xxx-xx-xxxx
Timm, Joseph D., xxx-xx-xxxx
Tipple, Donald J., xxx-xx-xxxx
Tobin, Terry L., xxx-xx-xxxx
Tomczak, Walter J., xxx-xx-xxxx
Toodle, David E., xxx-xx-xxxx
Toth, John R., xxx-xx-xxxx
Toth, Mathew S., xxx-xx-xxxx
Townley, Deborah A., xxx-xx-xxxx
Townsend, Wayne E., xxx-xx-xxxx
Traister, James J., xxx-xx-xxxx
Trapp, Robert L., xxx-xx-xxxx
Tria, Patrick F., xxx-xx-xxxx
Troop, Richard R., xxx-xx-xxxx
Tully, James E., xxx-xx-xxxx
Turley, Stephen R., xxx-xx-xxxx
Tuttle, Charles W., III, xxx-xx-xxxx
Ulander, Connie R., xxx-xx-xxxx
Underwood, David L., xxx-xx-xxxx
Underwood, Thomas R., xxx-xx-xxxx
Unger, Randall W., xxx-xx-xxxx
Urbanik, Edward A., xxx-xx-xxxx
Valadez, Mario A., xxx-xx-xxxx
Vallance, Brenda J., xxx-xx-xxxx
Vanmullem, Douglas A., xxx-xx-xxxx
Vannoy, Larry W., xxx-xx-xxxx
Vanschagen, Anthony T., xxx-xx-xxxx
Vansplunder, Timothy W., xxx-xx-xxxx
Varni, Jamie G. G., xxx-xx-xxxx
Vasilo, Kris J., xxx-xx-xxxx
Vaughan, Phillip M., xxx-xx-xxxx
Vergez, Paul L., xxx-xx-xxxx
Vetter, James C., xxx-xx-xxxx
Vick, Cherie S., xxx-xx-xxxx
Vida, George J., III, xxx-xx-xxxx
Vierthaler, Karen M., xxx-xx-xxxx
Vigil, Timothy B., xxx-xx-xxxx
Vinyard, Mark A., xxx-xx-xxxx
Vinyard, Michael C., xxx-xx-xxxx
Virost, Roger L., xxx-xx-xxxx
Vitolo, Robert G., xxx-xx-xxxx
Viviano, Philip J., xxx-xx-xxxx
Vizzi, John M., xxx-xx-xxxx
Vogel, Richard A., xxx-xx-xxxx
Vollgraff, Douglas J., xxx-xx-xxxx
Vonplinsky, Michael J., xxx-xx-xxxx
Vonschweinitz, Siegfried G., xxx-xx-xxxx
Vosburgh, Robert J., xxx-xx-xxxx
Voss, John L., xxx-xx-xxxx
Vroman, Mary L., xxx-xx-xxxx
Wagner, Steven W., xxx-xx-xxxx
Wagoner, Steven J., xxx-xx-xxxx
Wagster, Billy P., xxx-xx-xxxx
Wahl, Gary A., xxx-xx-xxxx
Walker, Richard S., xxx-xx-xxxx
Walker, Russell R., xxx-xx-xxxx
Wallace, James A., III, xxx-xx-xxxx
Walling, Eileen M., xxx-xx-xxxx
Warish, Laurel A., xxx-xx-xxxx
Warner, Christopher G., xxx-xx-xxxx
Waters, Michael E., xxx-xx-xxxx
Wathen, Alexander M., xxx-xx-xxxx
Watkins, Amos S., Jr., xxx-xx-xxxx
Watkins, Ronald L., xxx-xx-xxxx
Watral, David S., xxx-xx-xxxx
Weatherford, Candis L., xxx-xx-xxxx
Weaver, Gary C., xxx-xx-xxxx
Webb, Kenneth M., xxx-xx-xxxx
Weeks, Eddie D., xxx-xx-xxxx
Weil, Herbert N., III, xxx-xx-xxxx
Weiner, Joseph M., xxx-xx-xxxx
Weisbecker, Gilbert L., xxx-xx-xxxx
Wellman, William C., xxx-xx-xxxx
Welty, Mark, xxx-xx-xxxx
Weschler, Donald L., xxx-xx-xxxx
Wesley, Roy W., xxx-xx-xxxx
West, Daniel M., xxx-xx-xxxx
West, Sandra, xxx-xx-xxxx
Westberg, Jeffrey A., xxx-xx-xxxx
Westenberger, Michael J., xxx-xx-xxxx
Wetzler, Robert L., xxx-xx-xxxx
Wheeler, Travis M., xxx-xx-xxxx
Whisted, Hugh K., xxx-xx-xxxx
White, Claudia P., xxx-xx-xxxx
White, Harold C. M., xxx-xx-xxxx
Whitehurst, Charles M., xxx-xx-xxxx
Whittemore, Thomas M., Jr., xxx-xx-xxxx
Whitten, James S., xxx-xx-xxxx
Whittenberg, Robert D., xxx-xx-xxxx
Wilcox, Robbie C., xxx-xx-xxxx
Wile, David B., xxx-xx-xxxx
Wilhelm, Larry D., xxx-xx-xxxx
Wilke, Gregory D., xxx-xx-xxxx
Wilkes, Craig R., xxx-xx-xxxx
Willens, Gary, xxx-xx-xxxx
Willey, Paul D., xxx-xx-xxxx
Williams, Jeffrey A., xxx-xx-xxxx
Williams, Michael R., xxx-xx-xxxx
Williams, Robert E., xxx-xx-xxxx
Williams, Stephen P., xxx-xx-xxxx
Williams, Walter C., xxx-xx-xxxx
Williams, Wayne H., xxx-xx-xxxx
Wilson, Gregg S., xxx-xx-xxxx
Wilson, H. Clifton, III, xxx-xx-xxxx
Wilson, Katherine E., xxx-xx-xxxx
Wilson, Larry D., xxx-xx-xxxx
Wilson, Robert E., xxx-xx-xxxx
Wilson, William M., xxx-xx-xxxx
Wimberly, William F., III, xxx-xx-xxxx
Winsett, Henry W., III, xxx-xx-xxxx
Winters, John T., Jr., xxx-xx-xxxx
Winters, William L., Jr., xxx-xx-xxxx
Wise, Henry A., II, xxx-xx-xxxx
Wise, Randall E., xxx-xx-xxxx
Withers, Fred R., Jr., xxx-xx-xxxx
Wood, Kim W., xxx-xx-xxxx
Woodard, Jeffrey P., xxx-xx-xxxx
Woodell, James F., xxx-xx-xxxx
Woodman, Patricia E., xxx-xx-xxxx
Woods, Robert L., xxx-xx-xxxx
Woolley, Daniel T., xxx-xx-xxxx
Worley, Beverly D., xxx-xx-xxxx
Worley, Lester D., xxx-xx-xxxx
Wortham, Maureen M., xxx-xx-xxxx
Wright, Charles D., xxx-xx-xxxx
Wright, Ralph N., xxx-xx-xxxx
Wright, Stephen E., xxx-xx-xxxx
Wulf, Michael C., xxx-xx-xxxx
Wurster, Bruce M., xxx-xx-xxxx
Wyatt, Earl C., xxx-xx-xxxx
Wyatt, John W., xxx-xx-xxxx
Yaggi, Ronald D., xxx-xx-xxxx
Yauch, Robert R., xxx-xx-xxxx
Yoder, Melvin E., xxx-xx-xxxx
Young, Edward A., xxx-xx-xxxx
Young, Robert L., xxx-xx-xxxx
Young, William J., xxx-xx-xxxx
Younginer, William K., xxx-xx-xxxx
Zadlo, Cheryl L., xxx-xx-xxxx
Zakrzewski, Edward G., xxx-xx-xxxx
Zamadics, Robert S., xxx-xx-xxxx
Zarza, Charles M., xxx-xx-xxxx
Zebell, Lawrence E., Jr., xxx-xx-xxxx
Zinnerman, Willie T., xxx-xx-xxxx
Zuber, Richard, xxx-xx-xxxx
Zummach, Orval L., Jr., xxx-xx-xxxx
Zupi, David J., xxx-xx-xxxx
Zwally, Peter, xxx-xx-xxxx

To be second lieutenant

Abundez, Abel, xxx-xx-xxxx
Allen, Gerrit J., xxx-xx-xxxx
Allen, John M., xxx-xx-xxxx
Allison, Craig R., xxx-xx-xxxx
Amoroso, Antonio D., xxx-xx-xxxx
Arriaga, Isaias G., Jr., xxx-xx-xxxx
Bauman, David L., xxx-xx-xxxx
Beasley, Andrew R., xxx-xx-xxxx
Berner, Mark H., xxx-xx-xxxx
Black, Gregory P., xxx-xx-xxxx
Blakeman, Stephen M., xxx-xx-xxxx
Blomseth, Richard A., xxx-xx-xxxx
Boothe, Gregory D., xxx-xx-xxxx
Bouchard, Steven W., xxx-xx-xxxx
Breedlove, Philip M., xxx-xx-xxxx
Brodale, Paul B., xxx-xx-xxxx
Brown, Steven W., xxx-xx-xxxx
Browning, William P., xxx-xx-xxxx
Burks, Michael F., xxx-xx-xxxx
Burton, James T., xxx-xx-xxxx
Cadoo, Bryan D. A., xxx-xx-xxxx
Callen, Robert E., xxx-xx-xxxx
Carroll, Lance T., xxx-xx-xxxx
Caughman, Bruce E., xxx-xx-xxxx
Cincala, Stephen F., xxx-xx-xxxx
Clemens, Nicholas J., xxx-xx-xxxx
Cooper, Gregory K., xxx-xx-xxxx
Coyne, Mark J., xxx-xx-xxxx
Crews, Patricia M., xxx-xx-xxxx
Cromer, Mark K., xxx-xx-xxxx
Crooks, Ronald S., xxx-xx-xxxx
Crosby, George R., Jr., xxx-xx-xxxx
Crossley, James A., xxx-xx-xxxx
Curtis, Paul J., xxx-xx-xxxx
Dangelo, Dennis L., xxx-xx-xxxx
Davis, Charles N., Jr., xxx-xx-xxxx
Deblois, George C., Jr., xxx-xx-xxxx
Degioia, Gaetano, xxx-xx-xxxx
Dieffenderfer, John C., xxx-xx-xxxx
Divesta, David R., xxx-xx-xxxx
Dowis, James W., xxx-xx-xxxx
Doyle, Clare A., Jr., xxx-xx-xxxx
Drasher, Dane A., xxx-xx-xxxx
Drukenmiller, Robert, xxx-xx-xxxx
Dugger, Michael L., xxx-xx-xxxx
Dunham, Mark S., xxx-xx-xxxx
Durbin, Donald P., xxx-xx-xxxx
Dyson, Gary D., xxx-xx-xxxx
Early, Keith E., xxx-xx-xxxx
Eich, Allen R., xxx-xx-xxxx
Elder, Michael K., xxx-xx-xxxx
England, Robert S., xxx-xx-xxxx
Estis, Alan F., xxx-xx-xxxx
Faber, James A., xxx-xx-xxxx
Fagan, Harold P., xxx-xx-xxxx
Fancher, Samuel W., xxx-xx-xxxx
Feiler, John P., xxx-xx-xxxx
Fischer, Seth H., xxx-xx-xxxx
Ford, Charles D., xxx-xx-xxxx
Frazier, Timothy L., xxx-xx-xxxx
Freniere, Charles J., xxx-xx-xxxx
Gaudette, Robert D., xxx-xx-xxxx
Gaul, Grant A., xxx-xx-xxxx
Gilbert, David W., xxx-xx-xxxx
Gill, Thomas J., xxx-xx-xxxx
Gilmore, Graig P., xxx-xx-xxxx
Golson, James D., xxx-xx-xxxx
Gonzalez, Evelio A., xxx-xx-xxxx
Grabe, Donald L., xxx-xx-xxxx
Graham, John S., xxx-xx-xxxx
Gray, Roger F., xxx-xx-xxxx
Greene, Michael P., xxx-xx-xxxx
Greenwade, Keith E., xxx-xx-xxxx
Grieger, Scott D., xxx-xx-xxxx
Guinn, Jeffrey D., xxx-xx-xxxx
Hannon, John J., Jr., xxx-xx-xxxx
Hartley, Randall W., xxx-xx-xxxx
Hartsell, Earl K., Jr., xxx-xx-xxxx
Hartzell, Robert B., xxx-xx-xxxx
Hauser, Jeffrey K., xxx-xx-xxxx
Heath, Warne S., xxx-xx-xxxx
Hershey, Marvin T., xxx-xx-xxxx
Hess, Jeffrey W., xxx-xx-xxxx
Higa, Lloyd S., xxx-xx-xxxx
Higginbotham, William N., xxx-xx-xxxx
Hodgdon, Alan K., xxx-xx-xxxx
Holliday, Billy K., xxx-xx-xxxx
Horace, James D., xxx-xx-xxxx
Howes, Kenneth P., xxx-xx-xxxx
Hummel, Gary P., xxx-xx-xxxx
Hunter, Michael L., xxx-xx-xxxx
Iler, Robert C., xxx-xx-xxxx
Irish, James R., xxx-xx-xxxx
Isbell, Dan A., xxx-xx-xxxx
Jackson, Richard A., Jr., xxx-xx-xxxx
Jenkins, James M., xxx-xx-xxxx
Jessop, Craig D., xxx-xx-xxxx
Johnson, Bradley L., xxx-xx-xxxx
Johnson, Creid K., xxx-xx-xxxx

Johnston, Ralph L., Jr. xxx-xx-xxxx.
Jones, Tracy L. xxx-xx-xxxx.
Julsonnet, John E. xxx-xx-xxxx.
Kaan, Dennis M. xxx-xx-xxxx.
Keen, Dale F. xxx-xx-xxxx.
Kennedy, Larry O. xxx-xx-xxxx.
Keyes, George W. xxx-xx-xxxx.
Knorra, Bernard E. xxx-xx-xxxx.
Knutson, Kevin J. xxx-xx-xxxx.
Kochenash, Anthony P. xxx-xx-xxxx.
Kochenmeister, Peter P. xxx-xx-xxxx.
Koide, Wayne Y. xxx-xx-xxxx.
Krack, Vincent John, xxx-xx-xxxx
Kramer, Phillip D. xxx-xx-xxxx.
Kreuzkamp, Steven E. xxx-xx-xxxx.
Lang, Barry L. xxx-xx-xxxx.
Lang, Richard H., II xxx-xx-xxxx.
Langley, Thomas M. xxx-xx-xxxx.
Lantz, Jeffrey A. xxx-xx-xxxx.
League, Thomas J. xxx-xx-xxxx.
Lehnertz, Michael F. xxx-xx-xxxx.
Leitao, Louis F. xxx-xx-xxxx.
Lewey, Russell V. xxx-xx-xxxx.
Lewis, Allen T. xxx-xx-xxxx.
Lewis, David W. xxx-xx-xxxx.
Lewis, Robert L. xxx-xx-xxxx.
Loepker, Mark S. xxx-xx-xxxx.
Lopez, Charles. xxx-xx-xxxx.
Lowdermilk, Don L. xxx-xx-xxxx.
Lynn, Raymond L. xxx-xx-xxxx.
Mack, Shawn D. xxx-xx-xxxx.
Manno, Christopher L. xxx-xx-xxxx.
Marihart, Paul A. xxx-xx-xxxx.
Martin, Douglas D. xxx-xx-xxxx.
Martin, Leeroy A. xxx-xx-xxxx.
McCurdy, Paul R. xxx-xx-xxxx.
McGrail, James J., Jr. xxx-xx-xxxx.
McKinnon, Kenneth W. xxx-xx-xxxx.
Mesick, Roger K. xxx-xx-xxxx.
Meyer, Victor A. xxx-xx-xxxx.
Mihalik, Richard P. xxx-xx-xxxx.
Milan, Gregory M. xxx-xx-xxxx.
Mitchell, Darphaus L. xxx-xx-xxxx.
Mitchell, Edward S., III xxx-xx-xxxx.
Murphy, Patrick F., II, xxx-xx-xxxx
Murvin Donald R. xxx-xx-xxxx.
Nickell, Michael L. xxx-xx-xxxx.
Nolen, Patrick F. xxx-xx-xxxx.
Novak James M. xxx-xx-xxxx.
Nowak, Doug D. xxx-xx-xxxx.
Ogara, Terence M. xxx-xx-xxxx.
Olson, George R. xxx-xx-xxxx.
Ostendorf, Michael W. xxx-xx-xxxx.
Parrish, Marty J. xxx-xx-xxxx.
Pate, Clinton W. xxx-xx-xxxx.
Payne, Stephen G. xxx-xx-xxxx.
Penny, Michael J. xxx-xx-xxxx.
Peters, Stephen J. xxx-xx-xxxx.
Peterson, Eric J. xxx-xx-xxxx.
Peterson, Michael E. xxx-xx-xxxx.
Pino, Pet :r P. xxx-xx-xxxx.
Potts, Randall C. xxx-xx-xxxx.
Preston, Terrel S. xxx-xx-xxxx.
Pretsch, Richard xxx-xx-xxxx.
Purifoy, Dana D. xxx-xx-xxxx.
Ranum, Sather M. xxx-xx-xxxx.
Rauch, Frederick R., II xxx-xx-xxxx.
Redley, Michael A. xxx-xx-xxxx.
Reikofski, Roger D. xxx-xx-xxxx.
Retter, James A. xxx-xx-xxxx.
Richardson, William V. xxx-xx-xxxx.
Richmond, Kirk B. xxx-xx-xxxx.
Riedel, Marvin J. xxx-xx-xxxx.
Rogers, Brian C. xxx-xx-xxxx.
Rudin, John C. xxx-xx-xxxx.
Sand, Robert J. xxx-xx-xxxx.
Sanlorenzo, Louis J. xxx-xx-xxxx.
Schewe, Joseph P. xxx-xx-xxxx.
Schmeisser, Colin xxx-xx-xxxx.
Schram, Clements C., Jr. xxx-xx-xxxx.
Schwene, Mark J. xxx-xx-xxxx.
Scott, Gary R. xxx-xx-xxxx.
Scott, Jonathan J. xxx-xx-xxxx.
Sears, Douglas E. xxx-xx-xxxx.
Sendrick, Andrew S., Jr. xxx-xx-xxxx.
Shippy, Douglas B. xxx-xx-xxxx.
Sholl, George W., III xxx-xx-xxxx.
Slifka, Michael W. xxx-xx-xxxx.
Smith, David J. xxx-xx-xxxx.
Solsvig, Russell T. xxx-xx-xxxx.
Soplata, Walter C. xxx-xx-xxxx.
Spacher, Mark S. xxx-xx-xxxx.
Sparkman, Paul J. xxx-xx-xxxx.
Stambaugh, Steven L. xxx-xx-xxxx.
Stansberry, Robert C. xxx-xx-xxxx.
Steele, Mark D. xxx-xx-xxxx.
Stein, Joseph A. xxx-xx-xxxx.
Stevenson, Ronald W. xxx-xx-xxxx.
Stewart, James N. xxx-xx-xxxx.
Stipp, Mark R. xxx-xx-xxxx.
Storey, David J. xxx-xx-xxxx.
Straw, Robert A. xxx-xx-xxxx.
Strodtbeck, Douglas W. xxx-xx-xxxx.
Stump, Brian W. xxx-xx-xxxx.
Svrcek, Steven P. xxx-xx-xxxx.
Swenson, David J. xxx-xx-xxxx.
Teel, Lester W., Jr. xxx-xx-xxxx.
Teverbaugh, Larry D. xxx-xx-xxxx.
Tice, Jeffrey S. xxx-xx-xxxx.
Tinkler, Richard D. xxx-xx-xxxx.
Trapp, James S. xxx-xx-xxxx.
Travnicek, Patrick L. xxx-xx-xxxx.
Trimmer, Glenn A. xxx-xx-xxxx.
Turner, Frederic S. xxx-xx-xxxx.
Vassilopoulos, John G. xxx-xx-xxxx.
Vonberckefeldt, Richard W. xxx-xx-xxxx.
Waitte, Michael J. xxx-xx-xxxx.
Walker, William C. xxx-xx-xxxx.
Walton, Leonard J. xxx-xx-xxxx.
Ward, Bradford E. xxx-xx-xxxx.
Ward, David K. xxx-xx-xxxx.
Weiler, Thomas G. xxx-xx-xxxx.
White, Andrew J. xxx-xx-xxxx.
Whitten, Thomas R. xxx-xx-xxxx.
Williams, Samuel H. xxx-xx-xxxx.
Willis, Simon L., Jr. xxx-xx-xxxx.
Wilson, Edward G. xxx-xx-xxxx.
Winter, Rodney G. xxx-xx-xxxx.
Wroble, Guy G. xxx-xx-xxxx.
Young, Thomas D. xxx-xx-xxxx.

The following officer for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, Title 10, United States Code, with a view to designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

NURSE CORPS

To be first lieutenant

Bishop, Stephanie S. xxx-xx-xxxx.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 23, 1981.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Donald I. Hovde, of Wisconsin, to be Under Secretary of Housing and Urban Development.

OFFICE OF PERSONNEL MANAGEMENT

Donald J. Devine, of Maryland, to be Director of the Office of Personnel Management for a term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.