

SENATE—Wednesday, October 26, 1983

(Legislative day of Monday, October 24, 1983)

The Senate met at 10 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, D.D., offered the following prayer:

Let us pray.

Father in Heaven, God of all wisdom, by whom all things are known, for whom the end is as plain as the beginning, we call upon Thee in this critical hour when fast-breaking events of great significance arouse uncertainty and apprehension. We pray for Thy comfort and peace for those for whom the unexpected means tragedy and loss. We pray for those who bear the overwhelming responsibility for decisive action. Grant them caution when emotions would overreact. Help them to keep events in perspective and not be pressured into premature judgment. Brace them against irresponsible threats from hotheads whose mouths are in high gear while their minds are neutral.

Gracious Father, we pray for the Senate press and media who bear disproportionate responsibility to correctly inform the public who are dependent upon them for the facts. Give them special wisdom and sensitivity as they fulfill their strategic missions in troubled times. And grant to all of us, dear God, patience with and love for each other, and a renewed confidence in Thy faithfulness, nearness and relevance. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

SENATE SCHEDULE

Mr. BAKER. Mr. President, under the order previously entered, after the two leaders are recognized under the standing order, there will be a period for the transaction of routine morning business, and then the Senate will proceed to the supplemental appropriations bill at 10:30 a.m. I hope we can finish that bill in short order.

There are three committee amendments that I think will be considered separately. There may be other amendments. The most controversial

issues, I suppose, will be first, Clinch River, which is the second committee amendment, and then the FCC syndication matter.

I remind Senators, as I have done for several days this week, that we need to do the supplemental and the debt limit. I have not yet had an opportunity to discuss this at length with the minority leader or the chairman of the Finance Committee or the ranking minority member, but it is my understanding that a debt limit bill was reported last evening and is now on the calendar. It is Calendar No. 491.

According to my mathematics, Mr. President, if the 3-day rule is observed, we cannot reach that bill until Saturday. I have announced a number of times that whether we are in session this Saturday depends on whether we can do the supplemental and the debt limit. I am willing to modify that a little. As I say, I will discuss it with the minority leader and others in due course today.

However, it seems to me that we either have to trim something off that 3-day rule in order to consider it this week or we will have to be in session on Saturday in order to consider it.

I talked to the Secretary of the Treasury this morning, and he indicated to me that Monday midnight, the 31st, which is when our present debt limit authority will expire, is a crucial and critical date. I have asked the Secretary to give me in writing a statement of the consequences if we do not pass it by Monday midnight.

I am not trying to use a carrot or a stick. I am simply saying that we have a responsibility to deal with this matter, mindful of the fact that the House has already dealt with it in their own way.

So it is up to us to face up to our responsibility, which is to try to do a very difficult and controversial thing by Monday midnight, the 31st of October.

In the course of the day, I will be shopping for time off the 3-day rule so that we can get the debt limit up this week, or there is a strong possibility that we will be in session on Saturday, when the bill will qualify under the 3-day rule.

What I really would like to have—it is not Christmas yet, but I think I can start making up a list—is a time certain to finish both the supplemental and the debt limit this week, before we

go out on Friday. That is what we should do, in my opinion.

I understand how filled with emotion these issues are and how difficult, for example, the debate on Clinch River will be, and perhaps how sharply divided the Senate will be on that matter. For years we have said everything we know, and maybe a little more, about Clinch River, and I do not think days of debate are going to necessarily improve the quality of that situation.

So I hope we can get a time limitation on that matter and on the syndication matter, which is a newer item but equally controversial, and maybe finish the supplemental today or tomorrow, and then get on to the debt limit bill and finish it before the close of business on Friday.

That is the best thing to do, in my opinion, the responsible thing to do, and the most desirable thing to do.

However, Mr. President, we will deal with it as we must. Once again, in no way is it meant to be a threat or coercion. I feel that our responsibility is to pass both these measures, and in the case of the debt limit, to do so before midnight Monday next. That may entail long hours for the Senate during this week and the possibility of a weekend session.

Mr. President, I feel that I should consult with the chairman of the Finance Committee and the ranking minority member.

By the way, I congratulate the ranking minority member of the Finance Committee for the honor bestowed upon him last night by his fellow Democrats at a dinner in this city. I was not invited to attend that dinner, but I am advised by those who did attend and who pride themselves on maintaining lines of communication in both camps—theirs and ours—that RUSSELL LONG comported himself in his usual excellent fashion, upholding not only the traditions of the Senate but also of the Democratic Party and of the State of Louisiana and of the Long family. That is quite a load. In any event, I congratulate him.

Mr. President, that is all I should say this morning.

(Later the following occurred:)

Mr. BAKER. Mr. President, earlier today I stated that I felt our duty and responsibility was to diligently try to get action on the debt limit bill before midnight on Monday, October 31.

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

In reference to this fact I discussed with the Acting Secretary of the Treasury this morning the importance of that and the consequences if we do not.

First, I ask unanimous consent that a copy of a letter from the Secretary of the Treasury to Senator DOLE, of which I have a copy addressed to me, may appear in the RECORD at this point.

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

THE SECRETARY OF THE TREASURY,
Washington, D.C., October 17, 1983.

Hon. ROBERT DOLE,
Chairman, Committee on Finance, U.S.
Senate, Washington, D.C.

DEAR BOB: It is essential that Congress act to increase the debt limit by November 1, 1983.

The present debt limit is \$1,389 billion. The debt subject to limit, based on our present financing and cash receipt and expenditure estimates, will be \$1,386 billion on October 31, and on November 1 it will increase to \$1,397 billion, or \$8 billion above the limit.

The major reason for the increase in the debt subject to limit on November 1 is that on that date the Treasury is required by the Social Security Amendments of 1983 to transfer an estimated \$13 billion from the general fund to the Social Security trust funds. The Act requires that tax receipts which would otherwise be credited to the Social Security trust funds as they are received during a month be credited to the trust funds on the first day of the month. Since the trust funds are invested immediately in public debt securities, the transfer on November 1 will increase the debt subject to limit by \$13 billion on that date.

Also, the Treasury's major mid-quarter refunding is scheduled to be announced October 26. That financing is expected to total about \$16 billion of new issues of notes and bonds, to refund about \$6 billion of securities maturing on November 15 and to raise about \$10 billion in new cash needed by that date to pay the Government's current bills. These securities are to be auctioned on November 1, 2, and 3, for settlement on the November 15 refunding date. The Treasury can not conduct these auctions without assurance that it has sufficient debt authority to issue the securities. Consequently, if Congress does not act on the debt limit by November 1, and the auctions are cancelled, there will be a substantial cost to the Treasury. The mid-quarter refundings have been the centerpiece of Treasury financing for many years, and a broad market of various investor groups has developed for these issues. If the securities cannot be issued as scheduled, potential investors will be required to make other arrangements, and the Treasury will be required to borrow later in a less favorable market. An increase of just one-eighth of one percent in the cost of financing these note and bond issues would add about \$250 million to outlays for interest on the public debt.

The Treasury also has weekly and monthly shorter-term bill auctions scheduled for late October and early November, which will be more costly as delay on the debt limit bill causes uncertainty in the market and postponements or cancellations of these issues.

I know that you will make every effort to assure action by the Senate on the debt limit bill by November 1, to permit the Treasury to invest the Social Security trust funds and to avoid adding hundreds of millions of dollars to the cost of financing the public debt.

Please let me know if I can be of further assistance.

With best wishes.

Sincerely,

DONALD T. REGAN.

Mr. BAKER. Second, Mr. President, I wish to say I renew my request, my urgent request, that the jurisdictional parties involved, meaning the Finance Committee chairman and ranking member, consider the possibility, in conjunction with the leadership on both sides, of adjusting the requirements of the 3-day rule so that we can reach the debt limit bill this week. It is the intention of the leadership on this side to try very hard to finish this bill before Monday midnight and it may very well require that we be in on Saturday. But before I make a final announcement on that, I would like to explore the possibility of getting the debt limit bill up this week and finishing it before Monday midnight.

Mr. President, I would urge Senators who hear this in their offices and those who may be apprised of it to take account of the fact that it is the intention of the leadership to ask us to remain on Saturday if that is necessary in order to pass the debt limit bill. I will try to have a further announcement on that after I have had an opportunity to confer with the minority leader and with other Members.

ORDER OF BUSINESS

Mr. BAKER. I ask unanimous consent that the time allocated to the distinguished minority leader under the standing order may be reserved for his use at any time during the course of this day.

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

Mr. BAKER. Mr. President, do I have time remaining?

The PRESIDING OFFICER. The majority leader has 3½ minutes remaining.

Mr. BAKER. I ask unanimous consent to reserve that time as well.

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

Mr. BYRD. Mr. President, I thank the majority leader for conserving my time.

If the Senator from Alaska wishes to have some of that time, I am glad to yield it to him.

Mr. MURKOWSKI. I thank the minority leader. I will need about 3 minutes.

Mr. BAKER. Mr. President, the Senator has 5 minutes under the previous order.

Mr. MURKOWSKI. That will be sufficient.

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

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

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 extend beyond 10:30 a.m., with statements therein limited to 2 minutes each.

Mr. BAKER. Mr. President, since we now have 20 minutes for morning business, I ask unanimous consent that the time limitation be changed to 5 minutes each.

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

BEIRUT ATROCITY FORESHADOWS FUTURE NUCLEAR CATASTROPHE IN UNITED STATES

Mr. PROXMIRE. Mr. President, the atrocity in Beirut should remind us of what terror in the world today foreshadows in a far more catastrophic and dangerous way in the future. In Beirut, using conventional explosives, terrorists killed scores of American and French marines, sailors, and soldiers. Suppose such an attack takes place 10 or 20 years from now. Suppose it takes place not in far-off Lebanon but in several American cities. Suppose explosions occur in Chicago, Los Angeles, New York, Miami, and a number of other American cities. And suppose these terrorists, a few years from now, take full advantage of nuclear weapons technology. What would be the consequence? How many would be killed? How would we punish the perpetrators? And above all what can we do to prevent such a disaster?

Consider that the force that exploded in Beirut a couple of minutes apart—first in the American headquarters and a little later in the French headquarters—came from single trucks. If those trucks had been loaded with nuclear explosives instead of conventional explosives, the entire city of Beirut and everyone in it would have been casualties. Could this nuclear explosion supertragedy happen a few years from now in American cities? Of course. In fact, unless we find a way to stop the arms race and particularly the headlong rush of nuclear weapons technology, it will happen.

In less than 40 years we have come a long, long way on the technology road from World War II when the world's greatest scientists labored for years to set off the first nuclear explosion and many long months after that to produce the first two nuclear bombs. Today, a bright undergraduate at

Princeton or Harvard can provide all the know-how necessary, which together with a little plutonium, can produce a nuclear bomb.

This country has provided hundreds of export licenses to a number of foreign countries to receive nuclear materials, equipment, and technology. Both this country and the Russians are at this moment producing new, more deadly nuclear weapons every single day. Each country has thousands of strategic nuclear warheads in its arsenals. Both the British and French have hundreds. The People's Republic of China has its own nuclear arsenal and five or six other countries are well along on the nuclear path.

It is possible, though unlikely, that terrorists groups may already have started assembling a nuclear capability. But it is very likely with our present, weak antiproliferation policies that within 10 years terrorists groups will have their nuclear capability and certain that they will have this literal life-and-death power over entire countries within 20 years unless we do two things. First, we must stop the nuclear arms technology race. Second, we must vigorously pursue a strong and effective antinuclear proliferation policy.

At this moment this greatest military power on the face of the Earth is puzzled about what to do to answer the terrible atrocity in Lebanon with so many of our young marines and sailors ruthlessly slaughtered. How do we strike back? How do we prevent this kind of atrocity from happening again and again, when we do not even know for sure who did it? Are we helpless? No; because terrible as this atrocity was, heartbreaking as is the loss of these young Americans, the tragedy was limited. It occurred thousands of miles from our shore. It does not threaten this country. And if it is repeated, we will begin to know from where it came and we have the power eventually to stop the terror before the casualties go into the thousands.

But a few years from now, with the advance of nuclear weapons technology, will we have an answer if terrorist groups strike with nuclear explosives in our country? In that event, with literally millions of Americans dead and with our cities lying in a shambles, the answer is obvious. We will have no answer. It will be too late. We will be destroyed and not fundamentally by whatever hate group may have perpetrated the disaster. We will be destroyed by the onrushing nuclear technology.

So the terrible incident in Beirut should remind us of how fragile life and, indeed, the very existence of our country is becoming. Every passing day sees nuclear technology move ahead. Month after month we fail even to try to reach international agreement to stop the testing on

which nuclear weapons research depends. And year after year we march mindlessly on selling nuclear materials, equipment, and technology all over the world. Are we setting this Nation up for the genuine possibility of the grand catastrophe of the age: The destruction of America by nuclear armed terrorists?

ELIE WIESEL: REMEMBERING THE HOLOCAUST

Mr. PROXMIRE. Mr. President, the most recent New York Times Magazine contained an in-depth article on "The Life and Work of Elie Wiesel." This remarkable man has devoted his life to preserving public memory of the anti-Semitic Holocaust—of which he is a survivor. He has achieved substantial success in his effort. Wiesel deserves credit for much of our current awareness both of the Holocaust and of the need to prevent another such massive act of genocide.

The details of Wiesel's career, as described by the excellent Times article, are most impressive. His prolific writing includes over two dozen books. His million-selling memoir, "Night," has become the most widely read literary work on the Holocaust. He continues a New York lecture series which he began 17 years ago. He chairs the U.S. Holocaust Memorial Council, which will create Washington's National Holocaust Museum. Because of his accomplishments, he is widely viewed as a possible recipient of a Nobel Prize for peace or literature.

The article is also a close examination of Wiesel's personality, and clearly reveals the impact of his Holocaust experience. Reporter Samuel Freedom writes: "To say he is somber is to show restraint." Wiesel himself says: " * * * Every moment is grace. I could have died in '45. In a way I did."

This intimate look at this remarkable man illustrates an important lesson of the Holocaust—that genocide is a horrible crime against humanity which must be guarded against in the future. The United States as a nation began to learn this vital lesson soon after the Holocaust occurred. Our strong backing of a treaty banning genocide was a key factor in its creation and adoption by the United Nations. Yet although 85 nations have ratified the treaty in the ensuing 35 years, the United States is not among them. Perhaps we have yet to fully learn the lesson of the Holocaust. In my view, it is time to respond to that lesson by ratifying the International Genocide Convention.

I am pleased, Mr. President, that the Times magazine has recognized the remarkable accomplishments of Elie Wiesel. The article recalls the terrible genocide of the Holocaust, and I hope that it will encourage this Senate to

move promptly to ratify the Genocide Convention.

THE U.S. PRESENCE IN LEBANON

Mr. MURKOWSKI. Mr. President, many people across this great land of ours are asking themselves, "What are we doing in Lebanon?" And "Why should American marines be dying in yet another far off corner of the world?" This question must be addressed.

The first reason we are in Lebanon is to provide a presence which facilitates a climate of security and stability and provides for enforcement of the ceasefire agreement. It is vital that an element of stability be preserved in Lebanon so that a reconciliation government can be formed, a democracy can grow and human rights can be recognized. Such a government must also encompass the major national factions and eventually be able to effectively control the entire country.

The Lebanese people should have the right to choose their own rulers in an atmosphere of law and order, not civil war. The multinational peacekeeping force helps ensure this right to self-determination. Through negotiations between the leaders of Lebanon's factions, the objective of maintaining world peace is advanced.

Our marines have been performing a valuable peacekeeping role which properly belongs to the United Nations. It is also important to recognize, however, that our continued military presence is not the sole solution to the problem in Lebanon. That solution must come from the pending Geneva talks.

Another reason there are United States, French, Italian, and British forces in Lebanon centers around the very real danger that this civil war could easily expand into a regional conflagration which could surpass the destructive scale of the 1967 and 1973 Middle East wars. If such a conflict were to get underway, it could easily develop into a proxy war between the United States and U.S.S.R. We cannot allow ourselves to come that close to the threshold of war in the nuclear era.

In addition, were the battle for Lebanon to spread beyond that tiny country's borders, the flow of Middle East oil exports could be cut off. A Middle East war, spawned in Lebanon, could have a disastrous effect on the economies of the many nations so dependent on Middle East oil for their economic well-being. Indeed, virtually all modern economies are based upon a lifeline of oil. Disruption of Middle East oil supplies would therefore cripple world economic stability.

Hence, the security of oil supplies is inherently tied to the presence of the multinational peacekeeping force in

Lebanon. All oil dependent nations have an obligation and duty to help prevent the disruption of Middle East oil production and exportation. Therefore, I strongly believe that all oil-consuming countries must share the burden of protecting the security of these oil fields. With a broader international presence in the multinational force in Lebanon, I feel that our presence can be steadily decreased.

For too long, the oil consuming nations of the world have relied on the United States to make the sacrifices inherent in providing this protection. Nowhere is this more evident than in yesterday's slaughter of 216 young Americans, more than we lost in any 1 day during the Vietnam war, with one exception.

The level of United States dependence on Middle East oil in 1982 was only 15 percent. On the other hand, Middle East oil made up 70 percent of Japan's oil imports and 82 percent of Italy's. France got 65 percent of its 1982 oil imports from the region, West Germany 36 percent and England 30 percent. It is time that these countries, as well as all other oil consuming nations, realize that their military security and economic well-being hinges on stability in the Middle East. Their policy and willingness to become a part of the multinational force should reflect this reality. These countries must make the hard choice to either lend substantive support to peacekeeping efforts, or face the possibility that their oil supply may be cut off. The United States cannot be expected to simply divert its own energy resources to countries which refuse to assist in the protection of the Middle East oil fields.

An alternative for those countries which do not physically participate in the peacekeeping force could be their financial assistance in the rebuilding of Lebanon's economy and army. Development and security assistance programs are just two ways that other members of the global community could aid in protecting their own economic interests in the Middle East. Many of these nations could also exert influence on the various Lebanese factions in an effort to accelerate the pace of the reconciliation talks.

Mr. President, in conclusion, it may be time to consider a formula under which the makeup of the multinational peacekeeping force directly reflects the beneficiaries of the resource we are trying to protect. I am presently considering the advisability of a Senate resolution which urges just that. I want to emphasize in closing that I am not advocating the abandonment of U.S. responsibilities in the Middle East. We are a great power, and with great power status comes great responsibilities. The United States has more than met those responsibilities. It is time other nations

in the international community do the same.

Thank you Mr. President.

LETTER FROM THE PRESIDENT OF THE UNITED STATES CONCERNING THE DEPLOYMENT OF U.S. ARMED FORCES ON GRENADA

Mr. THURMOND. Mr. President, yesterday afternoon after the Senate had recessed, I received a letter from the President of the United States providing a report to Congress, consistent with the War Powers Act, on the emergency deployment of U.S. Armed Forces on the island of Grenada.

In my capacity as President pro tempore of the Senate, I have transmitted this letter to the Parliamentarian of the Senate for prompt reference to the Foreign Relations Committee. Knowing of the keen interest of all Senators and the public in this matter, I ask unanimous consent that a copy of the letter be printed in the RECORD.

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

HON. STROM THURMOND,
PRESIDENT PRO TEMPORE OF THE SENATE,
Washington, D.C.

The WHITE HOUSE,
Washington, D.C., October 25, 1983.

DEAR MR. PRESIDENT: On October 12, a violent series of events in Grenada was set in motion, which led to the murder of Prime Minister Maurice Bishop and a number of his Cabinet colleagues, as well as the deaths of a number of civilians. Over 40 killings were reported. There was no government ensuring the protection of life and property and restoring law and order. The only indication of authority was an announcement that a barbaric shoot-to-kill curfew was in effect. Under these circumstances, we were necessarily concerned about the safety of innocent lives on the island, including those of up to 1,000 United States citizens.

The Organization of Eastern Caribbean States (OECS) became seriously concerned by the deteriorating conditions in the member State of Grenada. The other members of the OECS are Antigua, Dominica, Montserrat, St. Kitts/Nevis, Saint Lucia, and Saint Vincent and the Grenadines. We are formally advised that the Authority of Heads of Government of Member States of the OECS, acting pursuant to the Treaty establishing the OECS, met in emergency session on October 21. The meeting took note of the anarchic conditions and the serious violations of human rights and bloodshed that had occurred, and the consequent unprecedented threat to the peace and security of the region created by the vacuum of authority in Grenada. The OECS determined to take immediate, necessary steps to restore order in Grenada so as to protect against further loss of life, pending the restoration of effective governmental institutions. To this end, the OECS formed a collective security force comprising elements from member States to restore order in Grenada and requested the immediate cooperation of a number of friendly countries, including the governments of Barbados, Jamaica and the United States, in these ef-

forts. In response to this call for assistance and in view of the overriding importance of protecting the lives of the United States citizens in Grenada, I have authorized the Armed Forces of the United States to participate along with these other nations in this collective security force.

In accordance with my desire that the Congress be informed on this matter, and consistent with the War Powers Resolution, I am providing this report on this deployment of United States Armed Forces.

Today at about 5:00 AM Eastern Daylight Time, approximately 1,900 United States Army and United States Marine Corps personnel began landing in Grenada. They were supported by elements of the United States Navy and the United States Air Force. Member States of the OECS along with Jamaica and Barbados are providing approximately 300 personnel. This deployment of United States Armed Forces is being undertaken pursuant to my constitutional authority with respect to the conduct of foreign relations and as Commander-in-Chief of the United States Armed Forces.

Although it is not possible at this time to predict the duration of the temporary presence of United States Armed Forces in Grenada, our objectives in providing this support are clear. They are to join the OECS collective security forces in assisting the restoration of conditions of law and order and of governmental institutions to the island of Grenada, and to facilitate the protection and evacuation of United States citizens. Our forces will remain only so long as their presence is required.

Sincerely,

RONALD REAGAN.

U.S. ACTIONS IN GRENADA

Mr. THURMOND. Mr. President, I rise in support of emergency intervention by U.S. marines and forces of other area nations on the Caribbean island of Grenada.

Earlier this week the leftist government of Prime Minister Maurice Bishop was toppled by even more radical Communist insurgents. This collapse endangered the lives of nearly 1,000 U.S. citizens on Grenada. To protect the safety of these Americans, and to insure that order is restored to Grenada, President Reagan acted swiftly and correctly in this matter.

Mr. President, at the request of a number of Caribbean States, including Antigua, St. Lucia, Dominica, St. Vincent, and St. Kitts, 1,900 U.S. marines were dispatched to Grenada as part of a multinational force. Their mission is clear: To protect American lives, restore order and prevent the Soviets, and their surrogate Cuba, from establishing further control over this tiny island nation. There is no doubt that the Soviet Union and Cuba are attempting to use Grenada as a strategic military base. The establishment of a large airstrip, which has been under construction by the Soviets and Cubans, would allow the Soviets to easily interfere with vital oil shipments from South America to the United States and our NATO allies in the event of a global conflict.

Mr. President, there is no way to calculate the irreparable damage inflicted by the present Cuban Government, acting at the behest of the Soviets, on the institutions of freedom and democracy in the Western Hemisphere. Cuban interference has resulted in the fall of Nicaragua, the deterioration of the situation in El Salvador, and the shaken stability of Honduras, Panama, Costa Rica, and the rest of Central America.

Unfortunately, at the Bay of Pigs over 20 years ago, U.S. response was weak, unorganized, and inadequate. Today we pay the price for our indecisiveness. Marxist insurgency is rampant in our hemisphere. The rights of democracy, freedom, and liberty, are denied to millions of our island and continental neighbors. Definitely not the least of our concerns is the fact that there now exists a massive Communist arsenal and stronghold on Cuba, less than 100 miles from our borders. The Soviets clearly had in mind establishing a similar offensive military capability on Grenada.

Mr. President, we must remember the important lessons that history has taught us. We cannot afford another disaster in our own backyard. America must act firmly and decisively in our efforts to stem the constant spread of communism in our hemisphere.

The President's decision to join with other concerned countries in protecting innocent citizens, restoring order, and providing an opportunity for Grenadan citizens to regain control over their lives and destinies, was the only sensible course available to him. If we are unwilling to make the sacrifices necessary to protect the lives of our citizens abroad, as well as the security and basic freedoms we enjoy, then we will be forced to watch the progress and promise of over two centuries crumble. I fully support the President's actions in regard to Grenada, and I urge my Senate colleagues and countrymen to do the same.

SUPPLEMENTAL APPROPRIATIONS, 1984

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now resume consideration of the pending business, H.R. 3959, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3959) making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes.

The PRESIDING OFFICER. The question is on the first committee amendment.

Mr. BAKER. Mr. President, the chairman of the committee is not here. I do not see anybody who is going to manage on this side from the Appropriations Committee. So we may

try to get Senators on deck, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. 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. BAKER. Mr. President, last evening, I first propounded and then withdrew a unanimous-consent proposal which had been prepared by the Appropriations Committee dealing with the consideration of committee amendments en bloc, with three exceptions.

I am prepared now, at the request of the chairman of the committee, to put that request. It was not put last evening because the minority leader, I believe, indicated he preferred to do no business except simply to lay down the bill.

I inquire of the minority leader if he is prepared to do that now.

Mr. BYRD. I am not, may I say, Mr. President. I will continue to explore that possibility. It may very well be I will acquiesce in this, but at this point I am not prepared to do that.

Mr. BAKER. I thank the Senator.

Mr. METZENBAUM. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. METZENBAUM. Mr. President, I am on the floor because I do have an interest in this subject, but I have a particular interest in a procedure that has started to develop and has actually developed in the Senate concerning the matter of the manager of a bill laying down technical amendments, calling them up, and then being in total control of those amendments that may be offered on the floor.

It is my recollection that that procedure did not exist in prior sessions of the Senate. I want to say that, in connection with this bill or any other bill, I will object to that procedure and would hope that if I am not on the floor at some point that, as usual, my leader, the minority leader, would protect my position, because I do not believe the manager of a bill ought to be in control of what amendments can or cannot be offered and when they can be offered. I just wanted to advise the majority leader that that portion of the unanimous-consent request that was made at page 14605 would be objectionable to this Senator.

Mr. BAKER. Mr. President, this is not a policy of the leadership on this side. This is the request of the manager of the bill. The Senator from Ohio is perfectly within his rights to object to temporarily laying aside that measure even if this were done, and I have no quarrel with that. Under the circumstances, the best thing to do is to wait until the manager of the bill gets

here and I will let the Senator from Ohio thrash that out with him.

Mr. METZENBAUM. I thank the Senator.

Mr. BAKER. Mr. President, while we wait, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. HATFIELD. 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. HATFIELD. Mr. President, I am going to propound a unanimous-consent request that has been cleared on both sides of the aisle.

Has the chair laid the bill before the Senate?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. I ask unanimous consent that the committee amendments to H.R. 3959 be considered and agreed to en bloc, with the exception of the amendment appearing on page 12, line 14 through page 14, line 3, which is the Clinch River breeder reactor issue. The second amendment that would be excepted would be on page 24, line 22, through page 25, line 17. That is the FCC issue, or the syndication question. The request provides that no points of order are waived thereon and that the measure as amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I have no intention of objecting, we have had discussions among ourselves here and we have run a hotline on our side of the aisle. I think that the proposal that has been made here meets with agreement and approval on this side of the aisle, so I have no objection.

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

The committee amendments agreed to en bloc are as follows:

On page 2, after line 2, insert the following:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

Title I of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45), is amended by inserting before the period at the end of the paragraph under the heading "Housing for the elderly or handicapped fund" (97 Stat. 219, 220) the following: "Provided further, That notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1984 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate

in the judgment of the Secretary to cover administrative costs and probable losses under the program".

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For an additional amount for the "Council on Environmental Quality and Office of Environmental Quality", \$600,000 to conduct a study to consider and define a National Center for Water Resources Research, and a study to define and plan a National Clearinghouse for Water Resources Information.

FEDERAL EMERGENCY MANAGEMENT AGENCY

SALARIES AND EXPENSES

The limitation on spending for official reception and representation allowance for fiscal year 1984 contained in the "Salaries and expenses" appropriation for the Federal Emergency Management Agency in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 (Public Law 98-45), is increased from \$500 to \$2,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CONSTRUCTION OF FACILITIES

For an additional amount for "Construction of facilities", \$20,000,000, to remain available until September 30, 1986, for partial funding of the construction of facilities at the John F. Kennedy Space Center for the Solid Rocket Booster assembly and refurbishment contractor and for warehousing to be used by the Shuttle processing contractor: Provided, That with the funds appropriated under the "Space flight, control and data communications" account in the 1984 Housing and Urban Development-Independent Agencies Appropriation Act (Public Law 98-45), NASA may enter into a contract with Morton Thiokol, Inc., to amortize the Thiokol Casting Pit Covers over a twelve-year period for a total cost of not to exceed \$23,000,000 under the authority granted under Public Law 98-45.

On page 4, strike line 2, through and including line 9;

On page 4, line 12, strike "\$57,356,000", and insert "\$53,974,000";

On page 4, strike line 16, through and including line 24, and insert the following:

For payments to defray the costs of training and provision of incentives to employers to hire and train certain wartime veterans who have been unemployed for long periods of time as authorized by law (the Emergency Veterans' Job Training Act of 1983, Public Law 98-77), \$150,000,000, to remain available until September 30, 1986: Provided, That not more than \$25,000,000 of the amount appropriated shall be available for transfer to the "Readjustment Benefits" appropriation to administer the provisions of section 18 of Public Law 98-77. Any unused portion of the amount so transferred may be returned to this appropriation at any time, but no later than December 31, 1984.

On page 5, strike lines 14 and 15, and insert the following:

For additional amounts for "General Operating Expenses", \$1,000,000 for an evaluation of the emergency veterans' job training program, and an additional \$3,165,000 for necessary expenses to administer the Emergency Veterans' Job Training Act of 1983 (Public Law 98-77).

On page 6, after line 2, insert the following:

SENATE

PAYMENT TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Helen H. Jackson, widow of Henry M. Jackson, late a Senator from the State of Washington, \$69,800.

SALARIES, OFFICERS AND EMPLOYEES

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For an additional amount for "Offices of the Majority and Minority Leaders," \$140,000.

CONTINGENT EXPENSES OF THE SENATE

SECRETARY OF THE SENATE

For an additional amount for expenses of the Office of the Secretary of the Senate, \$60,000.

GENERAL PROVISIONS

Sec. 1201. The Sergeant at Arms and Doorkeeper of the Senate (hereinafter in this section referred to as the "Sergeant at Arms") may designate one or more employees in the Office of the Sergeant at Arms and Doorkeeper of the Senate to approve, on his behalf, all vouchers, for payment of moneys, which the Sergeant at Arms is authorized to approve. Whenever the Sergeant at Arms makes a designation under the authority of the preceding sentence, he shall immediately notify the Committee on Rules and Administration in writing of the designation, and thereafter any approval of any voucher, for payment of moneys, by an employee so designated shall (until such designation is revoked and the Sergeant at Arms notifies the Committee on Rules and Administration in writing of the revocation) be deemed and held to be approved by the Sergeant at Arms for all intents and purposes.

Sec. 1202. Any provision of law which is enacted prior to October 1, 1983, and which directs the Sergeant at Arms and Doorkeeper of the Senate to deposit any moneys in the United States Treasury for credit to the account, within the contingent fund of the Senate, for "Miscellaneous Items", or for "Automobiles and Maintenance" shall, on and after October 1, 1983, be deemed to direct him to deposit such moneys in the United States Treasury for credit to the account, within the contingent fund of the Senate, for the "Sergeant at Arms and Doorkeeper of the Senate".

Sec. 1203. (a) Section 105(a)(2) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1 (2)) is amended to read as follows:

"(2) New or changed rates of compensation (other than changes in rates which are made by law) of any such employee (other than an employee who is an elected officer of the Senate) shall be certified in writing to the Disbursing Office of the Senate (and, for purposes of this paragraph, a new rate of compensation refers to compensation in the case of an appointment, transfer from one Senate appointing authority to another, or promotion by an appointing authority to a position the compensation for which is fixed by law). In the case of an appointment or other new rate of compensation, the certification must be received by such office on or before the day the rate of new compensation is to become effective. In any other case, the changed rate of compensation shall take effect on the first day of the month in which such certification is received (if such certification is received within the first ten days of such month), on the first day of the month after the month in which such certification is received (if the day on which such certification is received is

after the twenty-fifth day of the month in which it is received), and on the sixteenth day of the month in which such certification is received (if such certification is received after the tenth day and before the twenty-sixth day of such month). Notwithstanding the preceding sentence, if the certification for a changed rate of compensation for an employee specifies an effective date of such change, such change shall become effective on the date so specified, but only if the date so specified is the first or sixteenth day of the month and is after the effective date prescribed in the preceding sentence; and, notwithstanding such sentence and the preceding provisions of this sentence, any changed rate of compensation for a new employee or an employee transferred from one appointing authority to another shall take effect on the date of such employee's appointment or transfer (as the case may be) if such date is later than the effective date for such changed rate of compensation as prescribed by such sentence."

(b) The amendment made by subsection (a) shall be applicable in the case of new or changed rates of compensation which are certified to the Disbursing Office of the Senate on or after January 1, 1984.

Sec. 1204. (a) The fifth sentence of subsection (e) of section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)) is amended by striking out "or Minority Whip" and inserting in lieu thereof "Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority".

(b) The amendment made by subsection (a) shall be effective in the case of expenses incurred or charges imposed on or after October 1, 1983.

Sec. 1205. (a) The Sergeant at Arms and Doorkeeper of the Senate shall furnish each Senator local and long-distance telecommunications services in Washington, District of Columbia, in accordance with regulations prescribed by the Senate Committee on Rules and Administration; and the costs of such service shall be paid out of the contingent fund of the Senate from moneys made available to him for that purpose.

(b) Subsection (g) of section 112 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 58a) is repealed, effective on the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act.

On page 10, strike line 14, through and including line 19;

On page 10, after line 20, insert the following:

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION CONSTRUCTION PROGRAM

For an additional amount for "Construction program", \$1,500,000, to remain available until expended, for the Secretary of the Interior to construct a new headquarters for the operation of the Valley Division of the Yuma Reclamation Project and to cover the accompanying relocation costs associated with the move. The cost of this work will be nonreimbursable and constructed features will be turned over to the Yuma Valley Water Users Association for operation and maintenance.

On page 11, after line 8, insert the following:

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For an additional amount for "Energy Supply, Research and Development" \$8,000,000, to remain available until expended, of which \$4,000,000 shall be made available to implement the four atoll health care plan authorized in section 102 of Public Law 96-205 and \$3,000,000 shall be for construction and operation of a second small community solar energy project on the island of Molokai, Hawaii.

On page 11, line 20, strike "\$57,000,000", and insert "\$60,000,000";

On page 11, after line 21, insert the following:

Of the funds appropriated for "Atomic Energy Defense Activities" in Public Law 98-50, an amount shall be made available to purchase 4 additional helicopters.

Of the funds appropriated for "Atomic Energy Defense Activities" in Public Law 98-50 for Project 82-D-109, 155 mm artillery fired atomic projectile, \$50,000,000 are rescinded.

On page 12, line 12, after "(5)", insert "of Public Law 97-425";

On page 14, strike line 4, through and including line 11;

On page 14, strike line 13, through and including line 16;

On page 14, line 17, strike "102", and insert "1301";

On page 15, line 3, strike "103. (a)", and insert "1302";

On page 15, line 3, after "authorized", insert "for a period of two years beginning with the enactment of this Act";

On page 15, strike line 15, through and including line 9 on page 16;

On page 16, line 10, strike "104", and insert "1303";

On page 16, line 17, strike "105", and insert "1304";

On page 16, after line 22, insert the following:

SEC. 1305. Funds available or hereafter made available for the Red River Waterway Project shall be used to provide for construction of a high level replacement bridge for the Louisiana and Arkansas Railway Company near Alexandria, Louisiana, pursuant to an agreement between the Chief of Engineers and the Railway Company and upon terms and conditions acceptable to the Chief of Engineers in the interest of navigation and the expeditious prosecution of the Project. Federal costs of the bridge replacement, including design and construction, shall be limited to \$24,270,000 (July 1, 1983 price levels), with an adjustment to this amount, if any, as may be justified by reason of a fluctuation in the cost of construction as indicated by the Engineer News Record's applicable construction indices, plus the cost of necessary real estate interests to be acquired by the Corps of Engineers, which interests may be conveyed to the Railway Company.

SEC. 1306. Section 116(a) of the Rivers and Harbors Act of 1970 (Public Law 91-611) is amended by adding at the end thereof the following:

"Those areas of the river between Howard Street and Caldwell Avenue in Niles, Illinois, that have accumulated silt and side bank sloughing should be excavated to the normal alignment and depth, and the bank rebuilt where sloughing has occurred at an estimated cost of \$100,000."

On page 18, after line 2, insert the following:

FISH AND WILDLIFE AND PARKS UNITED STATES FISH AND WILDLIFE SERVICE RESOURCE MANAGEMENT

For an additional amount for "Resource management," \$500,000.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

Funds appropriated to the National Park Service under this head in Public Law 97-394 shall be available to reimburse the Estate of Bess W. Truman for operation expenses, including maintenance and protection, of the Harry S Truman National Historic Site incurred during the period October 18, 1982 through December 27, 1982.

CONSTRUCTION

Notwithstanding any other provision of law, section 4 of the Act of October 26, 1972, as amended (86 Stat. 1181; 16 U.S.C. 433c note), is amended by striking the numeral "9,327,000" and inserting in lieu thereof "10,500,000".

LAND ACQUISITION AND STATE ASSISTANCE

For an additional amount for "Land acquisition and State assistance," \$25,500,000, to be derived from the Land and Water Conservation Fund and to remain available until expended.

On page 20, line 3, after "relocation", insert the following: *Provided further*, That any funds remaining available following completion of these acquisition and relocation activities may be made available to the Commonwealth of Pennsylvania to undertake other approved reclamation projects pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977: *Provided further*, That funds made available for the above purpose shall be made conditional on the Commonwealth of Pennsylvania accepting title to all properties previously acquired by the Office of Surface Mining in and around the Borough of Centralia: *Provided further*, That funds made available under this head to the Commonwealth of Pennsylvania shall be accounted against the total Federal and State share funding which is eventually allocated to the Commonwealth.

On page 20, strike line 19;

On page 20, strike lines 21 and 22;

On page 20, after line 22, insert the following:

Notwithstanding the provisions of Public Law 97-257, the funds appropriated therein under this head for transfer to the State of Alaska may be used for reconstruction of day schools formerly operated by the Bureau of Indian Affairs.

On page 21, strike line 3, through and including line 8;

On page 21, after line 9, insert the following:

Funds available to the Department of the Interior and the Forest Service in fiscal year 1984 for the purpose of contracting for services that require the utilization of privately owned aircraft for the carriage of cargo or freight shall be used only to contract for aircraft that are certified as airworthy by the Administrator of the Federal Aviation Administration as standard category aircraft under 14 CFR 21.183 unless the Secretary of the contracting department determines that such aircraft are not reasonably available to conduct such services.

On page 21, strike line 20, through and including page 22, line 7, and insert the following:

No funds in this or any other Act shall be used to process or grant oil and gas lease applications on any federal lands outside of

Alaska that are in units of the National Wildlife Refuge System, except where there are valid existing rights or except where it is determined that any of the lands are subject to drainage as defined in 43 C.F.R. 3100.2, unless and until the Secretary of the Interior first promulgates, pursuant to section 553 of the Administrative Procedure Act, revisions to his existing regulations so as to explicitly authorize the leasing of such lands, holds a public hearing with respect to such revisions, and prepares an environmental impact statement with respect thereto.

On page 22, strike line 21, through and including line 24;

On page 22, after line 24, insert the following:

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES, NATIONAL GALLERY OF ART

For an additional amount for special exhibitions, \$250,000, to remain available until expended.

CHAPTER V

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

The Congress disapproves the proposed deferral of budget authority in the amount of \$2,050,000 for the United States Railway Association (deferral numbered D84-20), as set forth in the President's special message which was transmitted to the Congress on October 3, 1983. This disapproval shall be effective on the date of enactment of this Act and the amount of the proposed deferral disapproved herein shall be made available for obligation.

CHAPTER VI

DEPARTMENT OF AGRICULTURE

FEDERAL GRAIN INSPECTION SERVICE

INSPECTION AND WEIGHING SERVICES

For expenses necessary to recapitalize the revolving fund established under section 7(j)(1) of the United States Grain Standards Act, as amended (7 U.S.C. 79(j)(1)), \$8,000,000.

FOOD AND NUTRITION SERVICE

Effective on October 16, 1983, and until April 16, 1984, the Secretary of Agriculture shall not reduce or withhold reimbursements, shall not collect or attempt to collect funds from an institution, its parents, affiliates or successors, and shall not otherwise affect an institution's participation in the child care food program (42 U.S.C. 1766), where the Secretary's claim relates to payments made in New York during the period January 1, 1975, through December 31, 1976, by the Secretary to the institution as a participant in the child care food program.

On page 24, line 13, strike "PROVISION", and insert "PROVISIONS";

On page 24, line 14, strike "201", and insert "2001";

On page 24, after line 16, add the following:

SEC. 2002. From the Rural Development Loan Fund under the Community Economic Development Act of 1981, \$10,000,000 in available appropriations or the remaining balance of the fund, whichever is the lesser amount, shall be obligated in the form of loans only by December 31, 1984.

FIRST EXCEPTED COMMITTEE AMENDMENT—PAGE 12, LINE 14, THROUGH PAGE 14, LINE 3

The PRESIDING OFFICER. The question is on agreeing to the first excepted committee amendment.

The excepted committee amendment is as follows:

On page 12, after line 13, insert the following:

CLINCH RIVER BREEDER REACTOR

Notwithstanding any other provision of this Act and for funding the Clinch River Breeder Reactor project authorized by section 106 of Public Law 91-273, as amended:

For construction and operation of the Clinch River Breeder Reactor project, \$1,500,000,000, to be available until expended but contingent upon commitments, satisfactory to the Secretary of Energy, for utility and private sector financial participation for a minimum of 40 per centum of the Department of Energy estimate of remaining capital costs as reported to Congress on March 15, 1983. In addition to the amounts herein appropriated and in consideration for such financial participation and notwithstanding any other provision of this Act, the Secretary is authorized to contract incontestably to (1) provide to participants ownership interests in the project, products, services and/or revenues from the project, (2) repay funds invested by the participants subsequent to the passage of this Act, plus interests, if the project is not completed, not licensed for operation, or terminated at any time, (3) insure revenues from the project for the repayment of debt, (4) indemnify participants against changes in Federal tax laws affecting their financial participation in the project, and (5) indemnify participants and the operator against uninsured liabilities with respect to the project. Such contracts may be assigned and shall be enforceable against the United States in accordance with their terms except in the case of fraud by the assignee. Participation in the project shall not subject a participant to regulation under the Public Utility Holding Company Act of 1935. All moneys received by the Secretary under this heading may be retained and obligated for the purposes of the project and shall remain available until expended. Of the \$1,500,000,000 appropriated by this heading up to \$270,000,000 may be obligated during fiscal year 1984, of which \$135,000,000 may be obligated notwithstanding any other provision of this heading; and up to the following amounts may be obligated during the following fiscal years: \$285,000,000 during 1985; \$290,000,000 during 1986; \$290,000,000 during 1987; \$185,000,000 during 1988; \$75,000,000 during 1989; \$105,000,000 during 1990 and beyond.

Mr. BAKER. Mr. President, the chairman of the Energy Committee (Mr. McClure) will be here shortly. I know he has no statement to make. I would like to defer to the chairman if he wishes. The Senator from New Hampshire will have a statement on this amendment.

There is no secret about the fact that I support this committee amendment. I urge my colleagues to do so.

With that, although I shall have more to say later, I do not plan to speak at greater length at this time. I would be happy for the Chair to put the question, but I think my responsibility suggests he should not.

Does the chairman of the committee wish to speak now?

Mr. HATFIELD. Yes, Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, H.R. 3959 as reported from the Appropriations Committee recommends total spending of \$1,836,828,600 of which \$1,500,000,000 is for the Clinch River breeder reactor project. We do not yet have an official budget request from the President, but I understand there is a letter from him endorsing the project and supporting the committee amendment. Setting aside the \$1,500,000,000 for that project, this bill recommends \$336,828,600, or some \$78,027,400 below the amount requested by the President. The recommendations for veterans benefits and pensions amount to \$208,139,000 of the \$336,828,600.

Some of my colleagues may be wondering why we are considering a fiscal year 1984 supplemental only 24 days after the fiscal year has begun. I will admit it is unusual, but Senators should know that virtually all of these items are requested by the administration and that all but one relate to regular bills that have already cleared Congress. Further, the request for supplemental appropriations for veterans' benefits has some degree of urgency to it.

Mr. President, I hope we can move quickly on this measure. It is really pretty straightforward. The committee must consider the defense appropriations bill soon in order to have it ready for floor action next week, and we must conclude action on this measure before we can have that full committee markup. So I urge my colleagues to let us move expeditiously on this measure.

I yield to Senator STENNIS.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, on this supplemental bill, I am supporting the bill, and I do not know of anyone on this side of the aisle except on this Clinch River matter that has strong reservations. The general idea of the supplemental bill itself, even though it comes at an odd time for fiscal 1984, is in order and proper and should be passed. The further item with reference to the proposed postponement for 6 months, I believe it is, of the effective date for the Federal Communications Commission order on certain rights of television, the originators of their programs as well as the television station itself, is a matter there is a difference of opinion about. I assume it will be considered and perhaps there will be a rollcall vote on it. But I say again for emphasis that the other items in the bill we think are not only proper but good legislation and the Senate should pass it now. There will be another supplemental for fiscal 1984 coming as near as we can tell sometime in calendar 1984, maybe February or March or some-

where in that area. There will be a chance then to have items the committee may see fit to recommend.

I believe that covers the present situation, Mr. President. As I say, I do not know of anyone who is opposed to any of these items except the two I mentioned.

Mr. HATFIELD. I thank the Senator from Mississippi. I suggest the absence—

Mr. HUMPHREY. Mr. President, if the floor manager will withhold, I would like to use this time to make some remarks.

The PRESIDING OFFICER (Mr. DENTON). The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, this bill is officially entitled the supplemental appropriations bill for 1984, but in fact it is the Clinch River legislation. It is the Clinch River phoenix rising once again in our midst. There are appropriations in this bill totaling about \$1.8 billion. Of that Clinch River is fully \$1.5 billion, so it is by far the bulk of this bill. This bill is in truth the Clinch River proposal. Not only that but it is an appropriation that contains in effect authorization language for an alternative financing scheme. I will address both the merits of Clinch River and the alternative financing scheme later on, but let me say at the outset, Mr. President, that all of us by now know the real nature of this Clinch River struggle. We have long ceased to consider this issue on the merits. It has become a political contest, and that is what it is today. We all know of the arm twisting, the changing of votes in the well in response to that arm twisting, the pulling of victory out of the jaws of defeat by that means. We can only suppose of favors dispensed, of vote buying, and now we see bending of the rules for clearly this is legislating on an appropriations bill, clearly and grossly a case of bending the rules, and the opponents intend to make a point of order against that procedure. It remains to be seen how that will be decided. We have seen plenty of cases where points of order have not been decided on the merits but on the politics. And given the political nature of the struggle, one cannot be overly hopeful in that regard.

And so I make the point that this is largely a political battle at this point.

In connection with my charge of vote buying a moment ago, let me point to a story yesterday in the Energy Daily as an example, headlined "White House Tries to Buy Black Caucus Votes for Clinch River in the House."

I will read just a few paragraphs and then at the end of my remarks I will insert this in full.

The future of the controversial Clinch River breeder reactor, which faces a vital

vote today in the Senate, may depend upon \$150 million worth of work for minority contractors. Representative MERVYN DYMALLY of California, has been pressing the administration to set aside that much work for minority firms, but so far the Energy Department has struck at \$100 million.

So we know at least on the basis of this article that the Energy Department has hung out the carrot of \$100 million reserved for minority construction firms in this proposal, and that shows the length to which the administration and other proponents are going to advance this proposal over what they see as the last hurdle. I am hoping that we can raise that hurdle high enough today so that Clinch River finally will fall short.

I ask unanimous consent, Mr. President, to print this article in full at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HUMPHREY. This is a political struggle and it seems to me highly distasteful. It seems to me in very bad taste for the Senate to be bringing this matter to the floor today. Imagine, embroiling ourselves in a political struggle on a day when literally thousands of Americans in their homes across our Nation are wondering about the fate of their young men in Lebanon and Grenada and here is the Senate proposing to embroil itself in yet another political battle on Clinch River. It seems to me in very, very bad taste. This is not an urgent issue. It can wait a few days. It can wait a few weeks. I urge the leadership to remove this bill from the floor and let us go on to truly urgent business that we can in good taste address during this time of national grief and mourning, such as raising the debt limit; that must be addressed one way or another, such as giving the Appropriations Committee time to consider the Defense appropriation bill for 1984 so that the Department of Defense will not have to operate inefficiently on a continuing resolution. There is plenty of work that we can do, but to embroil ourselves in a purely nonpartisan and political issue, one that clearly is no longer being debated on the issues, seems to me the height of bad taste, very poor taste. So I urge the leadership to withdraw this bill from the floor and stop talking about a weekend session. Let us get on with more important and urgent business.

Now, Mr. President, I want to especially address some remarks to my conservative brethren. This Senator, like most conservatives, supported Clinch River at one time, supported it on the faith that if you are a conservative you support every initiative to advance nuclear power as a means of extracting our Nation from dependence upon overseas and undependable supplies of energy. But let me say to my conservative colleagues and others

who are perhaps wavering on this issue that you do not have to support everything radioactive to be conservative. It is attentive conservatism to oppose waste, and this project is wasteful according to many experts.

If we zero out Clinch River today—and I hope that we will—does that kill the breeder reactor research program in the United States? Does that close out forever the options that we might want to exercise some years down the road with respect to commercializing breeder reactors? The answer is no. Many are unaware that Clinch River is not even in fact a part of our breeder reactor research program. It is not part of the base breeder reactor research program of the Department of Energy. If we zero out Clinch River today, the bulk of our research effort continues, the bulk expressed in dollar terms.

Zeroing out Clinch River has no appreciable effect, if any effect, on our base breeder reactor research program, which I and most other opponents of Clinch River support. The base breeder reactor research program goes on. The options for the future will still be there if commercialization of the breeder reactor proves to be attractive and economical.

I make this point: This does not kill our breeder reactor research program. Clinch River is not part of our breeder reactor research program. It is a demonstration plant. Why do we have demonstration plants? To advance the commercialization of products that are close to that commercialization stage.

All the experts I have heard have testified that the United States will be nowhere near commercializing breeder reactors for many decades to come, and therefore Clinch River is an unnecessary demonstration project.

Let me cite the names of a few publications and organizations that ought to gain attention from conservatives.

The Wall Street Journal. Does that sound like a leftwing, antinuclear, antienergy dependence publication? Of course not.

How about the Washington Times? Is that a leftwing newspaper? Is that opposed to energy independence? Of course not.

What about the Heritage Foundation? Is that a leftwing think tank? Is it opposed to nuclear independence and free market economics? The answer is obvious.

Yet, I tell my conservative brethren that every one of those publications or organizations has, for a long time, been an opponent of the Clinch River breeder reactor demonstration project while supporting the base breeder reactor research program, of which Clinch River is not a part.

Mr. President, I think it is worthwhile to read a two-page executive memorandum written by the Heritage Foundation, dated September 19 of

this year, inasmuch as presumably a number of Senators are listening over the audio monitor. I read from the Heritage Foundation memorandum:

It seems that Congress never learns. Just as the Senate is wrestling with the fallout from the \$2.25 billion bond default by the Washington Public Power Supply System (WPPSS), it is giving consideration to an ill-conceived plan to float \$1 billion in federally guaranteed bonds to finish the controversial Clinch River Breeder Reactor. The reactor's supporters also want an additional \$1.5 billion in direct appropriations for the project. Like WPPSS, the Clinch River plan would use "off-budget" financing to mask a \$1 billion increase in the federal deficit. In short, it is another expensive fiasco in the making.

Last December funding for the Clinch River Reactor was defeated by the House, and it squeaked through the Senate by just one vote. Congress eventually agreed to continue funding only if the Department of Energy (DOE) would "vigorously explore" ways of including private sector finance "that would reduce federal budget requirements."

The new DOE proposal, backed by Clinch River supporters, finesses this requirement with a package that includes private sector financing in name only. Although investors supposedly would provide 40 percent of the \$2.5 billion needed to complete the \$3.6 billion reactor (current DOE cost estimates), this turns out to mean a \$675 million short-term loan from private sources, to be retired in 1990 (with accrued interest) by \$1.04 billion in federally guaranteed bonds, together with just \$150 million in equity shares and \$175 million from the utilities. The remaining \$1.5 billion would be provided by the taxpayer through a one-time congressional obligation vote.

Mr. President, I say parenthetically that that is what we have before us—a gigantic, one-time, \$1.5 billion appropriation for Clinch River. They will not be coming back next year and subsequent years in order to give Congress a chance to work its oversight responsibilities and to appropriate annually. This is a one-time, gigantic, multiyear, final appropriation, presumably. I do not believe it is final. That is what its proponents say.

I continue reading:

The taxpayer also would be responsible for any further cost overrun, and for redeeming the guaranteed bonds if project revenues fall below expectations.

The plan has many of the inherent weaknesses of the original WPPSS package—and is as bad a deal for the American taxpayer as it would be lucrative for the bondholders and investors. According to Congressional Budget Office Director Rudolph Penner, the tax advantages available "imply that the after-tax rate of return earned by the equity investors would be about 37 percent, while the after-tax rate of return for bondholders would be 7.5 percent." Moreover, the bondholders will enjoy a federal guarantee, so they need care little whether the reactor produces any revenues at all. Not only that, CBO calculates that this private "cost-sharing" plan would actually cost the Treasury nearly \$250 million more than financing the reactor with an on-budget appropriation.

So who benefits? Certainly the bondholders. The investment brokers are also likely to do very nicely out of the \$1 billion bond offering—as they did with the WPPSS issue. Merrill Lynch, for instance, made \$22.5 million in commissions—the largest in the firm's history—by underwriting \$750 million in WPPSS bonds. And the contractors can take cheer that future work would be assured, virtually free of congressional oversight or real cost constraints.

The taxpayer, on the other hand, has little to be happy about. Not only will he end up paying more, thanks to the financing package, but he can take little comfort in the "considerable confidence" expressed by Energy Secretary Donald Hodel regarding the estimated completion costs. When the reactor was first authorized in 1971, the cost was put at \$400 million (over half to be provided by the utilities). A year later this was revised upwards to \$700 million. The most recent estimate by DOE is \$3.6 billion. But the ink was hardly dry on that figure before it was revealed that an internal departmental study had predicted a further overrun of \$300 million, and a delay in the completion date of 1½ years.

The plan also shifts the enterprise off-budget, and it ends congressional oversight by substituting a one-time obligation of \$1.5 billion in place of the annual Clinch River appropriation. When projects are moved off-budget in this way, the taxpayer loses the power to have the management and finances scrutinized by his representatives. Yet the enterprises are not subject to marketplace constraints either. They move to a twilight zone where management is insulated from those who must foot the bill for any mistakes. WPPSS is a classic example of what can happen.

Removing projects from the glare of the federal budget process makes good sense to politicians, however. It means that new debt can be created without expanding the official federal budget deficit. Yet there is only one practical difference between issuing \$1 billion in federally guaranteed Clinch River bonds and openly appropriating the money and adding it to the federal deficit—it costs more.

Proponents of the Clinch River project maintain that the technology has enormous commercial value, yet they can only interest the private sector by giving away the store. They say the construction costs are now firm—but estimates have jumped nearly ten-fold in 12 years. They contend that revenues from the project will cover the cost of financing bonds—just as Congress assumed in the case of WPPSS—yet the economics of breeder-generated electricity is, to say the least, uncertain. And when finally pressed for reasons why Congress should borrow and spend at least \$2.5 billion, they say that it makes sense because the taxpayers have already sunk \$1.5 billion into the project.

It is time for the American public to cut its losses. The breeder reactor might well be the energy technology of the future—so might solar power or some yet unimagined system. That does not mean the federal government should risk billions of dollars on the Clinch River project. It is the epitome of crude industrial policy for Congress to pick an energy "winner" and then bribe a reluctant private sector to invest in it. The marketplace will channel finance into the right technology—at the right time—given the state of available estimates on comparative costs, demand and risk. Then government tries to outguess the market, and ignore its signals, the result is WPPSS.

I repeat, Mr. President, that is an executive memorandum from the Heritage Foundation dated September 19, 1983.

Mr. President, let me return and expand upon a couple points in that memorandum.

Again, the appropriation before us is the Clinch River appropriation of \$1½ billion, a multiyear appropriation that means that Senators in voting for it will effectively give up oversight capability over Clinch River in the future.

They also stress the point that in the event of cost overruns, and we can be rather confident that there will be cost overruns based on the history of this project, in the event of delayed construction, and we can be sure that construction will be further delayed because of what has been all throughout this project, in the event that the plant does not operate as reliably as optimistically forecast by the Department of Energy, in the event that the electrical output cannot be sold at the rates forecast by the Department of Energy and the authors of this alternative financing plan, in the event of any perversion of this rosy scenario, who will be asked to come in and make up the difference? This is \$1.5-billion appropriation today. Some say that is the last appropriation on Clinch River. I doubt it.

When it comes time to pay off these bonds and revenue is not there sufficient for whatever reason, the proponents will be back for yet more appropriations to pay off the investors who have absolutely no risk whatever, none, in these bonds, none. They know full well that Congress will appropriate whatever money is necessary to repay those bonds if the revenues from Clinch River are insufficient for any reason.

Can any advocate of the free market system, can any supporter of the Reagan administration's emphasis on energy policy directed by the marketplace support such a proposal as this consistently? I think not.

Mr. President, I intend to talk at some length, but I do not want to monopolize the floor at this point. If the floor manager or others wish to speak, I will be happy to yield the floor. But so long as no one is seeking the floor, I will continue.

Mr. President, I mentioned earlier in a special appeal to those who considered themselves to be conservative that the Wall Street Journal consistently, over the last 2 years, at least, has opposed Clinch River, and let me read selected parts of such recent editorials, and I will put the entire editorial in the Record at the conclusion of my remarks.

The Wall Street Journal, on September 29 of this year said that:

Congress has become increasingly dubious of the Clinch River project, to be located in Tennessee, because of its rising costs. When

the scheme was envisioned in the early 1970s, it was seen as the solution to an anticipated shortage of uranium. With enough inexpensive uranium now clearly available for the foreseeable future, breeder technology won't be economical at least until well into the next century.

Last year, the House defeated the Clinch River appropriation and funding survived by only one vote in the Senate even with the strong lobbying of Sen. Baker. The latest financing plan would have a private group raise a \$1.04 billion bond issue, guaranteed by the federal government, that would be repaid with revenues, if any, from the reactor's operation or, more likely, with tax dollars. The plan doesn't have much support in the House, which hasn't provided any fiscal 1984 funding for Clinch River.

While we continue to oppose the Clinch River reactor on economic grounds, there is more at stake here than a mere nuclear power plant. If this funding scheme is allowed to squeak through, it will be a further corruption of the congressional budget process, which is already in shambles. The kind of budgetary legerdemain envisioned by Sens. Baker and McClure would be yet more proof that Congress has abdicated its clearest constitutional responsibility, watching over the purse strings.

That was part of a recent editorial from the Wall Street Journal. I ask unanimous consent to have printed in the Record the full text of that editorial at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. HUMPHREY. Mr. President, another of the publications I mentioned in appealing to conservatives to oppose Clinch River consistent with their belief in the free market and abhorrence of waste is the Washington Times, and I read again the selected operative part of the September 26 editorial which I shall include in its entirety in the Record at the conclusion of my remarks.

Clinch backers are trying to slide the plan through the Senate on a continuing resolution. To block this, more than 100 House members want to attach an amendment to the resolution requiring that the project be financed under separate legislation. That would effectively remove it from the continuing resolution, allowing the cost-sharing plan to be voted on in committee on its own merits. Having none, the plan would certainly fail, thereby killing Clinch River once and for all. The breeder's backers know that the only way this project can pass is through the back door. And if the Senate goes along with the strategy, it is abandoning its responsibility to the American taxpayer.

The end has been long in coming. Last year, Congress demanded that a cost-sharing plan be devised. This year, we have one. Figure it's Clinch River's best shot. And since this supposed cost-sharing plan would raise the total cost \$250 million more than if the government paid the whole ticket, consider it a dud. As we've said many times over, if Clinch is such a hot idea, the private sector would be lining up with its own fists full of dollars to get a piece of the action, instead of queuing up for government handouts.

Mr. President, I ask unanimous consent that this Washington Times article be printed in full at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 3.)

Mr. HUMPHREY. A more recent editorial dated October 25, which is just yesterday, in the Washington Times:

CLINCH RIVER FATBACK

If you're trying to locate any of the crusaders for the Clinch River breeder reactor, check the back door at the U.S. Capitol, where all are busy trying to burden a \$300 million supplemental appropriations bill with Clinch River's \$1.5 billion saddle.

The Clinch crew will then attempt to stuff this hunkering example of off-budget fatback down the taxpayers' throats. The result would be the maintenance of one of the largest boondoggles in the land, and certainly the premier rathole in Howard Baker's Tennessee.

As has been said many times before by many, including us, Clinch River should no longer be allowed to exist.

It isn't practical, it isn't needed, and no matter how much money we throw at it, it isn't going anywhere. And all this talk about how the private sector is willing to risk a billion dollars on the project is bunk.

The biggest risk the participants in this so-called vote of confidence take is on how much the government-guaranteed rate of return on equity shares would be. Could go as low as 20 percent. Or as high as 40 percent. You get the picture. No risk at all.

The bill should be wafting into the Senate this week, perhaps as early as today. It is a bill not to be praised, but to be buried.

Mr. President, I understand my colleague in this effort, Senator METZENBAUM, is on his way to the floor, and I would be happy to yield to him at that point.

While we are waiting, let me cite the opinion of a few more experts about the Clinch River breeder reactor. First, the report of the Energy Research Advisory Board of the Department of Energy in its recommendation of November 1981:

The Energy Research Advisory Board believes that the construction of a breeder reactor demonstration at this time is not an urgent priority and thus under current budget constraints, recommends that such a demonstration be delayed until a future time.—Energy Research Advisory Board, Department of Energy, November 1981.

This was a recommendation to this administration and to the Department of Energy by the Energy Research Advisory Board of the Department of Energy, advice which the Department, obviously, had chosen to reject.

Mr. President, as we get into the details of the alternative financing plan, I can guarantee people are going to be confused because both sides can cite experts who can contradict each other.

The plan itself is complicated, Byzantine, but let me make two points here: That virtually all of the proponents I have seen so far that I can recollect are parties who have some

stake in the success of Clinch River, the administration, the Department of Energy, Senators from States in which the facilities are being constructed or components are being constructed, fabricated; labor unions who want the jobs at the sites, and you cannot blame them for that; those who will sell the bonds, the investment brokers, they think it is terrific because they are going to make some big commissions on this ultimately.

But if you take a presumably neutral source of expertise like the Congressional Budget Office you find they oppose it; the Heritage Foundation, and others, the Council for a Competitive Economy.

So if Senators become confused because of the experts cited by both sides who contradict each other, Senators should give the greatest weight to those who are neutral, presumably the CBO, because the CBO in the House of Representatives just 2 weeks ago issued a report which was highly critical of the proposed alternative scheme. That, of course, has been rebutted, after a fashion, by the experts on the side of the proponents. But if I have to choose between the experts, I am going to choose those who are apparently neutral, and certainly the Congressional Budget Office which serves this body is directly and heavily relied upon, its opinions are, and Rudolph Penner, Director of the CBO, maintains adamantly that his findings are still valid despite the efforts to rebut them by the proponents of Clinch River.

I noticed just recently, the day before yesterday, in fact, the Department of Energy sent letters to Senators which made points in favor of Clinch River which urged that Clinch River go forward. But I would point out to the Senators that this letter to Senators is not signed by the Secretary of Energy. It is curious in an issue that is supported by the administration, by the President, by the leaders of the Senate, most of them, that the Secretary of Energy did not see fit to put his name to this letter. I think there is a message in that.

Secretary Hodel himself has said in public that Clinch River is not essential, it is not part of our base breeder reactor research program. He said we can get along without it, if necessary. He said the option of breeder reactor power for the future is not closed by terminating Clinch River; that it continues as long as we consider the base breeder research program. So that, perhaps, explains the signing of this letter by someone other than the Secretary. It is instead signed by an Assistant Secretary who just happens to have responsibility for nuclear matters there at the Department of Energy so he, too, has a stake in this. After All, he has worked on it a number of years presumably. He has a great psycholog-

ical stake in it. It is a matter of pride to him that it keep going. It is not the least bit unbecoming that the man sign a letter.

Mr. MCCLURE. Mr. President, will the Senator yield? I do not mean to interrupt either the Senator's debate or his thought.

Mr. HUMPHREY. Let me first make an inquiry. What is pending at this time?

The PRESIDING OFFICER. Pending is the first excepted committee amendment regarding the Clinch River project.

Mr. HUMPHREY. There is only one, is there not?

The PRESIDING OFFICER. There is only Clinch River, but there are two excepted committee amendments.

Mr. MCCLURE. The first deals with Clinch River and that is the one pending.

Mr. HUMPHREY. That is correct.

I would be happy to yield to the Senator from Idaho but first let me ask unanimous consent that by so yielding when I resume the floor that my remarks will not count as a second speech with respect to the pending business.

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

EXHIBIT 1

WHITE HOUSE TRIES TO BUY BLACK CAUCUS VOTES FOR CLINCH RIVER IN HOUSE

The future of the controversial Clinch River breeder reactor, which faces a vital vote today in the Senate, may depend upon \$150 million worth of work for minority contractors. Rep. Mervyn Dymally (D-Calif.) has been pressing the Administration to set aside that much in work for minority firms, but so far the Energy Department has stuck at \$100 million.

The House has already passed a 1984 supplemental appropriations bill that contains no money for Clinch River. The Senate Appropriations Committee restored funding last week (by an 18-10 vote) and the matter will go to the floor of the Senate today—where it is likely to attract strong opposition and lengthy debate. Last December, Clinch River survived by one vote (49-48) in the Senate.

If the project survives the Senate vote this time, the bill will go to a conference committee for differences to be ironed out. It would then go back to the House and the Senate. Administration strategists hope that, with the help of some of the 21-strong Black Caucus in the House, it could win the vote there.

But the black representatives are far from united in support of Clinch River. As well as having failed to get the \$150 million set-aside he is seeking, Dymally by late Monday afternoon had not even managed to get any minority set-aside language into the Senate bill. As the day wore on, his staff was trying to persuade Sen. Howard Baker (R-Tenn.) to offer the crucial promise in an amendment on the Senate floor.

"It is critical that the Senate has in its language money for minority contractors," explained Dymally aide Randall Echols. "The conference has no teeth. It's not too late to insert the language. If the bill passes

without that language, then we have problems. We have a lot of parliamentary procedure problems that could very well squash these efforts."

Dymally's Black Caucus has no great love for nuclear power and in the "alternative budget" it offers every year, the group has traditionally deleted Clinch River funding. Some members of the caucus, the California congressman's aides admit, would not vote for the embattled breeder if the set-aside minority funding was \$300 million.

But Echols sees it differently. "The energy industry for some reason has not felt that the minority contracting community can adequately participate in the construction of nuclear power plants," he complained yesterday. "That is a myth. I went to Oak Ridge in Tennessee a couple of weeks ago with a sampling of minority contractors, so that they could illustrate their capabilities to DOE and to major contractors on the project. I thought it was a very successful meeting."

Nonetheless, when Oak Ridge called Echols back, they were only able to increase by \$10 million a set-aside offer of \$90 million made by Energy Secretary Don Hodel at hearings before an energy subcommittee of the House Science and Technology Committee in early September. Calling the Oak Ridge offer disappointing, Echols points out that "thus far, \$1.6 billion of government money has been spent on the project of which only \$1.6 million has been realized by the minority contracting community. This is a dismal figure. It's one tenth of one percent when your normal set-aside laws range in the area of 10 percent."

Although he emphasizes that "nothing is guaranteed," Echols promises that a larger set-aside for minorities would greatly sweeten the attitude of many black congressmen towards the breeder. "If you're going to offer money for minorities in this project," he says, "at least offer a figure that will be a viable lobbying tool. The Senate committee has authorized \$1.5 billion for completion. What we would like to see is \$150 million, which is a cool 10 percent of that."

EXHIBIT 2

BUDGET CLINCH

It's that time of year again. The federal government's fiscal year ends at midnight tomorrow and Congress has yet to pass a budget for fiscal year 1984. Once again Congress will keep the doors of government open by passing a continuing budget resolution. This year a new twist may be added. That is, how to use the continuing resolution to fund a major new program without running the gauntlet of extensive hearings, committee deliberation, floor debates and votes by your elected representatives.

Specifically, Senate Majority Leader Howard Baker and Energy Committee Chairman James McClure may try to include a new financing scheme for the Clinch River breeder reactor. They envision tacking it onto the continuing resolution, in the knowledge that the House budget conferees support the project. If the funding plan gets into the budget resolution, construction could start in a couple of months and it's doubtful the project could ever be stopped. Tax payers would be saddled with a huge financial responsibility into the next century without their elected representatives ever having conducted a serious debate and an up-or-down vote.

Congress has become increasingly dubious of the Clinch River project, to be located in Tennessee, because of its rising costs. When

the scheme was envisioned in the early 1970s, it was seen as the solution to an anticipated shortage of uranium. Without enough inexpensive uranium now clearly available for the foreseeable future, breeder technology won't be economical at least until well into the next century.

Last year, the House defeated the Clinch River appropriation and funding survived by only one vote in the Senate even with the strong lobbying of Sen. Baker. The latest financing plan would have a private group raise a \$1.04 billion bond issue, guaranteed by the federal government, that would be repaid with revenues, if any, from the reactor's operation or, more likely, with tax dollars. The plan doesn't have much support in the House, which hasn't provided any fiscal 1984 funding for Clinch River.

While we continue to oppose the Clinch River reactor on economic grounds, there is more at stake here than a mere nuclear power plant. If this funding scheme is allowed to squeak through, it will be a further corruption of the congressional budget process, which is already in shambles. The kind of budgetary legerdemain envisioned by Sens. Baker and McClure would be yet more proof that Congress has abdicated its clearest constitutional responsibility, watching over the purse strings.

EXHIBIT 3

TIME'S UP FOR CLINCH RIVER

The Clinch River breeder reactor was started 13 years ago as a demonstration project, and it has since demonstrated itself to be worthy of termination. Congress knows this, and should, with all due dignity, punch its lights out.

The Congressional Budget Office, in an analysis of a cost-sharing scheme designed to save the staggering behemoth, blasted a hole between its eyes. The plan would raise the government's ante, not lower it, and that's talking big money.

In 1970, when Clinch was born, its estimated cost was \$400 million. Three years later, it jumped to \$700 million. As of today, some \$1.5 billion has been spent, and it's still not finished. The most optimistic completion projection is now \$4 billion, with some estimates going to twice that.

Noting this progress, we should also take a look at the way the nation's energy picture has changed since Clinch River was conceived. Back then, it was assumed that the 7 percent annual electric power growth rate seen in the 1960s would continue. Instead, it has dropped below 3 percent. Energy planners also expected over 1,000 new nuclear plants to be on line by the year 2000, making breeders a good idea since fuel supplies would have become low, and breeders can draw more energy from uranium than conventional reactors. But nuclear plant start-ups are as common today as new primary colors. There's plenty of uranium around.

Clinch backers are trying to slide the plan through the Senate on a continuing resolution. To block this, more than 100 House members want to attach an amendment to the resolution requiring that the project be financed under separate legislation. That would effectively remove it from the continuing resolution, allowing the cost-sharing plan to be voted on in committee on its own merits. Having none, the plan would certainly fail, thereby killing Clinch River once and for all. The breeder's backers know that the only way this project can pass is through the back door. And if the Senate goes along with the strategy, it is abandon-

ing its responsibility to the American taxpayer.

The end has been long in coming. Last year, Congress demanded that a cost-sharing plan be devised. This year, we have one. Figure it's Clinch River's best shot. And since this supposed cost-sharing plan would raise the total cost \$250 million more than if the government paid the whole ticket, consider it a dud. As we've said many times over, if Clinch is such a hot idea, the private sector would be lining up with its own fists full of dollars to get a piece of the action, instead of queuing for government hand-outs.

Mr. HUMPHREY. I yield to the Senator from Idaho.

Mr. MCCLURE. Mr. President, I apologize to the Senator's change of thought. I think his reference to the support of the administration needs to be put in context right now. It is a little difficult to contend that when the President of the United States supports a project and an assistant secretary within the Department of Energy signs a letter that somehow it means the man in between is not in support. As a matter of fact, just to underscore that I do have a letter signed by Donald Hodel, Secretary of the Department of Energy in support of the breeder reactor project and his particular solution to the problem and I will at the proper and appropriate time make it a part of the RECORD. I think the Senator ought to know that I do have that, that I do not mean to foxtrap him later. But I think it is the appropriate way, putting the matter in at a later period of time.

Mr. HUMPHREY. I thank the Senator for that information. The fact of the matter is the Secretary of the Department did not put his name on the letter on October 24, and I believe there is a message in that, and I believe in putting it in in the extension of the Clinch River remarks.

Mr. President, let me return to citing public statements of various persons or organizations that have great credibility on matters of energy.

This is from Mason Willrich, vice president for corporate planning, Pacific Gas and Electric Co., speaking to the Uranium Institute in 1981:

It seems to me ironic that the federal government is now pushing ahead with the Clinch River demonstration breeder reactor at a time when a disabled light water reactor immediately threatens the future of the light water reactor industry. There will be no market for breeder reactors unless there is a prolonged period of expansion in the market for light water reactors. If the Reagan administration intends to revive and maintain a viable nuclear power option in the United States, the Three Mile Island cleanup should have, in the near term, a higher priority in the use of scarce government funds than breeder reactor development.

These are the remarks of Walter Olsen, associate editor, Regulation magazine, American Enterprise Institute—American Enterprise Institute.

That is hardly a far right or far left organization, but a middle course organization, I think most would agree. Quoting Mr. Olsen:

All the economic evidence seems to point in the same direction: it won't make sense to build commercial breeders until well into the next century at least. The reluctance of utilities to shoulder the full cost of the project should tip us off that it's a money loser. Projects like this are a millstone dragging down the nuclear industry.

Mr. Olsen's remarks about reluctance of utilities to shoulder the full cost of the project brings up another interesting point, Mr. President. Under the proposed alternative scheme, the utilities will not be called upon nor have they agreed to increase their investment, their share of the cost, their contribution. They will be paying what they agreed to under the original Clinch River proposal back in 1973 or thereabouts. They will be paying what has been long overdue, but no more, not a cent more. They are not increasing their contribution. They are paying outstanding obligations that have been outstanding for some years, and that is all they are doing, paying up on what they originally promised.

Quoting the remarks of Arnold Kramish, former Manhattan Project nuclear physicist; former assistant to the manager, Atomic Energy Commission; member of the National Planning Association's Breeder Board.

In some respects the best way to kill the U.S. nuclear program is to keep Clinch River alive. It will be the subject of controversy year after year until it is built. That's approximately ten more years. Do we want to prolong this controversy, will this controversy be beneficial to the nuclear industry? That is the major question which the nuclear industry and the Department of Energy should ask of itself.

These are the remarks of Thomas Moore, director of Domestic Studies and senior fellow, Hoover Institution, Stanford University.

I might point out, Mr. President, that Mr. Moore is a Republican who supported President Ford and who worked on the Reagan transition team.

Nuclear power offers the nation a benign, safe, non-polluting and economical method of generating electricity. The Clinch River Breeder Reactor, however, would be an expensive, inefficient project that would waste the taxpayers' dollars. In a period of low and falling uranium prices, breeder reactors are unwarranted and the Clinch River project is a particularly poor public investment.

Quoting Gordon Jones, Energy and Environment Foundation, former energy analyst, Senate Republican Policy Committee, and Energy Task Force Director of the 1980 Republican Platform Committee:

Nuclear energy is too important to the Nation's future to allow it to be discredited by the Clinch River project.

Well, Mr. President, I think to say more would be redundant. I think Senators get the picture. Clinch River is not needed. It is not a part of our base breeder reactor research program. Even zeroing out Clinch River today, refusing to provide this appropriation, will not terminate our base breeder reactor research program. That will continue; that is the bulk of the dollars in the breeder reactor research program, in the breeder program.

Clinch River is a minority share in terms of dollars. The bulk will continue even if we zero out Clinch River today. We do not need it. We can preserve the breeder reactor option for the future, commercialization option for the future, by continuing the base program.

I do not suggest that we discontinue the base program. I support it. But I do suggest and urge that we discontinue this demonstration project which is unneeded and an unnecessary waste of taxpayer dollars.

As to the so-called alternative financing scheme, Mr. President, it is complicated and it is difficult to understand. Experts on both sides refute each other. But the basic point for Senators to remember is that the private sector investors in Clinch River bear no risk, zero risk. They will be repaid either by revenue from Clinch River and/or by appropriations of Congress.

If the revenue stream from Clinch River, for whatever reason, any time over the next 30 years is insufficient to repay the private investors, guess who will be asked to make up the difference?

More than likely, this is not the last appropriation, though it is a gigantic one. More than likely, if we go forward, Clinch River will be a bummer in one respect or another, and Congress will have to make up the difference. So the so-called private investors will be repaid their principal and their interest.

We give up effective oversight if we pass this appropriation. It will not be coming back next year or the year after. We will not have an opportunity to review it annually, as we do with projects of this nature. We are kissing off forever oversight responsibility and capability for Clinch River.

But let me make a point which I have not raised before until now. Under the original Clinch River scheme, we have a 5-year obligation to operate the plant. If we opt for the alternative scheme, the new scheme, we have to operate that plant for 30 years in order to generate the revenue stream to repay the investors. And if for some reason, any reason—and there could be many; there are many potential reasons—we would choose not to operate the plant, then Congress is going to have to make up the

difference, going to have to appropriate money to pay off the investors.

One last point, and again one that I had not thought to raise until now, but a very, very important one which is frequently overlooked and nearly always overlooked in this whole debate. It will not be enough to go forward with Clinch River. If this is to be a 30-year commercialized plant, Clinch River, by itself, is not enough for that to work.

We are, in addition, going to have to build a breeder reprocessing plant to reprocess the fuel bred by the breeder. How much will that cost? Just \$1 billion. You can add that on top of the \$1½ billion we are proposing to spend here today.

We need a fuel fabrication plant—again, just a billion dollars. That is \$2 billion on top of the \$1½ billion we are asking for today. And even that \$1½ billion is not going to be enough. I think Senators know that, based on the dismal performance of Clinch River in the past against the projections.

Mr. President, I ask unanimous consent that I may relinquish the floor at this time without my speech upon resumption being considered a second speech in the matter.

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

The Chair recognizes the Senator from Oregon.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCURE. 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. McCURE. Mr. President, I listened with a great deal of interest to the remarks of my good friend and able colleague from New Hampshire (Mr. HUMPHREY). I could not help but want to make some direct response to some of the individual comments that were made. I shall do so at various points during my remarks.

One in particular, I think, is worth putting into perspective at the outset, because I understand my friend to have said that when we have the events in the Middle East going on we have now, we ought not to be wasting our time talking about Clinch River or a breeder reactor program. Mr. President, the reason I focus on that is that I think my friend from New Hampshire, wittingly or unwittingly, has put his finger upon a very crucial aspect of this debate.

The question that we need to be concerned about with the Clinch River breeder reactor program is future

energy self-sufficiency. To put it in a different way, how do we reduce our vulnerability as a nation to the interruption of energy supplies that have so disrupted and threatened the security of this country and distorted our economy and our domestic and foreign policy in the recent past? How we could overlook the connection between those two things is beyond my comprehension.

Just 10 years ago, almost exactly 10 years ago, there was an oil embargo imposed upon the United States because of our involvement in an earlier Middle East conflict. It was on October 22, 1973, that that embargo became effective. The events in Lebanon do not necessarily and, we pray, will not necessarily result in any kind of open, widespread regional conflict, but they bear that potential. We pray that that will not spread and we, as a matter of fact, pray that if that event should occur, it will not result automatically in the imposition of the same kind of embargo that we saw in 1973 that demonstrated to the world that the industrialized economies had become vulnerable to the imposition of energy shortages and that that vulnerability could and did result in massive economic shifts. We have not yet recovered—indeed, we cannot fully assess the impact of those economic events.

That was followed in 1979 by another demonstration following the fall of the Shah of Iran from power in 1978, the outbreak of the war between Iraq and Iran, that resulted in a reduction in energy supplies that was about 10 percent of the free world's production of oil. That caused, again, a doubling of the price of oil, even after the massive increases that occurred in 1974 as a result of the 1973-74 embargo.

How naive, how shortsighted, how terribly frustrating it is to be faced with the argument that we should not be concerned about energy because we have a war going on in the Middle East. Precisely because there is a war going on in the Middle East, we should be concerned. We can debate about whether this is the right way to respond to that question or not and informed judgments can and will differ on that question. But I think the argument cannot be made and must not be permitted to stand that, somehow, these are unrelated.

Will we need a breeder reactor? Do we need nuclear power? What kind of power do we need? What kind of energy sources do we need? That is the debate we should be entering into, not whether or not this is an irrelevancy to the current international situation.

I am very much concerned that the attention span of the American people, directed as it is by the American media, is about that of a 3-year old. I have a 3-year-old granddaughter

who has greater consistency of purpose than this Nation seems to have in meeting our energy crisis. We do have an energy crisis—past, present, and future, Mr. President.

I call attention to a letter which has been addressed to me by the President of the United States, in which he makes this point:

Congress consideration of whether to complete this project comes almost exactly on the 10th anniversary of the 1973 oil embargo when we, as a Nation, first realized the extent of our then dependence on foreign sources of energy. It truly would be ironic if, on this 10th anniversary of the embargo, during a time of heightened tension in the Middle East, we refused to complete this project at a cost equivalent to approximately 8 days of imported oil.

That letter is addressed to me, dated October 20, 1983. Again, that coincidence of dates. The King of Saudi Arabia, on the 19th of October, 1973, had announced their actions that then became the formal action on the 20th of October, the exact date of the President's letter, and that embargo became effective on October 22, 1973. So there is a reason for us to be concerned about and reminded about energy supply simply because of the tensions in the Middle East that have a potential for doing to us what has been done to us twice before.

Mr. President, during the 97th Congress, we directed the Secretary of Energy to provide Congress with a proposal to reduce the Federal budget requirements for the Clinch River breeder reactor project and to secure greater participation from the private sector. I want to remind my colleagues that this debate that has been held periodically resulted in that congressional action of a little over a year ago, directing that the industry and the proponents of the reactor project come up with an alternative financing program. Again, some people have forgotten that Congress played a role in requiring the result which has been achieved.

In response to that congressional directive the Secretary of Energy submitted to the Congress on August 1 of this year such a plan. I must emphasize that this was not an initiative of the Secretary or of the administration but a response to a congressional directive. After a review by various committees in the House and Senate, as well as numerous analyses by groups such as the General Accounting Office and the Congressional Budget Office, the Senate Appropriations Committee voted to include in this supplemental appropriations bill language which would, in essence, implement the alternative financing plan presented by the Secretary of Energy. This plan was developed by the Secretary in conjunction with the Breeder Reactor Corp., a consortium of 753 electric utility systems, and the nuclear industry, labor, and investment banking firms. Before

submitting this plan to the Congress, President Reagan and high level administration officials reviewed it and emphasized their strong support for completion of the project.

Before I turn to the specifics of the financial plan embodied in the appropriations language Mr. President, I feel I must address the question of whether or not breeder technology and, in this case, the Clinch River breeder, is a necessary step in our Nation's energy development. This seems to be the underlying issue before us even though Congresses since the 91st have voted to support this effort. Some opponents have claimed that our decreasing use of energy in this country dictates that we postpone breeder development. I would remind my colleagues of something that perhaps they have missed during all of the public comment, the fact that we are using less energy, that conservation is taking hold, that imported oil is a declining part of our national energy mix, and that is while nonelectric forms of energy use has dropped 15 percent over the past decade, we have increased our demand for electricity by 20 percent. Even while overall energy was going down 15 percent, electric energy demand increased by 20 percent.

Contrary to the claims of some that the breeder technology embodied by Clinch River is obsolete, the GAO and others have repeatedly stated that the technology is sufficiently updated, even after its federally imposed hiatus, that it ranks among the world's most advanced breeder concepts. As has been said before, over 70 percent of the hardware has been fabricated and well over 90 percent of the design is complete for this project. If there is any assurance that this project can be built in a timely basis, it is these two facts and furthermore that the licensing process is now uncontested and site preparation has begun. The principal stumbling block remaining in the timely completion and operation of this project is the Congress. The proposal before us today would resolve this by providing a one-time appropriation to the project and permitting the Secretary to utilize private sector investment on a scale never before attempted by this Government.

The total remaining cost of the plant has been estimated at \$2.5 billion. Of that, the private sector would provide \$1 billion in a combination of equity and debt financing. That is 40 percent of the completion cost. It was never contemplated at the beginning of the project that the utilities should be required to bear a fixed percentage of total project costs in the form of research and development contributions from their ratepayers. True, the initial pledge amounted to a significant portion of conceptual design expense, and

the share which the utility industry will contribute to the total project has declined as a percentage of total costs as the cost of the project has increased. But the responsibility for that result cannot be charged to the Federal Government, where vacillation and a lack of determination to see the project through to completion have brought about delays which have cost hundreds of millions of dollars and driven the cost of the project up to its current level.

The legislation before us offers an opportunity to end that vacillation and reach a decision with respect to the future of the project which will carry the project forward to completion at a cost to the Federal Government which is only 60 percent of the remaining cost of the project. To my mind, that is a significant source of private sector participation.

In order to attract this financing for what is essentially an R&D project, it would be necessary to provide certain guarantees to the private sector. These guarantees include guarantees against a failure to complete or operate the project, against changes in the tax laws, and assurances against liabilities for uninsurable tort liabilities. I hasten to add at this point that contrary to the statements of the projects opponents the purpose of requiring this plan was not to find ways to have the private sector share the risks of this R&D project. The purpose, as clearly stated by the language, was to:

Reduce Federal budget requirements for the Clinch River project or project alternative, and secure greater participation from the private sector.

The proposal before us does that to the tune of \$1 billion. What it does not do, which its opponents claim, is guarantee 37-percent return on the private sector investment or create tax revenue losses through diversion of private sector capital. It does create 20,000 jobs. It does offer an opportunity for minority contractors, and it does move this country forward in the face of perilous times for our energy future.

Mr. President, I ask unanimous consent that a list of the groups supporting this project, which includes, among others, the AFL-CIO, NAACP, U.S. Chamber of Commerce, National Society of Professional Engineers, and the Laborers' International Union of North America be included in the RECORD.

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

SUPPORTERS OF THE CLINCH RIVER BREEDER REACTOR

AFL-CIO.
American Association of Engineering Societies.
American for Nuclear Energy.
American Nuclear Energy Council.
American Nuclear Society.
American Public Power Association.
Association of General Contractors.

Atomic Industrial Forum, Inc.
Edison Electric Institute.
General Federation of Women's Clubs.
Institute of Electrical and Electronics Engineers.

International Association of Bridge, Structural and Ornamental Iron Workers.

International Association of Heat & Frost Insulators and Asbestos Workers.

International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers.

International Brotherhood of Electrical Workers.

International Brotherhood of Painters & Allied Trades.

International Union of Bricklayers & Allied Craftsmen.

International Union of Elevator Constructors.

International Union of Operating Engineers.

Laborers' International Union of North America.

National Association for the Advancement of Colored People.

National Association of Manufacturers.

National Black Caucus of State Legislators.

National Conference of Black Mayors.

National Rural Electric Cooperative Association.

National Society of Professional Engineers.

New England Council.

Operative Plasterers' & Cement Masons' International Association of the United States and Canada.

Scientists & Engineers for Secure Energy.

Sheet Metal Workers' International Association.

Tile, Marble, Terrazzo, Finishers & Shopmen International Union.

U.S. Chamber of Commerce.

United Association of Journeymen & Apprentices of the Plumbing & Pipefitting Industry of the United States & Canada.

United Brotherhood of Carpenters & Joiners of America.

United Union of Roofers, Waterproofers & Allied Workers.

Utility Workers Union of America.

U.S. Committee for Energy Awareness.

Youth for Energy Independence.

Mr. McCURE. Mr. President, at this point I would like to review for the RECORD, the language contained in the appropriation bill and explain its intent for the purposes of those who may seek clarification in the event of any legal or administrative debate over the intent of the language. The first sentence on page 12, line 18, is:

For construction and operation of the Clinch Breeder Reactor Project, one billion five hundred million dollars to be made available until expended, but contingent upon commitments, satisfactory to the Secretary of Energy, for utility and private sector financial participation for a minimum of 40% of the Department of Energy estimate of the remaining capital costs as reported to Congress on March 15, 1983.

This \$1.5 billion figure represents 60 percent March 15, 1983, DOE estimate of the remaining construction costs. This appropriation may be used for the continued design and construction of the Clinch River breeder reactor, but if such costs are less than \$1.5 billion, the remainder of this appropriation

could be used for operating, maintenance, upgrading in other project costs during the useful life of the reactor.

The final sentence of this provision provides that \$135 million of such appropriation will be available during fiscal year 1984 while the commitments for private-sector financing are being obtained. Further appropriations, the remaining \$135 million for fiscal year 1984 and the sums appropriated for following years will be available only if: First, utility and private sector commitments are obtained for at least the remaining 40 percent, approximately \$1 billion, of the March 15, 1983, DOE estimated remaining construction costs, plus the amount of interest paid on private-sector debt during construction, and, second, if such commitments are satisfactory to the Secretary.

Private sector financing could be a combination of debt and equity or, if equity can only be obtained at a cost or on terms which the Secretary determines are unreasonable, all debt.

Private-sector financial commitments could take the form of: First, conventional underwriting agreements executed and delivered by investment banking firms, which would obligate such underwriters to purchase for resale to private-investors specified securities, the proceeds of which would be invested in the project or used to repay other shorter-term private investments in the project; second, contracts with banks or institutional investors, such as insurance companies, to loan funds for the project, and, third, contracts with corporations or other persons to directly or indirectly invest equity funds in the project in order to obtain certain tax benefits derived from an ownership interest in the project assets, which corporations or other persons may include suppliers to, or contractors for, the project. Each such underwriting agreement and contract would have certain conditions that must be satisfied before funds are actually provided by the private sector investors thereunder; such conditions would include, but not be limited to, the requirements that certain Federal contracts described below be in full force and effect, and that private-sector investors receive satisfactory opinions from counsel to the Department of Energy, and, perhaps, other governmental agencies, concerning the enforceability of such Federal contracts, the legal status of the CRBR project, and other related matters.

Also, over 750 electric utilities, including the Tennessee Valley Authority, and project contractors will have contributed more than \$150 million for research and development by the end of fiscal year 1983. Furthermore, if the project goes forward, the utili-

ties and the contractors will contribute an additional \$175 million, including interest, to the project for research and development.

The Secretary will similarly require that appropriate conditions be satisfied before Federal money, other than the initial \$135 million in fiscal year 1984, is actually obligated under this appropriation. Such conditions would include, but not be limited to, the requirement that the private-sector financial commitments which are then in effect be satisfactory to the Secretary. It is expected that the Secretary will be satisfied with the utility and private-sector financial commitments if he has a reasonable basis for believing that such commitments will be met and that such funds would be provided to the project after considering such matters as he deems relevant, which may, but need not necessarily, include: First, the financial condition of the proposed private investors who made such commitments; second, the terms of and conditions to such financing and whether it appears to him that such terms are reasonable and such conditions have a reasonable possibility of being satisfied; and, third, the qualifications and experience of any underwriters which will obtain such financing.

The second sentence of the provision on page 12, line 25—

In addition to the amounts herein appropriated and in consideration for such financial participation and notwithstanding any other provision of this Act, the Secretary is authorized to contract incontestably to (1) provide to participants ownership interests in the project, products, services and/or revenues from the Project, (2) repay funds invested by the participants subsequent to the passage of this Act, plus interest, if the project is not completed, not licensed for operation, or terminated at any time, (3) insure revenues from the Project for the repayment of debt, (4) indemnify participants against changes in Federal laws affecting their financial participation in the project, and (5) indemnify participants and the operator against uninsured liabilities with respect to the project.

provides contract authority, in addition to the \$1.5 billion of appropriated funds, under which the Secretary is authorized to enter into long term or other contracts in advance of funding. Contracts entered into by the Secretary pursuant to this authority would be the types of contracts specifically excepted from the Anti-Deficiency Act, and such authority enables the Secretary of Energy to contract to provide the Federal Government assurances which are essential to attract debt and equity investors to the project, as follows:

In addition to the amounts appropriated and in consideration for such financial participation, and notwithstanding any other provisions of this Act,

Private-sector debt and equity investors will participate in the project by investing capital in the CRBR project,

either directly or through corporations, partnerships or other organizations commonly used for financial investments. Any person or organization investing in the project or facilitating such investments may be considered by the Secretary to be a participant in the project. The Secretary may under this authority contract with private investors for the required CRBR funding which would assure that the Secretary could continue the construction and operation of the CRBR under the present project arrangements. Such long-term contracts in consideration for such funding, may provide a number of assurances I will specify later. The phrase "notwithstanding any other provision of this Act" assures that the authority of the Secretary to enter into long term or other contracts will not expire at the time specified elsewhere for the continuing resolution.

The Secretary is authorized to contract incontestably to

Private-sector investors have available a vast array of possible investments, some of which are supported by financial commitments of the Federal Government; almost all of which Federal financial commitments have been entered into pursuant to legislation which provides that the Government's commitments thereunder are incontestable. For example, 42 U.S.C. 5919(f)—alternate fuel demonstration facilities; 45 U.S.C. 664(b)—emergency rail services; 46 U.S.C. 1273(e)—Federal ship financing. Thus, in order to make investments in the CRBR project at least as attractive to private-sector investors as investments in other federally supported investments, and to induce such investors to make investments in the CRBR project, it is necessary that CRBR financing contracts similarly be incontestable. The appropriation authorizes, but does not require, the Secretary of Energy to make such contracts incontestable. It is expected that the incontestability of such contracts would be subject to the conditions of such contracts and would not be incontestable with respect to fraud or misrepresentation on the part of the holder of such contract. It is contemplated that the term of such contracts may be coextensive with the term of any capital borrowed from the private investors:

(1) provide to participants ownership interests in the project, products, services and/or revenues from the project,

Private-sector investors will not invest in the CRBR project unless they derive benefits from such investments.

Tax benefits associated with investments in any project are only available to investors which have a direct or indirect ownership interest in its assets; thus, it is necessary to authorize the Secretary to grant to private-sector equity investors ownership in the

CRBR project so that such tax benefits will be available to them as a result of such investment.

Equity investors also conventionally participate in the profits of losses, if any, of a project in which they have an ownership interest, and parties which loan funds to a project frequently require that the repayment of the principal of and interest on such funds be secured by a pledge of revenues from the project or some other form of credit; thus, it is necessary to authorize the Secretary to provide to private-sector equity investors and/or parties loaning funds for the project, on a long-term basis, property interests in the CRBR project, products, services and/or revenues so that they may be induced to make such investments and loans.

The extent, term and nature of ownership interests in the CRBR project and its revenues provided by the Secretary of Energy would be established by negotiations between the Secretary and private sector investors providing the financial commitments which must be satisfactory to the Secretary.

(2) Repay funds invested by the participants subsequent to the passage of this Act, plus interest, if the project is not completed, not licensed for operation, or terminated at any time.

This clause authorizes the Secretary to provide the first of the specific assurances which will be required by private sector investors in this federally managed and controlled research and development project as described in the BRC task force report submitted to the Secretary of Energy on June 29, 1983, as follows:

1. Assurances as to completion, licensability and operability.

Governmental contracts to provide sufficient funds to repay all construction loans, private equity and other investments in the Project if it is not completed satisfactorily, fully licensed and placed in commercial operation in a timely fashion, in which case the investors would be entitled to recover their capital plus interest or a return thereon.

Such contracts will define the conditions which constitute completion, licensing, operation, and termination of the CRBR project for purposes of the private investments in the CRBR project and any capital costs. Termination of the CRBR project could occur either before or after it is completed. Completion of the CRBR project may contemplate that it be fully licensed and operating at a level of electric generation over a period of time sufficient to demonstrate its operating reliability, and capability of producing sufficient revenues to enable it to pay its operating and maintenance costs and to provide negotiated returns of and on private debt investments made in the CRBR project. Research and development contributions made by utilities, including TVA, pursuant to their

existing contracts would not be recovered by them under any circumstances.

(3) Insure revenues from the project for the repayment of debt.

This clause authorizes the Secretary to provide the second of the specific assurances which will be required by private sector investors as described in the June 29, 1983, BRC task force report as follows:

2. Assurances that all debt service obligations of the Project as well as its obligations to equity investors will be met under any and all circumstances.

Government contracts to provide sufficient funds to cover all obligations to private investors plus all construction and operating costs, taxes and other claims, with respect to the CRBR Project, and to receive a portion of the proceeds from the sale of the power and any other revenues from the CRBR Project up to the amount of such funds, whether or not there are any such other revenues or power.

Long term contracting authorizing which will insure the availability of an agreed upon level of revenues from the sale of power, steam or other products or services from the project after its completion is necessary so that project revenues will be sufficient to repay private sector capital costs, including interest. The amount to be provided by the Federal Government will be offset to the extent of revenues actually derived from operation of the project. The CRBR project will be operated, managed and totally controlled by the Federal Government, and private sector investors will not assume operating and management risks over which they have no control.

(4) Indemnify participants against changes in Federal laws affecting their financial participation in the project.

This clause enables the Secretary to provide the third of the specific assurances which will be required by private sector investors as described in the June 29, 1983, BRC task force report as follows:

3. Assurances that all tax credits, deductions and other tax incentives, related to the privately-financed portion of the Project, will be available to the private investors as planned.

Governmental contracts to provide sufficient funds to make appropriate repayments to private equity investors if tax incentives are not more available as planned.

Private sector equity investors would commit funds to the project based upon an assumed after-tax rate of return on their investments, an important element of which is the realization by such investors of Federal income tax benefits associated with their ownership interest in the project.

Such contracts will require the Federal Government to pay to private sector equity investors funds in such amounts which, after any taxes on such payments, will provide such investors with the originally contemplat-

ed rate of return on their investments if such rate of return would otherwise be reduced by any changes in the Federal income tax laws with respect to such tax benefits, which are expected to include investment tax credits, depreciation expenses, and related matters.

Each investor will bear the risk that its particular tax situation may limit or prevent it from actually using such tax benefits.

And (5) indemnify participants and the operator against uninsured liabilities with respect to the project.

This clause authorizes the Secretary, in addition to maintaining indemnifications outstanding under existing project arrangements, to provide the last of the specific assurances required by private sector investors, as described in the June 29, 1983, BRC task force report as follows:

4. Assurances against liabilities for replacement power costs and all uninsurable tort liabilities, resulting from the CRBR Project. Governmental contracts to provide such assurances.

Such contracts would insure the operator (TVA), private sector investors and contributors against risks for which insurance cannot reasonably be obtained from commercial sources. Such assurances are necessary for private sector investors and contributors because they may be co-owners of the project but will have no control over the operation or management of the CRBR project, or the conditions under which such liabilities could arise.

The CRBR project will be operated by the Tennessee Valley Authority under a full cost-reimbursement contract with DOE; but the TVA will not own the project, or the electricity produced therefrom, nor will the TVA obtain any economic benefits from the CRBR project. Therefore, as operator, the TVA must be fully indemnified against uninsurable risks which otherwise could adversely affect its customers, just as would be the case if the TVA were to contract to operate any facility for another organization.

The third sentence of this provision, beginning on line 12 of page 13—

Such contracts may be assigned and shall be enforceable against the United States in accordance with their terms except in the case of fraud by the assignee.

Will provide a degree of liquidity to investors in CRBR project by assuring that, in accordance with the terms of their contracts, such investment may, with the consent of the Secretary, be assigned or transferred and will remain enforceable against the Federal Government except, of course, in the case of fraud by the holder of such investments.

The fourth sentence of this provision—

Participation in the project shall not subject a participant to regulation under the

Public Utility Holding Company Act of 1935.

Exempts participants in the CRBR project which are not presently subject to regulation under the Public Utility Holding Company Act of 1935 from regulation under that act arising in any manner out of their participation in the CRBR project.

The sources of the largest potential equity investments in the CRBR project are business corporations, institutional investors and, perhaps, some individual investors, which are not regulated utility companies. Private sector investors will not accept any ownership interest in the CRBR project if there is any risk that they would be regulated under the Holding Company Act, pursuant to which the Securities and Exchange Commission regulates the terms of securities and their issuance, the capital structure, and certain corporate functions of entities which are subject to regulation thereunder.

Under the Holding Company Act, any "organized group of persons, whether incorporated or not * * * which owns or operates facilities used for the generation * * * of electric energy for sale * * *" is defined as a "public utility company" title 15 United States Code, Sections 79b (1)-(3), (5). This definition would apply to any entity which has an ownership interest in the CRBR project. Any entity which owns, controls or holds 5 or 10 percent of the voting securities of, or directly or indirectly exercises a controlling influence over, a public utility company will be regulated as an "affiliate" of a holding company or a "holding company" under the act. Exemptions from regulation under the Holding Company Act which are presently available are neither sufficiently broad nor permanent, nor can they be obtained by SEC rule or other action in a timely fashion, to provide potential investors with the assurance that they will not become regulated thereunder as a result of their investment in the CRBR project.

If an entity is, or otherwise becomes, regulated under the Holding Company Act and participates in ownership of the CRBR project, it would continue to be or become regulated in the same manner following such investment. The appropriations legislation is not intended to change the nature or extent of regulation of any project participants under the Holding Company Act, if they already are, or for some other reason become, regulated thereunder.

The fifth sentence of this provision is:

All monies received by the Secretary under this heading may be retained and obligated for the purposes of the project and shall remain available until expended.

Such moneys could be obtained by the Secretary from the sale of products and services from the project, and could be used to pay all or a portion of the obligations of the Secretary under contracts with private sector investors, and operating, maintenance, modernization and other project costs.

The penultimate sentence of the appropriation provision, namely—

Of the \$1,500,000,000 appropriated by this heading, up to \$270,000,000 may be obligated during fiscal year 1984, of which \$135,000,000 may be obligated notwithstanding any other provision of this heading; and up to the following amounts may be obligated during the following fiscal years: \$285,000,000 during 1985; \$290,000,000 during 1986; \$290,000,000 during 1987; \$185,000,000 during 1988; \$75,000,000 during 1989; \$105,000,000 during 1990 and beyond.

Divides the \$1,500 million appropriation into portions to be available during each fiscal year from 1984 through 1990, all of which, except for \$135 million unconditionally available during fiscal year 1984, are contingent upon there being commitments for private sector financing. The funds appropriated for fiscal years 1984 through 1990, with the funds provided by the utility and private investors under this BRC plan, would provide sufficient financing to assure the construction of the project in accordance with the construction schedule.

Mr. President, I want to summarize some of the points which I understand to have been made and which I understand from the statement of the Senator from New Hampshire (Mr. HUMPHREY).

He indicated that the CRBR has nothing to do with the base program which he says he supports. He may well believe that. If indeed he does believe that, then he is misinformed, in my judgment, because I have already been confronted by the arguments of some in opposition who have suggested that if we do not have the Clinch River project we do not need a breeder safety program; if we do not have the Clinch River project, there is no need now to go forward at the same rate with respect to the development of other research projects that deal with future technologies to be used in breeder production in this country.

It has everything to do with the base program, and there is a linkage that will inevitably result in the level of commitment and level of effort to the base program.

He suggests that breeders are not commercial, so that the CRBR is premature. Mr. President, it is, of course, not commercial. It is a demonstration plan. It is an interim step. If, as a matter of fact, we should appropriate nothing or very little until we are ready to go commercial, why are we investing over a half a billion dollars a year in fusion research? Why would we be spending hundreds of millions of dollars a year in solar research and

applications? Why are we spending hundreds of millions of dollars in regard to other programs which are precommercial? The very argument that since this is precommercial we should not spend any money simply says we should spend no money across the broad realm of research, development, and demonstration programs from conservation, to geothermal, to solar, to alcohol, to fossil fuels, to all of the rest of the alternatives.

We are right now in the midst of trying to preserve the financial viability of the Great Plains coal gasification project that is in financial difficulty because of the declining price of energy in a fossil energy market. We are going to try to rescue that because it is essential that we build toward the future energy projections in this country, and that requires that interim steps be made. Some have said that we ought not develop a demonstration project, the Clinch River project, because we will not need breeder reactors in this century.

Mr. President, I agree that we do not need a breeder commercial program in this country, and I will tell you that if we do not go ahead with Clinch River we will not have the beginning in the early part of the next century either, for those who would stop us now will not eagerly see us restart.

This is a demonstration program. Some people forget it is not a commercial power-production reactor. It is a 350-megawatt plant. It is sized not to go into the commercial market but to test the theory—the viability and the economics—of a technology that has moved beyond the laboratory stage and is ready to test the next step.

Many years ago, we created a laboratory experiment, moved out of the laboratory into experimental breeder reactor No. 1, and that breeder reactor No. 1—EBR-1—is now a national historic landmark, because it is the first atomic powerplant to produce electricity that went into a commercial power grid. I know a great deal about that, because it happens to be located in my State.

Experimental breeder reactor No. 2 came online almost 20 years ago. That was the follow-on to EBR-1. Some could have argued that EBR-2 should not have been built because we are not ready to go commercial, just as the Senator from New Hampshire has argued that we should not build Clinch River because we are not ready for commercialization. We would not be ready to go to the Clinch River breeder as the next step if we had not built EBR-2.

EBR-2, which has been in operation for almost 20 years, has been an outstanding success as an experimental reactor and as a demonstration of the several technologies and fuel components that can be used in such a liquid sodium-cooled breeder reactor.

The usual reliability factor for fossil fuel plants is on the order of 65 percent. The usual reliability factor for a conventional nuclear plant is slightly lower than that—reliability in the sense of its availability for online production of electricity. But even though EBR-2 is not a commercial reactor—is not even a demonstration reactor—it is an experimental reactor, changing cores, changing conformation—its online availability has been between 65 percent and 70 percent, exceeding the online availability of the commercial reactors in practice, which begins to underline some of the promise of the breeder reactor concept.

Yes; if we are going to have an option to exercise at a time when we might need it, we must take the interim steps now, and Clinch River is the next necessary interim step.

It has always been contemplated that once the Clinch River breeder reactor had been completed and operating, and successfully operating, we would take the experience gained from that construction and operation and merge into the next step—another demonstration project which would follow on, which would be roughly twice size of the Clinch River breeder, another demonstration, another precommercial step that is necessary to take.

We expect the Clinch River breeder will be in operation by 1990. Following that, we would have to merge into a new design, new concept, new project, which would take in excess of 10 years to design, complete, and put into operation, and we are beyond the year 2000 by the time that is taken and those steps, precommercial steps, are necessary.

Let us not be deluded into the notion that since we have a glut of energy today, we have no problems, and since we do not need the breeder reactor today, we need not develop it. Let us not think that if we ever need a breeder, we can buy it from the French. We need to develop the technology, and this is a quantum step forward in the technology.

Even the French are learning, from what we can tell, although their program has moved more rapidly in commercialization than has ours. You could not take a French breeder reactor and move it to the United States and install it in the United States, because it simply could not be licensed in the United States under our own standards today.

I think it is notable, in that respect, to refer to what members of the French CEA and the West German Ministry for Research and Technology have said. Remember, these are French agencies that have made this comment. I quote:

The Clinch River breeder reactor represents an outstanding milestone for the

future of fast breeders in the world. It incorporated technological features and innovations of great interest to the French and German side and its partners.

So this statement comes from both the French and the West German sources commenting upon the state of the art and the state of the technology.

I understand that my friend from New Hampshire made a comment that the CRBR is like WPPSS. All I can suggest is that he was attempting to raise the emotional level of the debate, not the intellectual content of it, by that comment. To say that they are alike simply displays that he either does not understand what the issues are or is attempting to divert our attention from what the issues really are.

I understand that he started by saying that this is a political debate, not one based upon facts. I should like to get back to the facts, not simply use political rhetoric, because Congress will make the right judgment upon the facts, and the right judgment is to move forward in the development of a new technology and the demonstration of that technology.

The suggestion was made by my friend that we lose oversight with this plan. Nothing could be further from the truth. As a matter of fact, we gain greater control under this plan than under the original authorization and the proceedings up to this date. It is important to recognize that these changes—the relative performance between the Federal and non-Federal entities—inject a greater degree of Federal oversight than in the original plan.

Some people criticize that, but I should not think the Senator from New Hampshire wants us to shy away from the fact that that is a factual statement, that we move in that direction.

He and others have criticized the fact that there are no cost overruns covered by the investors. The investors were never obligated to cover cost overruns.

Under the original plan, under any alternative that has ever been presented here, under the alternative that is here today, the private investors are not the guarantors of ultimate cost, never have been, and are not now. That is not a change, although we have by this plan, as directed by Congress last year, an increased participation in which there are risks to the private sector even though the cost overruns are not covered.

Let me make one parenthetical statement with respect to cost overruns. This plan was started in 1969. It was authorized in 1970. It was commenced in 1971. Tell me anything else, from the price of apples to the price of newsprint, that has not changed since 1971. If you look simply at the cost

comparisons between various elements in our society, various costs, various products, and consumer goods and services, the cost overruns, if you want to use that term—the cost increases—over that term almost exactly parallel general cost increases throughout our economy, except in the field of energy, which has gone up more rapidly.

I also point out that if it had not been for governmental interventions this plant would have been completed before now at lower cost both then and ultimately than if Government had not intervened. This was put on virtual hold for 4 years during the Carter administration. We made virtually no progress except in the delivery of components which were already then on order and under fabrication, which is again another way of pointing out the fact that many of these components have already been purchased. They are available and ready for installation as soon as the plant can be put together to the point of integrating them into the plant.

To abandon that investment seems to me to be one of the most foolish choices that we should make let alone the cost of termination of the project, and really when we look at the cost of this project we should be comparing the cost of termination with the cost of completion. Upon that basis, we certainly get a very great bargain in completing the plant under the terms that are contained in this financial package in comparison to the cost of terminating its construction, paying its termination costs, and losing every bit of investment that we have made, every bit of technological advancement that we would have gained by completion of this plant and the great setback that we would have if, as a matter of fact, we at some time in 10 or 15 or 20 years decided that again we need to look at the alternative of breeder reactors.

There is one other point that needs to be made with respect to this issue of cost overruns: To the extent that the equity shareholders receive revenues from power sales beyond retiring the debt, the DOE will require sharing of cost overruns. So to the degree that this plant has the potential of returning revenues out of the sale of power which is an incidental benefit of the building of the plant—it is not for that purpose but it has that benefit—to the extent that those revenues are greater than necessary to retire the debt, there will be a sharing of any increased costs beyond those projected. So there is the possibility of a sharing of cost overruns in this instance, not provided by present law, not provided by the current conditions under which this plant has been financed and developed to this point but in an increased obligation for the private sector that was not there under any of the original plans.

I think it is worth also saying with respect to the delay and the increasing expense, it was largely delay for, in the earlier years, technological, environmental, safety concerns, and NRC licensing, and those all contributed to the delay until the administration at an earlier time decided they were opposed to it and it was Congress, supported by analysis of the General Accounting Office, that enabled us to keep the project alive at all. It was congressional action that made it possible for us to be at the point we are today. It would seem very strange that now after so many years that Congress that kept it alive should suddenly decide now that the administration is for it that we should kill it. I would hope that we would not do that.

I point back to an earlier GAO testimony in which Dexter Peach stated:

We have consistently pointed out that the breeder program is a research and development program and the construction of a demonstration plant such as the CRBR or a similar demonstration plant such as the CRBR or a similar demonstration project is a logical step in the research and development process.

I wish to cover in general terms what I have covered in more specific terms in my prepared remarks placed in the RECORD with respect to private financing.

The allegation has been made that private financing is more expensive. As a matter of fact, there is only one study that indicates that and that is a study that compared the cost of financing under this proposal as against the alternative to total immediate funding by Congress through the appropriations process.

It is only in that comparison. But I do not understand my friend from New Hampshire or my friend from Arkansas or others who may oppose this project as being advocates of an immediate total funding from the Treasury of the United States. Certainly, the direction entered by Congress last year was to find an alternative so that that study, that analysis, that comparison, is totally fallacious and misses the point completely. They have no validity, and I think even those who made that analysis even today and since making that analysis admitted that that comparison was not a valid comparison and should not be used as a basis of judgment by any Member of Congress.

It is also suggested that this is a \$1 billion investment which would not be made, that this is an investment which, therefore, detracts from the capital pool that would be available for the creation of alternative enterprises instead.

Let me suggest if there is any very careful analysis of the real costs and alternatives indeed this is a cost-effective application of money in the capital markets of today both in terms of

the advancement of the technology and the reduction or potential reduction of vulnerability of the United States to a reduction in energy supplies coming from offshore and also in the terms of the efficiency of creating jobs as well.

Those analyses have been made and those are almost uniform in their conclusions that this investment rather than detracting from economic growth potential enhances economic growth potential.

I think it would be well to repeat again what I have said earlier because I know it has been stated and restated by my friend from New Hampshire that the CBO study says it will cost \$250 million to finance in this manner and that those findings are still valid. Even CBO admits that that statement is not correct. They admit that their analysis is not correct and that those findings should not be used today.

I have addressed the question of whether or not investors have risk and I think indeed we should point out that while under the original financing package they had virtually no risk except the equity which was then contributed, all of which is still at risk, it was not contemplated then and until this time has never been contemplated that the risk would be the private sector risk.

As a matter of fact, there is, however, some additional risk being assumed by the private sector, the risk involved in the question of return on the additional equity investment which they must make, the risk of return on the investment which is not what has been suggested by some, and finally the risk of whether or not they will be able to avail themselves fully of the tax credits that some people have automatically assumed will be theirs and which they hope indeed I think would say believe will be available but which is not a certainty. There is the risk in that regard.

So there are indeed some additional risks to the private sector in the package that has been put here.

Finally, Mr. President, I wish to make one brief comment with respect to the assertion of my friend that somehow this is a bad package because there is \$1 billion off budget. I find myself almost incapable of responding to it because it is so high off the wall to allege that because somehow we have required the private sector to go out and borrow \$1 billion that we have taken \$1 billion off budget. Indeed we have subtracted \$1 billion of potential cost from the budget, but we have not put it off budget as was suggested with respect to the strategic petroleum reserve because that is a direct Federal expenditure. All we did in that instance, and I did not agree with that action but it was done by a vote of this body which I resisted but, nevertheless, was passed, is to say we will spend

the money but we will not count it. This is an instance where not only will we not spend it, it simply is moved off the budget because the Government will not spend the money. To argue that that is off budget seems to me to be the most specious argument that might have been made and perhaps one of the most outrageous that has been made in the process of this debate so far.

This indeed is a package that is not perfect. Anyone who wishes could perhaps find fault with it and ask that it be modified. Anyone who is concerned might indeed have come up with a different package which they prefer. The fact is this financing package was responsive to a mandate of Congress last year to find ways to reduce the Federal budgetary impact of the completion of this project, and this package does that precisely, exactly, and in a manner which is supportable.

The administration supports it. OMB has looked at it and the support it. David Stockman, who at an earlier time has been a critic of the development of this program, is fully supportive of this program.

Part of the reason is because of the new financing program that has been suggested.

Finally, Mr. President, I said earlier in an interjection in the remarks of the Senator from New Hampshire that indeed we do have a letter from Secretary of Energy Donald Paul Hodel in support of this project. I thought it was a specious argument to suggest that even though the President supports it, the Assistant Secretary has written a detailed letter analyzing the proposal as the reason why they support it, that somehow because the Secretary himself had not signed that second letter bearing the detailed analysis that it somehow indicated his lack of support.

But just to make it very clear, Mr. President, I ask unanimous consent that a letter signed by Donald Paul Hodel, who is incidentally the Secretary of Energy, even though his name appears on the letterhead bearing that does not say down at the bottom he is Secretary of the Department, I assume my friend will not say he is not the Secretary; and therefore it indicates not supporting. It is on the stationery of the Department of Energy and it is dated October 19, 1983, and is addressed to the Honorable HOWARD HENRY BAKER, Jr., majority leader of the U.S. Senate.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

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

THE SECRETARY OF ENERGY,
Washington, D.C., October 19, 1983.
Hon. HOWARD H. BAKER, Jr.,
Majority Leader, U.S. Senate,
Washington, D.C.

DEAR SENATOR BAKER: Consistent with our discussions over the past several weeks, this letter is to reiterate the desire of the Administration and the Department of Energy to see an amendment implementing the Alternative Financial Plan for the Clinch River Breeder Reactor Project attached to the Supplemental Appropriations bill due to be marked up by the Senate Appropriations Committee this afternoon. It is our belief that this course of action presents us with our strongest legislative alternative of providing funding for the project, and, I might add that the President is quite eager to see that end achieved. I am sure that, as usual, your help in this regard will provide the necessary impetus to accomplish our goal of completing this important project in a timely manner.

Thank you for your consideration.

With best wishes,
Sincerely,

DONALD PAUL HODEL.

Mr. McCLURE. I yield the floor.
The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I rise in enthusiastic opposition to this amendment, vigorous opposition.

Mr. President, let me tell you this amendment is the turkey of the year. I have just been told by the manager of the bill that he would like to treat it with cheese. That would improve the turkey but it would still be a turkey.

I have a whole list of statements in opposition to this amendment as it is presently worded. The first comes from some of the most eminent economists in the country, and they protest the means of financing this operation.

I would like to read it to the Senate because I think anybody who has not made up his mind positively, finally, and turned his back on it, it seems to me this is perfectly devastating.

On May 12, 1983, the U.S. House of Representatives voted 388 to 1 to deny further funding to the Clinch River Breeder Reactor program unless private industry agreed to pay a substantial share of the cost estimated to be between \$2.4 and \$4 billion.

That, Mr. President, makes it very clear that the overwhelming—and you cannot get a more overwhelming 388 to 1—majority of the House was opposed to this project unless private industry moved in and agreed to pay a substantial share of the costs. So the feasibility of the plan that brings private industry in support of this program is absolutely critical before the approval of this amendment.

On June 23, 1983, a plan was proposed by the Department of Energy. The financing plan is based on the \$2.4 billion cost estimate and provides for continued, direct, public funding of \$1.5 billion. The nation's electric utilities would contribute \$1 billion financed by newly created tax advantages; the remainder of the funds would be raised by government guaranteed bonds and loans. The lenders (principally insurance compa-

nies, pension funds, investment banks and the like) are to be repaid by selling the electricity generated by the breeder reactor. The public guarantees that the power generated from the reactor whenever it is available will be able to be sold for more than its cost of production. If the breeder fails to break even, then the public will have to pay off all of the project's debts.

The new financing plan does not increase the private sector's risk exposure at all. It only stretches out the public's payments over a longer period of time (with interest costs, of course) and moves the reactor from on-budget to off-budget.

In other words, it moves it out of control of regular monitoring, control of oversight of the Congress.

The new financing plan is based on assumptions that are unlikely to be fulfilled, and if the assumptions are not fulfilled, the plan will increase the public's liability. For example, the plan assumes that the bonds will sell for the same rate as treasury issues. Historically, government guaranteed bonds have carried a risk premium over treasury bonds. Accordingly, interest payments are likely to be higher than those anticipated in the plan.

The costs of the reactor are highly uncertain, but any cost increases are the responsibility of the public. No one knows how much will be required to make the breeder reactor commercially attractive. It is a research and development project that industry cannot handle. That, of course, does not make it a legitimate public project; the breeder reactor must compete for limited public funds with all other public projects. Nevertheless, the public is being asked to commit whatever it takes to make the reactor a commercial entity. The private sector is going to send the tax payments (up to a limit of \$1 billion), it would otherwise make to the treasury, to this project and purchase a limited amount of guaranteed bonds provided they are at least as attractive as treasury bonds.

Mr. President, in conclusion, this statement says the following:

The electricity generated from this project may not have a market. At present, no electric utility is willing to sign a contract to take delivery of the electricity that may be generated by the reactor. TVA and U.S. government studies indicate sufficient electricity capacity in this region at least until the end of the century (the end dates of their studies). This is not surprising since Clinch River was a R&D project and was not sited with consumers in mind. The consequence, of course, of generating the wrong amounts of electricity in the wrong place is that the public will have to pay off the lenders.

In conclusion, the new plan is not cost sharing and does not increase private financing and risk at all. It does increase public liabilities by means of sophisticated financial instruments and off-budget financing. In our opinion, the costs of this project are likely to go higher while the benefits are likely to go lower. Congress should reject this financing plan and stay with the decision of May 1983 to curtail public involvement in the Clinch River Breeder Reactor.

This is signed by Kenneth J. Arrow, Nobel laureate, Stanford University; James Tobin, Nobel laureate, Yale University, who used to be a member of the Council of Economic Advisers in the Nixon and Ford administrations;

Walter W. Heller, who was Chairman of the Council of Economic Advisers in the Kennedy and Johnson administrations, and a number of other economists the Senate will recognize. I recognize them because I have been on the Joint Economics Committee for 20 years and have listened to these distinguished experts and I have great respect for their ability, and particularly when it comes to evaluating a program of this kind which would impose immense burdens on the Federal Government.

They include Hendrik S. Houthakker, Harvard University; William Baumol, New York University; Thomas Moore, Hoover Institution; Carolyn Shaw Bell, an eminent economist; Dr. Allen V. Kneese, also an eminent economist; Barbara R. Bergmann, University of Maryland; John Tepper Marlin, economist; Kenneth E. Boulding, University of Colorado—and I think everybody who has had Economics 1 or 101 in college recognizes Boulding as an economic expert; Daniel McFadden of MIT; W. F. Mueller, University of Wisconsin; Dr. Gerard M. Brannon, American Council of Life Insurance; Dr. Robert S. Browne, Howard University; Roger G. Noll, Stanford University; William Capron, Boston University; Richard B. Norgaard, University of California, Berkeley; Dr. Charles Cicchetti, an eminent economist; Leonard A. Rapping, University of Massachusetts; John H. Cumberland, University of Maryland; Dr. Ronald G. Ridker, the World Bank; Allen R. Ferguson, Public Interest Economics Foundation; Clifford S. Russell, also an eminent private economist; A. Myrick Freeman III, Bowdoin College; Robert M. Solow, a very eminent economist from MIT; Robert Haveman, a distinguished University of Wisconsin economist; Anthony Yezer, George Washington University; Charles Holt, University of Texas; Marty Zimmerman, University of Michigan; and Dr. Norman H. Jones, Jr., also an eminent private economist.

These economists represent not a particular partisan view, some are Democrats, some are Republicans, some are independent economists, some are with universities, some are with the private sector, but it is an extraordinarily distinguished group of experts who assure us, on the basis of their study of this proposal that is before now, that it will not meet the fundamental provision and requirement that the House insisted on when they denied the Clinch River breeder reactor program by a 388-to-1 vote; that is that it will not, will not, provide any substantial share or any share of the cost of financing from the private sector.

Mr. President, this morning's New York Times carried an editorial to which I am indebted for my opening

remarks when I called this a turkey. I did not mean to be impertinent or to be impudent. I am simply reflecting what the most distinguished and prestigious newspaper in this country called this project.

The headline in the editorial is: "The Clinch River Turkey, Again." Let me read it. It is a short editorial.

Supporters of the Clinch River nuclear breeder reactor are bending the Senate's rules in a last-ditch attempt to breathe another \$1.5 billion into the project. Unless the Senate seizes the chance now to bury it, this Tennessee turkey will turn into an \$8 billion albatross for the taxpayers.

Every premise on which Clinch River was based has changed. In 1972, uranium seemed likely to grow scarce. Now it is in glut. Then, conventional nuclear reactors had a bright future. Now they are being canceled by the dozen.

Breeder reactors are unlikely to become commercially viable for 50 years. For the Administration to want to demonstrate their commercial feasibility now makes no sense.

Still, nuclear dogmatists insist on finishing the Clinch River breeder. Because it extracts energy from uranium that conventional reactors leave untapped, it's the mystical ingredient of the package in which nuclear power was originally sold, the key to the promise of "inexhaustible" energy. But practice has proved different from theory.

What the nuclear energy industry needs is not Clinch River but down-to-earth efforts to improve efficiency and reliability of conventional reactors—and a standby research program for an advanced breeder reactor in the future.

Even Secretary of Energy Donald Hodel concedes that the Clinch River project is not necessary for the United States to retain a position in breeder technology. Washington will continue to fund breeder research with or without Clinch River.

Breeder boosters in the Senate have tacked a thoroughly discredited "cost-sharing" plan for the breeder onto an appropriations bill, in defiance of Senate procedure. What's the right thing for the Senate to do today about this effort to sneak Clinch River in through the back door? Slam it.

That is the advice of the New York Times in an editorial today.

The whole crux of this matter, Mr. President, is the so-called financing package. Now, that financing package is a complicated package. The Senator from Arkansas, Senator BUMPERS, has made a superlative analysis of this in our committee, a devastating analysis. It was protested by the distinguished Senator from Idaho, Senator McCLURE.

Mr. President, when these complicated matters come before the Senate, I think we have an absolute duty to insist that we have committees that bring forth a record of hearings from experts. We do not have that. What hearings were held on this package? Very, very little. There was a 1-day hearing of sorts. No committee report. No analysis. No recommendation.

Now, I happen to have been on the Banking Committee for 26 years here in the Senate, I was chairman of that

committee for 6 years. I was chairman during the time when we provided guarantees for New York City, which I opposed, and Chrysler, which I opposed.

Although I opposed those measures in both cases, the guarantees were worked out with the most extreme care, with very careful negotiations over a period of many months; in fact, in one case, over a period of years. They were worked out with the most careful consultations with expert economists and others to protect the Government. We had extensive hearings. We had an exhaustive committee report. We had a very thorough debate on the authorization legislation in the Senate. We have had none of that here—none of it.

Now we are asked to come forward and vote in favor of an extraordinarily complicated proposal which the most eminent economists in the country, Nobel laureates, say will not provide any of the share of cost which the House insisted that we should require from the private sector—none of it.

Mr. President, also appearing in the New York Times was a letter from Dean R. Corren, a New York University research scientist, who is director of the Greater New York Council on Energy. This is what he had to say about the Clinch River reactor. He disputes a letter which had previously appeared in the New York Times and said:

(It) could not have been further from the truth in its characterization of that breeder as a "renewable" resource. Such a claim is an inexcusable extrapolation from the also inexcusable but oft-repeated phrase that the breeder creates more fuel than it uses.

The breeder merely permits the use of a more abundant isotope of uranium than our present reactors use, thus in theory extending nuclear fission's potential about a hundredfold. But there is nothing renewable about it, neither in the mines it requires nor in the wastes it produces.

The key to breeder economics is that it could only be competitive when our reactors have nearly used up all our uranium 235 and when other sources of energy are unavailable. Since our Government has been proved wrong in its projection of cheap power from 1,000 reactors in the year 2000, the breeder will never be economical.

These were not, however, the concerns of Presidents Ford and Carter, who tried unsuccessfully to halt the Clinch River pork barrel. They recognized the global peril of a technology that requires the use, storage and transportation of plutonium. This fuel, the stuff of nuclear weapons, would be most aptly termed the ultimate nonrenewable.

That is a letter, as I say, from the director of the Greater New York Council on Energy, a New York University research scientist.

Mr. President, I also want to call to the attention of the Senate a statement from Public Citizens, dated September 28 of this year on the Clinch River breeder reactor. It reads as follows:

The Clinch River breeder reactor is expected to come before the Senate on the continuing resolution this week or on the supplemental appropriations next week.

They were off a couple of weeks.

As you are aware, the project has been disapproved by a majority of the House on the December 1982 Continuing Resolution.

Mr. President, this has nothing to do with my remarks, but I just want to say I have the greatest admiration and respect for my friend from Connecticut. I hope that anybody listening to my remarks today, regardless of their associations in the past, will recognize that he is a marvelous Senator. He indicated that once again when he was managing the Health and Human Services Subcommittee on Appropriations. I happen to be ranking member and I have had an opportunity to observe his action. There is none better.

Mr. President, as I was reading from this letter from Public Citizen, the Clinch River breeder reactor:

Has been supported in the Senate by one-vote margins on the past two continuing resolutions.

I might depart from this letter for a minute to point out that there is no way, no way, that the Clinch River breeder reactor would have had a prayer without the support of the distinguished majority leader—a marvelous man, a great leader, a man who has the respect of all of us. In all the years I have been here, and I have been here 26 years and seen Lyndon Johnson in action—everybody talked about the power he had—and other distinguished and powerful majority leaders, nobody has been able to lead the Senate down the garden path with the skill and the uncanny ability to win by one-vote margins as has the distinguished majority leader, who has so often been able to do that in this Clinch River project. I am absolutely convinced that if it were not for the support of the majority leader, both on the floor and again, of course, in conference, this would have been buried long ago, and by big margins.

At any rate, the letter goes on to say:

Support has been predicated on assurances that the Department of Energy would "vigorously explore proposals including a reconsideration of the original cost sharing arrangement, that would reduce Federal budget requirements . . . and secure greater participation from the private sector." What DOE calls an Alternative Financing Plan will not reduce federal responsibilities for the project. It is time to refuse further federal support for the commercial-scale breeder which industry is not willing to finance.

The Director of the Congressional Budget Office, Rudolph Penner, stated last week before the House Energy and Commerce Subcommittee on Energy Conservation and Power that the cost of CRBR under the plan proposed by the Breeder Reactor Corporation (BRC) in concert with the DOE "is almost \$250 million more than if Congress chose to fully fund the project." The plan

does not attract new risk-capital from the private sector, but instead involves expensive federal borrowing. The plan takes CRBR off budget, where its mammoth costs can be more easily concealed, and the project can be "protected" from oversight by the Congress.

The Breeder Reactor Corporation task force concedes in the draft of the plan dated June 29, 1983 (Cong. Rec. S 10052), "No venture capital is available for investments perceived to involve high risk, modest return, and small opportunity for speculative gain. . . . [T]he CRBR Project does not offer such an equity stake or the possibility of significant speculative gains to investors. . . . It seems clear therefore, that, no significant amounts of 'risk capital' will be available to the CRBR Project."

Instead, the BRC proposes to raise:

An estimated \$150 million of equity capital with the help of federal guarantees of the availability of current tax credits and deductions. The plan also guarantees that these investments will be returned, with interest, if the CRBR is not completed.

\$175 million which private utilities have been contractually bound to contribute since 1973. Of their original pledge of \$257 million plus interest (\$68 million), only \$150 million has been paid to date.

\$675 million in proceeds through the sale of long-term federally-guaranteed bonds. (Any shortfall in the expected \$110 million annually needed revenue to pay off the bonds will be another federal responsibility.)

The DOE/BRC plan requires another \$1.4 billion in direct federal appropriations to be added to the more than \$1.5 billion the federal government has spent on the program. In addition, the plan imposes no risks on the private sector, while expanding the costs and risks borne by the taxpayer. Let us compare:

Under the original 1973 plan for Clinch River:

The U.S. owns the CRBR plant.

The U.S. receives any revenue the plant might produce.

Congress oversees the project's progress through the annual appropriation process.

U.S. may terminate project's operation after first 5 years.

U.S. only provides fuel for plant's first 5 years.

U.S. assumes no obligations regarding plant revenues.

U.S. Treasury loses no revenue from project tax benefits.

Nuclear industry contributes nearly 40% of plant's projected cost.

That was the original proposal, Mr. President. Contrast that with the present proposal and see how it has seriously deteriorated. Under the present proposal, the 1983 DOE/BRC plan, which we have to vote on,

U.S. surrenders title and right to sell the CRBR to a newly created corporation, The American Energy Development Corporation.

U.S. surrenders right to all plant revenues to the corporation.

Congress loses annual appropriations review. Instead it is asked to approve a single multi-year obligation of \$1.4 billion.

U.S. must operate plant for 30 years.

U.S. provides all fuel services for 30 years including breeder reprocessing and fuel fabrication.

U.S. must guarantee against CRBR going into red for 30 years.

Treasury loses nearly \$250 million (constant, discounted 1983 dollars) in tax and interest revenues.

Nuclear industry's pledge remains fixed at 8% of DOE's projected cost; no new venture capital is given or placed at risk.

The plan in no way reduces the federal budget requirements for CRBR, as the December '82 continuing resolution directed. There can no longer be a justification for giving the DOE more time and funding on a project so universally regarded as uneconomic and unnecessary. A commercial demonstration of breeder technology is not needed when all experts agree that breeder technology will not be commercially viable until well into the twenty-first century, if ever. Even without Clinch River, 10 percent of the entire federal energy R & D budget is devoted to breeder technology.

Congress Watch joins the Taxpayer's Coalition Against Clinch River in urging that you reject any further federal financing of the CRBR project.

Mr. President, before I yield the floor, I know the distinguished Senator from Washington has been very patiently waiting and I apologize for detaining him. I shall take just another minute or 2 before I surrender the floor so he can speak on this issue.

This statement, Mr. President, comes from the Environmental Energy Study Conference. It reads as follows:

CBO COMPUTATION

Perhaps the most damaging study of the new financing plan, according to critics, comes from the Congressional Budget Office. In new CBO Chief Rudolph Penner's third appearance before a congressional committee since his recent appointment, he testified Sept. 20 that the private financing plan will cost U.S. taxpayers \$248 million more over the life of the plant than outright federal financing.

The CBO study compares the new financing plan with the option of paying for the project with federal funds and the existing utility contribution. After computing tax benefits equity investors would get from the plan, including the investment tax credit, accelerated depreciation and interest deductions on construction borrowing, CBO said that in the short run from 1984-1990, the private financing plan would save the federal government \$666 million.

To get \$666 million, he computed first an overall savings of \$675 million from bonds and \$150 in new equity and then deducted tax losses of \$159 million (\$82 million from the investment tax credit and \$77 million from interest during construction).

But, CBO says that between 1990 and 2021, when CRBR should be operating, the government will be giving up \$3.3 billion in projected power sales that the plan uses to retire the construction bonds. Tax deductions from accelerated depreciation for private parties would cost \$361 million, CBO says, for a net loss of \$3.6 billion.

Offsetting the \$3.6 billion would be tax revenues of \$1 billion received from bond and equity shareholders, CBO estimates. "Thus, the private plan would add \$2.6 billion more to the federal deficit than the government-financed case over the 1990-2021 period," CBO says.

But, CBO also notes that because the value of receiving a dollar 10 years from now is different and less than the value of

receiving the same dollar today, CBO used a discounted dollar analysis "so that the alternatives can be more accurately compared." CBO figures the discount rate by calculating the interest it owes to bondholders or investors at 9 percent minus the 2.5 percent CBO assumes the investors will pay in taxes.

But, even this 6.75 percent discount CBO says the private plan still will cost \$248 million more than full federal financing.

Mr. HUMPHREY. Mr. President, will the Senator yield for a moment on this point?

Mr. PROXMIRE. I am happy to yield to my friend from New Hampshire.

Mr. HUMPHREY. I am glad the Senator from Wisconsin once again brought up the matter of the CBO study. It is a fair study. CBO is a neutral party, and it has found in its recent study of the alternative financing scheme that it will be more expensive to the Government than simply completing the plant with annual appropriations.

Now, I raise the point because it was said on the floor 30 minutes or so ago that CBO has since retracted from that position; it no longer stands by its study, which was a shock to me, and so I phoned CBO. While I was not able to speak with Mr. Penner, the director, because he is presently testifying in the House, I did tell his principal assistant, Mr. Dennis Maelby, that it had been said on the floor that the CBO was backing away from that study. Mr. Penner's assistant checked into that and said that is not correct; the CBO still stands by that study.

Mr. PROXMIRE. Mr. President, I want to thank my friend from New Hampshire, who has made such a gallant fight against this project. I think it is important to stress what he has just said, that the CBO is a bipartisan group of experts who do their best. They have a solid reputation. Mr. Penner, as a matter of fact, has been identified with the conservatives in his views. I think that this study simply has to be accepted on its face, whether they repudiate it or not. And the Senator from New Hampshire certainly has the latest information. They do not repudiate it. But if they did, the study stands and has not been successfully challenged. Indeed, if somebody wanted to challenge a study of this significance, I think at least we ought to have hearings, we ought to have a record, we ought to have it documented, we ought to have people coming in on both sides.

We are working in a fog on this matter. We do not know what all the facts are except the best information we can get is that this is going to burden the Government very heavily with \$248 million more than if the Federal Government paid for the whole thing.

Mr. HUMPHREY. If the Senator will yield, in all fairness to the chairman of the Energy Committee, there was at least one hearing in this house on the subject of the alternative financing plan but given—

Mr. PROXMIRE. There was a hearing, but there was no report.

Mr. HUMPHREY. Yes.

Mr. PROXMIRE. There was no opportunity before the Appropriations Committee, for example, had acted on this to study any kind of a record. It was just put through with the notion that we will debate it on the floor.

Mr. HUMPHREY. If the Senator will yield, he is quite correct. There was a first step taken, that is, a hearing was held, but no bill was marked up. No bill was reported out. The bill still languishes in the Energy Committee, likewise in the Finance Committee. This deals with the alternative financing plan. Under orderly procedure, we should insist that those bills be marked up, reported out, and debated on the floor of the Senate. Then, if the plan is authorized, we can come to the appropriations process. But to lump the two together is to violate orderly procedure in the worst possible way. Of course, that is nothing new, but when you consider this is a multiyear appropriation for Clinch River, it puts a little bit different light on it.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. (Mr. COCHRAN). The Senator from Washington is recognized.

Mr. EVANS. Mr. President, I think we must recognize what is at stake here. We have heard a great deal of talk this morning about costs and various methods of financing for Clinch River. The vote we will presumably take sometime today will determine whether or not Clinch River proceeds or whether it dies. What is really at stake, however, is whether we proceed at all with the development of fast breeder technology.

I have served for the last 2 years as chairman of the Pacific Northwest Power Planning Council. As such, I have had an opportunity to examine the costs of generating electric energy and the future of alternatives to existing generating technology. As a result of that experience, I am deeply concerned about another much more fundamental matter than just the cost of proceeding with fast breeder technology.

Mr. President, I rise in support of continued funding of the Clinch River breeder reactor project, and I rise out of concern for our environment, from the perspective of one whose career has been devoted and dedicated to environmental protection. I stand by my record as Governor of the State of

Washington on environmental issues and my concern about the environment continues.

I lend my support to the Clinch River project because of my desire to find an environmentally acceptable alternative to continued reliance on fossil fuels as an energy resource. I am perfectly aware of the potential environmental problems connected with any part of the nuclear industry. We simply have to recognize there are tradeoffs and ultimately have to determine which will be the best for all of us and which will be the least costly.

I consider Clinch River a means to an end, as an important step in the development of fast breeder technology. The Clinch River project represents the continuation of a national research and development effort that began over 30 years ago. This effort to develop fast breeder technology is vital to our Nation's effort to reduce reliance on fossil fuel, and it is imperative that the effort continue.

Mr. President, evidence continues to accumulate that increases in the atmospheric carbon dioxide will substantially raise global temperatures over the next century. A recent study by the Environmental Protection Agency estimates that a 2 degree centigrade increase in global temperature could occur by the year 2050, and a 5 degree centigrade increase by the year 2100. Those years are not too far away. The temperature increase these numbers represent is significant indeed.

These temperature increases are likely to result in dramatic changes in precipitation and storm patterns and a rise in global average sea level. Consequently, agricultural conditions will be significantly altered, environmental and economic systems potentially disrupted, and political institutions stressed. I cannot overemphasize the potential danger embodied in the results of that study, if indeed they are correct.

Increases in atmospheric carbon dioxide result primarily from the use of fossil fuels. The most logical response to the threat of climate change, and, according to the Environmental Protection Agency, the only effective way to prevent further greenhouse warming, is to reduce global dependence on fossil fuels as an energy source.

Mr. President, a further consequence of the continued reliance on fossil fuels is the phenomenon well known to all of us, acid rain. Acid rain is an egregious environmental, political, and economic problem for the United States. The problem will cost all of us as taxpayers and ratepayers enormously in future years if we are unable to deal with the environmental effects of acid rain. The environmental impacts include failure of fish populations to reproduce, reduced growth rate or even die-back of forest tree species, and leaching of nutrients and

toxic wastes from soils into our water systems.

Recently, a panel of the National Academy of Sciences concluded that acid rain is almost entirely caused by humans. Industrial sulfur dioxide emissions are the probable source of sulfuric acid found in acid rain, accounting for approximately two-thirds of the acid rain problem. Oxides of nitrogen, caused by the use of fossil fuels, are the cause of nitric acid, accounting for the remainder of the problem.

Admittedly, continuation of the Clinch River project will have little direct impact on the problems of acid rain and the warming of atmospheric temperatures. The Clinch River project, however, is an important national energy research and development project, a vital step in breeder reactor development.

The fast flux test facility which currently operates on the Hanford Reservation in the State of Washington has proven its level of breeder technology. The Clinch River reactor is much larger than the Hanford plant and is the important next step in development of that technology. These successive steps are important to avoid error and avoid ultimately moving into production reactors which either do not work successfully or which prove to be unduly costly.

The breeder reactor will increase the utilization of uranium by about 60 times. It has been estimated that breeder technology will permit the use of domestic uranium stockpiles worth more than \$40 trillion and containing energy equivalent to all the world's current known supplies of oil. Let me emphasize: Utilizing breeder technology, the stockpiles of uranium-238 available in this country have the equivalent of all the world's current known supply of oil.

Mr. President, the Clinch River reactor is a further development of the breeder reactor program already underway at the Fast Flux Test Facility at Hanford. The Clinch River reactor is the second step in the breeder program, and will provide the information necessary to the ultimate goal of a liquid metal fast breeder reactor. The Clinch River project hardly represents the final expression of breeder technology. It does, however, represent the best we have available at the present time.

This is not, perhaps, an appropriate time or place to analyze the ultimate feasibility of the breeder reactor or to speculate about the ultimate efficacy of the concept. No single technology can secure a complete break with hundreds of years of reliance on fossil fuels. For this reason, it is important that we move ahead on a number of energy fronts. When I was chairman of the Northwest Power Planning Council, we worked very hard to move

strongly in the fields of energy conservation, which I believe is an appropriate and certainly an environmentally benign alternative. I believe we must continue in our conservation efforts. Furthermore, I think it is important to move ahead as rapidly as possible to utilize hydrogen as a cost effective and commercially feasible fuel. We should move ahead on a number of other fronts, to insure that at least one or several of the potential alternatives to fossil fuel breakthrough and secure the new energy needed in an environmentally acceptable way.

No single project can assure a technology as complex and as widely misunderstood as the fast flux breeder reactor. I believe, however, that if breeder technology and the consequences of continued reliance on fossil fuels were more widely understood, the future of breeder technology would be more secure. This belief may be wrong; it may be biased; but without the Clinch River project, it is unlikely to be tested. Without technologies such as the breeder reactor, the Nation will be unable to minimize the resources it needs to carry its energy loads. Not because it chose not to, however; but because it never knew it could.

Mr. HUMPHREY. Mr. President, I congratulate my colleague from Washington on a fine speech, well delivered.

I should simply like to make the point that the question for us is not an either/or question. Sometimes we gain the impression that if we terminate Clinch River, that is the end of our nuclear option and perhaps that is the end of our breeder reactor research option. That is not the case. We have an in-between choice. We can cancel Clinch River, save a lot of money, avoid a lot of waste, and at the same time continue our base breeder reactor program.

That is precisely what will occur if this appropriation for Clinch River is defeated. We will continue our base breeder reactor research program. The breeder reactor option will still be there if we choose to exercise it in the future.

The other point I want to make is that we are all concerned about the effects of burning fossil fuel, the effects on our atmosphere and environment—increasingly concerned.

I make the point that in the generation of electricity, only 4 percent of all the fossil fuels burned in this country are burned to generate electricity. Looked at in perspective, in that only 4 percent of the fossil fuels burned in this country are burned to generate electricity, then I think the argument that we must press forward at all costs with breeder reactor demonstration projects is not quite as strong. Indeed, it is rather weak, in my view.

Mr. President, perhaps it would be in order to put things into focus about the parliamentary situation.

We have before us H.R. 3959, an appropriations bill. At present there is no money in it for Clinch River. There is a committee amendment pending, a Senate appropriations committee amendment, that would add that money if the amendment is adopted. Then, after final passage in the Senate, the matter would go to conference.

Inasmuch as the House version has no money for Clinch River and the Senate version would, it would have to be ironed out in conference. That is where we stand. There is no money in the bill for Clinch River as it came from the House. The proponents are trying to add it as a committee amendment. I urge my colleagues, at the present time, to vote against the amendment, so that we do not add the money.

The underlying bill, which contains the sum \$300 million for other miscellaneous programs would not be endangered in any way, and Senators need not be uncomfortable on that score. If they vote against Clinch River, it is simply voting against adding money to this bill as it now stands.

Mr. President, I yield the floor at this time, under the condition that upon resuming the floor, my remarks not be considered a second speech.

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

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

Mr. McCLURE. Mr. President, will the Senator withhold that?

Mr. HUMPHREY. Yes.

Mr. McCLURE. Mr. President, I am happy not to raise any question about the statement of the Senator from New Hampshire being considered as a second statement, and I just want to note for the RECORD that I think there is a spirit of accommodation. We are trying to get along with respect to the exchanges that take place, back and forth. I hope that all Members, looking at the flow of debate, will recognize the accommodations that have been made and may perhaps have to continue to be made for the various speakers who have spoken thus far and may again wish to speak as the debate develops. I am happy not to raise any question with respect to that at this time, because I think it is important that we do it that way.

Mr. President, there are two or three things that have come up in the debate thus far that need some clarification.

I was necessarily called to a meeting of the majority leadership group and was away from the floor for about 45 minutes. It is my understanding that in that interval, the Senator from Wisconsin, perhaps in a colloquy with the

Senator from New Hampshire, indicated that I had said that the CBO is backing away from their study. If those are the words I used, I did not intend to use those words.

The import of my remarks and what I intended to convey is that the CBO in a hearing before our committee admitted that the base case that they had used in their analysis to make the comparisons was not the base case that is before us and, therefore, the results of the study really had no application to the alternatives before Congress. I think that is an accurate statement of the CBO position.

I could refer to a number of the exchanges because CBO in the questioning before our committee was asked with respect to certain provisions of the analysis that they had made, and this question was asked of them:

The CHAIRMAN. Mr. Penner, in preparing the existing arrangement for CRBR with the BRC's private financing plan, did you consider the present arrangement of selling power to TVA at their avoided cost as one of their study cases?

Mr. PENNER. Yes, we did, sir. If you believe that, it would have to be sold at lower cost under the government plan than under the private plan. We don't understand why that would be so, but if that was truly your belief, then the cost comparison would flip-flop and the private plan would be cheaper.

The CHAIRMAN. The private plan would be cheaper if that cost that's now mandated by policy and law would continue?

Mr. PENNER. Yes. We assume the legislation would be changed.

He was then asked why they base their base case upon an assumption that the basic law of the land would be changed in order for them to make that analysis. As a matter of fact, as pointed out there, they were, and I reiterate, making a comparison based not upon current law and policy but upon assumption of certain changes in current law and policy.

There are a number of other matters that have been brought up in the last hour or so in the debate, a couple of which, in addition to the one I have mentioned, I might just mention now.

There was the suggestion that the DOE must operate for 30 years. I point out that the CBO analysis, upon which the opponents seem to put so much credence and make their case on the basis of that analysis, also assumes the same thing. So it seems to me that you should not have it both ways by criticizing something which is the basis of the analysis upon which the criticism is based.

Mr. President, I ask the Senator from Arkansas if he is prepared to take the floor at this time because I understand he had to leave the Chamber temporarily, and I have no reason to delay his beginning the debate.

Mr. BUMPERS. Mr. President, if the Senator from Idaho would indulge me, I yield to the Senator from New York.

Mr. McCLURE. I have no objection to that.

VISIT TO THE SENATE BY THE RIGHT HONORABLE JOHN GILBERT OF THE HOUSE OF COMMONS OF THE UNITED KINGDOM

Mr. MOYNIHAN. Mr. President, I shall ask unanimous consent that the Senate stand in recess for a brief period so that we might welcome our good friend and faithful ally through so many Anglo-American defense matters, the Right Honorable John Gilbert of the House of Commons of the United Kingdom.

RECESS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 minute for that purpose.

There being no objection, the Senate, at 1:24 p.m. recessed until 1:25 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COCHRAN).

SUPPLEMENTAL APPROPRIATIONS, 1984

The Senate resumed consideration of H.R. 3959.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I have listened to all the statements this morning from the various Senators, especially the Senator from New Hampshire, and I probably have little to add. I will probably be repeating what has already been said. I will simply say it louder and more convincingly.

First, the debate today on the Clinch River breeder is probably somewhere between the 5th and 10th debate on the subject we have had since I have been in the Senate. But today's debate should focus on something that is entirely new to the Clinch River debate. We have dealt in the past with only one method of finance and that was the method by which the private utilities in this country were going to join the United States in assuming the risk of this project.

No one in this body and not one scientist involved in the project believes that there are not serious technological risks in going forward with this project, and even the most avid proponent of this particular breeder and this particular technology would be forced to admit that all kinds of things can go wrong.

Mr. President, if you look at the history of breeders throughout the world, if you look even at the history of today's technology in light-water reactors, which we have been building now for over 30 years, you will find Diablo Canyon still not in operation after billions of dollars of expenditure. They seem to have put something in upside down. They built over a fault that could possibly result in an earthquake.

Not only the Washington power group, popularly known as WPPSS, has had unbelievable cost overruns, but also the Tennessee Valley Authority has abandoned five light-water reactors.

When you consider WPPSS with their five reactors and the TVA with their five reactors, does anyone doubt that when we are shutting down operations like that because of faulty technology and because of cost overruns we are going to build the Clinch River breeder, a first of its kind in the world, that we are not going to have cost overruns and we are not going to have serious technical problems?

As I have said many times, you must believe that. You know that is true.

I will come back to cost overruns in just a moment.

If you support breeder reactors, that is your prerogative. Yet that is not a legitimate reason for voting for this particular financing of this breeder reactor.

In the past we have assumed the private sector is going to join the United States in financing this project and, therefore, assuming some of the risk. Why should they not? I do not believe in breeder reactors, at least not right now, but put that aside I am speaking from a prejudiced viewpoint from that standpoint. I do not want breeder reactors built in this country right now.

That is not the debate here. The debate is whether this is an acceptable financing plan. To answer that it is my studied opinion that if you were to call Morley Safire, and Mike Wallace and Dan Rather at 60 Minutes and say "Have I got a scam for you," they would hang up thinking that you were drunk. They would not believe that you were actually telling them the truth.

Now, bear in mind the history of where we started and where we are today. In 1973 we started with a projected cost of \$699 million, but we all know that it is going to run at least \$4.2 billion even under this plan. GAO says it will cost over \$8 billion so far as the cost to the Treasury is concerned. That is a pretty big range, is it not, \$4 to \$8 billion?

In 1973, the private sector agreed to put up about 40 percent of that money. We even talked about a 50-50 sharing arrangement back in 1973. They finally settled on 40 percent. So far we have spent \$1.7 billion and they have spent \$150 million. In short, they have put up less than 10 percent of the money. So what happened? Through the years we have continued to put up the money and they have continued to renege on their share of the bargain.

Let me digress a moment and tell you what the energy policy of this country is according to President Ronald Reagan. I sit on the Energy Committee, and when Secretary Ed-

wards, the first Secretary of Energy under Ronald Reagan, came before our committee, I asked him why are we abandoning all of our renewable resources such as solar? We were virtually eliminating all money for solar research and the Secretary for Energy said that it was the policy of this administration that we will only fund those sources of energy which are high-risk, long-term technologies.

I asked Secretary Brewer the other day when he testified for this outrageous financing plan whether this was a high-risk project. If he said, yes, that would mean that the possibility of this project not working was good, and therefore, the United States would be assuming all the costs because we are guaranteeing these bonds.

If it is not high risk, then the next question would be, Why are we guaranteeing the bonds?

The third thing I asked him was if this is not high-risk, long-term technology and you said it is not, How does that square with the President's energy policy of only supporting high-risk technologies.

I invite reading the transcript when we get his answer. It is what we do around here when we do not want to answer around here, we mumble.

So here we are today 10 years after the beginning of authorizing this project, and we have put up \$1.7 billion to get a hole in the ground in Clinch River, Tenn. Incidentally, it is a site which the original consulting engineers said in a memo is a disastrous location. That same memo, very private in-house memo, to the head of the consulting firm advised getting out of this project as soon as possible because it was a turkey which would saddle them with a disaster and severely tarnish their reputation. What project was it talking about? The same one we are debating here today.

What is this finance plan? Incidentally, you know I agree with this President on one thing on energy, we are putting a half billion dollars a year into fusion research which is long term, which is high risk, but which holds the promise of solving a lot of the future electrical needs of this country, and I have voted for it. I have voted for every single fusion appropriation I have had a chance to vote on, and I have even voted for increased funds any time anybody has suggested we increase the amount. It is not as though I am opposed to new sources of energy. Quite the contrary.

As I said, we originally talked about a 60-40 split, but that changed. I need an audio-visual machine to explain the changes. Write these figures down on the back of an envelope, that is where we got supply-side economics from Arthur Laffer. Take your envelopes and write the figures down. We have spent \$1.7 billion and we are proposing to spend an additional \$2.5 billion.

That is \$4.2 billion for the total project to be completed in 1990.

If anybody believes we can finish that project for that, I want to take you back to the cloakroom and tell you about the tooth fairy. Nobody believes that. Are you getting ready to believe in the tooth fairy, Senator?

Mr. McCURE. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. McCURE. I was going to invite him to take me back to the cloakroom: One reason was he might cut short the debate and we would be able to explain the details; and second, let me share in the oratorical recognition.

Mr. BUMPERS. Does the Senator state he can get it for \$2.5

Mr. McCURE. Yes, I do.

Mr. BUMPERS. It is like voting on the Panama Canal. History will tell.

Mr. McCURE. There are a whole host of other reputable scientists and scientists who believe as I do, as a matter of fact. It is on that basis that I make that statement.

Mr. BUMPERS. Everyone here has a right to believe as he wants. Of the \$4.2 billion it is going to take to complete the project, according to the Senator from Idaho, we are asking the private sector to put up \$1 billion. Well, that is not quite right, they have already put up \$175 million and they get credit for that. So we are really asking them to put up \$825 million. If the private sector believes in breeder reactors, if they believe that this power can be sold, and they are willing to put their money where their mouth is like they are asking us to do, I will take my seat and say no more.

But that is not quite the case, Mr. President. Of the \$825 million, they are actually going to produce \$150 million in cash. That is their share of the risk.

Now, in exchange for their \$150 million which they are actually putting at risk, they get a 10-percent investment tax credit on the whole \$1.0 billion. So they get \$100 million back at the outset. Then they get accelerated depreciation on 95 percent of \$1.0 billion. Also, if they are allowed to treat their share of this investment—\$1.0 billion—as research and development money, they get a 25-percent investment tax credit, or 2½ times \$100 million. So in all probability, they are going to get their \$150 million, plus about \$90 million more, back in the very opening gun. So they are not putting up \$150 million at all, are they? Why, no, they are putting up nothing.

Where is the other \$675 million coming from for the private sector share and their big risk? They are going to go down to Riggs National Bank and borrow. Incidentally, who are these people that are going to invest? Well, if this thing passes, I am going to try to be one of them. Any-

body in the private sector who wants to can invest in this thing.

In addition investors could not care less whether the money goes into orange trees, pecan trees, a cattle feeder operation out in Colorado, or breeder reactors. They could not care less because Uncle Sam is guaranteeing a 37-percent return on the money. And very few people in this body are doing that well.

The investors will go to banks, and they will not have any trouble borrowing the money. They will borrow \$675 million.

They will not have any trouble borrowing the money because Uncle Sam is guaranteeing it. No banker would turn that down. If Uncle Sam's word is not good, whose is? They will borrow it whenever they have to. If we put up \$1.5 billion, as this bill provides right now, we will use our money first. They will not even have to produce their share for a few years. We are not only going to guarantee the \$675 million, we are guaranteeing the interest on it at 10 percent.

That is a sweetheart deal, but I am not finished.

They will pay that back plus interest when this project is finished. When the project is finished and begins selling power in 1990, it is going to produce, according to the Department of Energy projections, \$110 million a year.

The breeder reactor corporation plans to sell power from Clinch River at 11 cents a kilowatt-hour, which could produce \$110 million. In sum, they will borrow \$1 billion, which is enough to take care of the \$675 million plus interest, and then use that \$110 million annually to retire those bonds.

You may think that is not such a bad deal, but that overstates the case. They are going to sell the power and amortize those bonds.

There are two or three little problems. What if this thing never produces a kilowatt of power? What happens then? No problem, because the Government would then amortize \$1 billion of bonds. How about the private sector, are they going to put up any of the money? Absolutely not; not a dime.

What if this does not produce 375 megawatts? What if it produces 250 and consequently our income is not \$110 million a year but \$75 million a year? What happens then? Do they have to put up the extra \$35 million? Absolutely not, the Government does.

What if the project does not operate at 65-percent capacity and only operates at 55-percent capacity like the French breeder does. That would produce a shortfall. What happens to the private sector then? Nothing, the Government takes care of it.

What if the avoided cost for power in the Southeastern part of the United

States is not 11 cents a kilowatt in 1990? What if it is 3 or 4 cents—and the Library of Congress says it will be in 1990—and we only get \$30 or \$40 million a year? What happens to the private sector? Nothing, the Government takes care of the difference.

Here are two real jewels for you. And I hope each Senator in the U.S. Senate will think about these two things when he casts his or her vote.

What if this thing costs \$8 billion instead of \$4.2 billion? What share of the extra \$3.8 billion, which GAO says this project will cost, what share of the cost overruns does the private sector pick up? Nothing. Not a dime.

Here is one even better. Not only do private investors not take any risk, not only do they take no risk if this project does not ever produce a dime's worth of electricity, they get their 37-percent return regardless of how this project turns out.

Do you know what is better? Let us assume they sell \$150 million worth of power a year instead of \$110 million. Then what does the private sector get? They get 25 percent of the excess.

I have never heard of anything as shameless. I cannot believe that the President's Science Adviser and an administration official from the Department of Energy can walk into a Senator's office, as they have been doing this week, and say with a straight face, that the private sector will put up a billion dollars. And to all of those who are not hearing my speech—and that is about 90 Senators—a lot of them will believe that.

When the Senators walk through that door, hopefully in the next hour or two, to vote, they will walk down to the well of the Chamber and they will ask what the vote is. They will be told that the Department has produced a plan where the private sector put up a billion dollars.

"Aye."

That is the way it will probably go, though I devoutly hope that is not true.

How would you like, Mr. President, for someone to suggest a little tax shelter for you in which you pay \$100,000 and get a 37-percent return on you money. And if this project, which is very risky, happens to turn out poorly, you still get 37 percent. Your 37-percent return is guaranteed by the U.S. Government.

Even better, if the project works and makes more money than we think it is going to, you get the share in excess above our projections. So you not only make 37 percent on your return, you may make as much as 50 or even 100 percent.

But the floor guaranteed by Uncle Sugar is 37 percent.

Mr. President, the one thing that Senators ought not to do in this body, on or off the floor, is misrepresent. It is a good way to erode your credibility

and it is a good way to cause people to look twice at anything you say or offer in the future. I am telling you, I have given it to you just as straight as an arrow this afternoon. It is precisely the way I have described it or, if you want to pick around the edges, I may have misrepresented a figure by a million or two or some such thing, but I am telling you, this is the way it is.

Mr. President, it makes WPPSS look like a toy. WPPSS is a good deal. But let me go to another point.

Consider why we got into breeders in the first place. There was a study that showed we had only 8 to 13 years' supply of uranium left. Do you know the most depressed energy in the Southwestern part of the United States now? Uranium. We not only have 30 to 35 years of known uranium reserves, but there is probably much more. So at least the argument that we are fast running out of uranium is no longer valid. It simply is not true. The uranium mines in this country are shut down right now because there is no market. But let me go further and talk about our power needs. I attended the hearing the other day which I found to be very interesting, incidentally, on the WPPSS amendment. The Senator from Idaho was holding hearings in the Energy Committee and had all these people on both sides of the WPPSS issue in to testify. I found it very instructive. The other thing I found was that even if you complete one single reactor in the WPPSS system, and they are certainly going to complete one and maybe two, their director testified that they have 1,200 megawatts of excess power in the Northwestern corner of the United States.

In the Southeast, the fact that TVA shut down five nuclear plants and discontinued building five light-water reactor plants speaks volumes about the need for power in this country right now.

I also alluded to a point awhile ago that I want to remake. That is the projection for this plant is that it will operate at 65-percent capacity. I want you to know that we have been building light-water reactor plants in this country for 30 years. That is an old technology. And what rate do you think they are operating at? Sixty-two percent. A very questionable technology, never before built in the United States or any place else in the world and seriously questioned by a lot of scientists, is not going to operate on a first-time basis at 65 percent, when the French already have two breeders and they have only been able to achieve 55-percent capacity. You and I both know this plant is not going to operate at 65-percent capacity. Of course it is not. Nobody has been able to achieve that, even with a known technology.

Even assuming it does, who will buy the power? The original plan for this whole breeder reactor down in Tennessee was to sell it to TVA. I would rather try to squeeze a camel through the eye of a needle than to sell power to TVA. They have announced not only do they not want it, but they will not buy it at any price, in 1990 or any time soon thereafter.

So, during the hearings on this, I asked, if you are not going to sell to TVA, whom are you going to sell to? They said, we are going to sell to other people in the Southeastern part of the United States—unnamed, incidentally. Nobody knows who they are. It is just in the Southeastern part of the United States. But that is not the real problem, either. They are saying, we are going to sell it to them at 11 cents a kilowatt in 1990. Study the States of Florida, and Georgia, and South Carolina.

Then consider the plan to sell this power at what they call avoided cost. The avoided cost in the Southeastern part of the United States is declining and continues to decline, and CBO estimates that the avoided cost of power in the Southeastern part of the United States in 1990 will be between 3 and 4 cents a kilowatt. So the projection here only overshoots the mark by 7 to 8 cents a kilowatt, an absolute guarantee that the Federal Government is going to pick up one big tab.

Mr. President, if this project should happen to be successful, the investors even have an ownership interest. They get a share of any licenses if it turns out to be worth anything. They share in everything that can possibly succeed about this thing and in nothing by which it could fail. We are talking about a 98-to-2-percent possibility.

Some people say, are we going to be the last industrialized society to build breeders? I hope we are. France is always held up as the big example on breeder reactors and how wonderful they are, but they planned six commercial-sized breeders, but they will build only one. Everything else is on hold and, based on my information, is going to stay on hold.

Germany built the Kalkar reactor at tremendous cost overruns, but they made the private sector contribute 25 percent. That was not guaranteed, either. That was cash out of the pocket of the private sector. I might even withdraw my objection to this plan if we could get a legitimate 25 percent from the private sector. What has Britain done? Nothing. They are not committed to commercial breeders. Japan has one little 200-megawatt breeder called the Joyo, but in 10 years, they have not moved forward to commercialization.

I was in the Soviet Union about 2 months ago and I visited their Energy Department. I must say the only man there that I really thought was very

forthcoming with me and gave me some decent answers was the Deputy Director of Energy in the Soviet Union.

Even so, you know how the Soviets exaggerate their successes: "Yes, we have a breeder. We completed a 300-megawatt breeder, "and we are just completing an 800 megawatt and we are about to finish plans for a 1,200 megawatt." But in the only case in my 2 weeks in the Soviet Union where anybody admitted that not everything was perfect, this man who admitted they have serious problems with their breeder program. When you find a Soviet official who tells you he had serious problems, you can bet your bottom dollar they have had disasters.

Mr. President, this is supposed to be a deliberative body. We are supposed to protect the interests of the people whom we represent. They expect us to vote for those things which we honestly feel are in our long-range best interests at a cost they feel they can reasonably afford and to vote no on those things that do not fit that category. Senators tell constituents how terrible the deficits are. Even the President says these deficits did not just spring up overnight.

Well, I do not want to get into a partisan argument about whether they did or did not. All I know is they are three times higher than they have ever been in our history, but we may be adding to the deficit. If you vote for this plan today, you are adding \$1½ billion to the 1984 deficit, so you have to go home and tell your folks that you are against deficits as long as it does not require us to quit spending money.

You have to tell them you are against deficits and that big old Government up there just keeps rolling along and piling these deficits up.

And when the Clinch River comes up you vote aye, another billion and a half. I am against deficits in the abstract as long as you do not pin me down to voting against any spending around here.

I saved just about the best for last. The Congressional Budget Office, Rudolph Penner, the new Director of the Budget Office—if there is anybody who wants this confirmed, I have a copy of the CBO study. The other day when I was making this speech in the Appropriations Committee the Senator from Idaho said CBO operated on some false assumptions. Now, we will debate that more in a minute if the Senator wants to, but I have a letter here from CBO simply because the question was raised were their assumptions valid or were they erroneous. It is a very long statement and I am reluctant to put it in the RECORD simply because it will cost a lot to print it. But I invite any Senator who is thinking about voting for this project because CBO's projections were errone-

ous to look at it. Every single assumption they made in saying that the Federal Government would be better off to finance the entire project rather than going through this scam, every single assumption is justified in that document.

Can you believe that? Can you believe that the Department of Energy would come in here and ask the Senators to vote for something because the private sector was putting up \$1 billion when it is such a scam, such a sham that the Congressional Budget Officer has said we would save \$250 million if we just forgot about the private sector and borrowed the money in public to finance the entire project ourselves?

So why does somebody not offer an amendment if they want to cut deficits? I like to refer to the Congressional Budget Office because it is a bipartisan group. They do not have any partisan interest in this one way or the other. If you want to save money, why do you not do what the Congressional Budget Office says? Just finance the whole thing and let everybody come in here and vote for \$2.5 billion instead of \$1.5 billion and save \$250 million in the process.

The absolute deficit effect is much, much greater. I am talking about over the entire life of the project to be completed in 1990 and go out of commission in the year 2020.

Light-water reactors are not lasting 30 years in this country and we have a lot of technology on that. Here is something that nobody really knows how it is going to come out, and they say it will last 30 years. Well, when CBO said we can save \$250 million over the life of the project, they are talking about from now to the year 2020.

I guess, if I were going to tell the truth, Mr. President, one of the reasons that I am really exercised today is because I do not like to have my intelligence insulted. For the Department of Energy to come in and tell this body that the private sector, indeed, is going to put up \$1 billion, I am insulted by that because the private sector is not putting up a thin dime.

If you really believe that we ought to continue research on breeders, we have and we will. This has nothing to do with breeder research in this country. Our base technology program is the world's most advanced. Did you know that no nation on Earth has put more money into research of breeders than the United States? If Clinch River is terminated today, it has nothing to do with that research, which will continue happily along its way.

The late great Senator from Washington, "Scoop" Jackson, and I had a great relationship. I miss him very much. He and I were on opposite sides of this issue. I used to tell him I could

not believe he could continue to vote for that thing. We would laugh back in the cloakroom about it. But in his own home State of Washington, in Hanford, there is a facility there called the fast flux test facility. One approach which has been suggested will be to retrofit that fast flux test facility to generate electricity and close the breeder fuel cycle in what they call a secure automated fabrication facility. And that approach could be carried out just like the British did with their prototype fast reactor. You do not use heat exchangers and you do not use generators, but you could develop a fuel cycle at a total cost of \$1 billion. And if that succeeded, maybe we would want to consider breeder reactors.

Mr. President, as I said earlier, I hope that Senators will be very careful about how they vote on this. It was a close vote before.

I am not blaming the Senator from Tennessee for wanting the project. All of us understand things like that. I have wanted a few things in my State that I did not get, which I thought were as meritorious as anything can be. But we are not here to accommodate the majority leader, who is one of the greatest ever to have served this body. He is one of the dearest, finest men anybody has ever known. Everybody wants to accommodate the majority leader. But that is not the issue.

The issue is whether to spend another \$2.5 billion and give some private investors the opportunity to get a 37-percent guaranteed return on their money. Vote "yes" and then go home and tell our constituents that the private sector shared the risk with us. They are sharing nothing.

Mr. President, I ask unanimous consent that my yielding the floor and my resumption of the floor will not be considered as a second speech for me today.

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

Mr. McCURE. Mr. President, I was happy again to accede to the unanimous-consent request of the Senator from Arkansas, as I did earlier to the request of the Senator from New Hampshire. I hope that will be accorded to all Senators who want to participate in this debate. Otherwise, we will not get the exchange that I think is the essence of debate. Otherwise, we will get only sequential statements that often do not respond to the issues that have been raised by the previous statements.

Mr. BUMPERS. The Senator's point is well taken. I do not think that the Senator from Idaho and I—in view of the fact that the majority leader is not on the floor—are in a position to ask for such a unanimous-consent request. I am willing to enter into such a request for today only.

Mr. McCURE. I understand that. I think that by tolerance and by practice, we will get that accomplished in one way or another. I mean that sincerely. I hope all Members will approach that problem in that fashion.

Mr. President, the statement of the Senator from Arkansas was accurate in one regard, and one with which I will not quibble, and that was that the statement would be louder than anybody else's.

One that I find a little difficult to accept completely is that he is an absolute straight arrow on this issue, and I do not mean that in the sense that he is trying to distort. I am talking about the result, not the purpose.

As to the suggestion that credibility will be lacking if he makes misstatements of fact, he made several misstatements of fact, but I do not charge him with intentionally doing that. I think perhaps it arose from another part of the statement he made a couple of times, in which he said, "I just don't want any breeder reactors built at all; I approach this subject with that bias."

I am afraid that may be due to the rhetorical excesses that have occasionally occurred in the debate with respect to what the factual basis is.

At one point in the discussion, I understood the Senator to say that in order to generate the return, there would have to be a hundred percent availability of the plant and that that was ridiculous to assume, that nobody could assume that. I was ready to take issue with the Senator, until later he said that they assume it will only be operated at 65 percent availability. This is an accurate statement. That is all the assumption that was made. The two statements cannot be true.

It may have been an inadvertence on his part to use the one statement as an issue and a debating point, while at the same time using a different point by using a totally different statistical base. One was accurate; the other was false.

Throughout the argument, we have that kind of overstatement on what the facts may be. Let us not confuse statements that are made positively or loudly with accuracy.

One question was, does anyone believe that this will operate at over 65 percent availability? The Senator from Idaho believes, and the Senator from Arkansas surely must know, that experimental breeder reactor No. 2 has been operating for 20 years as an experimental program, in which they have more downtime than an operating reactor would have because they are constantly changing fuel loading and fuel configurations and different fuels in order to test different assumptions about what would happen; and in spite of that operating constraint, they exceed 65 percent availability.

Yes, I believe that it will exceed 65 percent. As a matter of fact, the estimates are that it will exceed that by 5 percent to 10 percent.

At one point, the Senator said that even light water reactors do not do that well; that the operating history average is 61 percent. But what is the average of a mature plant, not one just starting? The current experience with light water reactors is 80 percent availability. Let us get the facts on the table.

The Senator suggested at one point that there is a guaranteed 37 percent of return. That is not true. Nowhere in the package is there a guaranteed rate of return of that nature—nowhere.

It is represented that CBO says, "Yes, it is, and we back it up." CBO did not represent that, and they do not back it up. As a matter of fact, they said in testimony before our committee that the assumptions they made are not assumptions that are current practice at all.

The Senator suggested at one point that if this bill passes the way it is, he will run out and buy a piece of the action. I wish he would, right now, and then he would have to recuse himself from the debate, and we could get on with the business. As a matter of fact, I might take up a collection and donate some to the Senator from Arkansas.

The fact is that if what he has said were true, let us analyze for a moment what the result would be. Do you think the private sector would be trying to limit its contribution? As the Senator from Arkansas said, "Boy, if this bill passes, I'm going to get a piece of the action."

First of all, that was rhetorical. I expect that he would not. Second, if it were true, the private sector would be out trying to get the whole \$2.5 billion. They would not be holding back. They would be in there, urging to expand it, so that they would get more of the guaranteed return. On the face of it, it is a ridiculous assertion. On the face to it, it is false in its assumptions. We cannot have it both ways.

With respect to the question of whether or not the French are ahead of us in this—yes, indeed, they are. And they are not slowing.

The Senator correctly said that Great Britain does not have a breeder program. That is not quite true—nearly true. They have an interest in the development of a breeder program, and they wanted to cooperate with the United States; but they have been unable to get a reliable arrangement with us, so they are turning to the French and West Germans for a cooperative agreement.

Mr. BUMPERS. Mr. President, my precise words were that Britain has no commitment to commercial breeders.

Mr. McCLURE. That is correct, and neither does the United States. This is an essential point, obscured in the debate but, nevertheless, an essential point. We have no commitment to commercialization. We are trying to develop a technology which will be available to use in the event that we decide to use it and need to use it so that we will be able to do that in a reliable and safe manner when, as, and if we get to that point early in the next century that we decide we wish to do that.

At one point the Senator suggested that fiscal conservatism must be consistent. If we go home worried about budget deficits, we must come back here and vote against spending.

I had understood the Senator from Arkansas to say earlier that there is a half billion dollars a year we put into fusion research and he votes for every penny of it. Indeed, he does; so do I. And so should we on this, go ahead with the development of a technology that is just as important to the future of this country and more predictable in its application than is that of fusion.

Yes, I am for fusion research. I hope we get that breakthrough that everyone is waiting for. It is not an easy thing to suggest that we know when or even confidently except in basic optimism to say, yes, we know we will get that breakthrough.

But we need to invest in the research and at the appropriate time in the demonstrations of technologies that must be made available.

The Senator also said at one time in the discussion that this country spends more money in breeder research than any other country. I suspect, absent liquid fossil fuels from synthetic conversions, synthetic programs, conversion of fossil fuels to liquid, from coal primarily, that the United States has spent more money in basic energy research than any other country in the world across the board, in conservation, in solar, in geothermal, in wind energy, in fusion energy, in alcohol fuels programs, the technical aspects of conversions—not the practical applications because Brazil is ahead of us in alcohol fuels production, but not in the basic research for alcohol fuels.

So, yes, indeed we are because we are spending that kind of money across the board. Name another country that has spent as much money as we have on the conversion of ocean temperature water into usable energy for our country, as a matter of fact.

Yes, indeed, we have spent money in these various research areas, and I hope and believe we will continue to.

We have spent a great deal of money in trying to develop a more efficient hydroelectric system and in the conversion of low head hydro into usable

and economical supplies of electricity for our country.

Let me suggest, also, that the Senator missed the mark, it seems to me, and this is a matter of judgment, not a matter of fact, missed the mark with respect to whether or not the power is salable.

We have letters of intent from utilities in the Southeast that expect to buy the power when available in 1991. Yes, there is a market there. The Senator is correct, and CBO missed the mark.

Mr. BUMPERS. Mr. President, will the Senator yield on that point?

Mr. McCLURE. I am happy to yield.

Mr. BUMPERS. How binding is a letter of intent?

Mr. McCLURE. I say to the Senator it is not binding. He knows it and I know it. But it also indicates the expectation within those markets that there will be a need for power, and that is the basic question raised, not if we have contracts, but is it marketable, and it is not just their opinion.

The S. M. Stoller Corp. surveyed 25 utilities in the Southeast and of those 25 utilities 7 of the largest expect costs greater than 11 cents per kilowatt hour in 1991.

Perhaps the Senator from Arkansas was unaware of that survey and of those cost projections, and I cannot say that the Stoller Corp. is correct. I cannot say that the utilities that have filed those letters of intent to purchase are correct in their assumptions of what the market will require and what the cost will be. But those are their estimates, not mine, their estimates, and those I think are rather basically confident estimates.

I think we should look at one of the reasons why those estimates may be, indeed, good, and one of the reasons why perhaps this has a logical basis in our expectations and also in our national energy policy, and that is in the Southeast where this plant would operate and where the power would be available rural co-ops in that area of the country burned 50 million barrels of oil in 1982. It is still projected that in spite of all of the shifts, shifts in conservation, shifts of alternative sources, shifts of different kinds of fuel, their projections are that they will be burning 46 million barrels of oil in 1990. CRBR, although that is not its primary mission, can replace 1.7 million barrels of oil per year, one plant, a small plant in its output, but nevertheless a significant impact upon oil consumption in that area of the world which reduces the energy consumption of this country from outside sources, reduces the impact upon our balance of payments and our vulnerability to the energy extortion that sometime occurs by artificial restraints on availability of that oil.

I think it is also perhaps worthwhile to note with respect to the CBO, and I

know the Senator from Arkansas was not here at the time I made my earlier comments with respect to their testimony before our committee and what they admitted under questioning in our committee about the assumptions that they used, it would require a change of law before their assumptions could be made. I do not know that the letter the Senator has says that their study is correct. It is a letter that says our methodology was correct and our mathematics are correct.

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

Mr. McCLURE. I am happy to yield.

Mr. BUMPERS. Mr. President, at that point, I wish to ask the Senator this question.

The CBO letter indicated that this agreement will only succeed if as the private sector gets the guaranteed tax credits and that this bill actually provides them with those tax credits if they are not entitled to them under other tax laws.

Mr. McCLURE. No, that is not true. I think the Senator may have misread what CBO said or CBO made a mistake if indeed they said that because that is not correct.

What it says is that they will take their chances under current law with respect to what advantages they can get, what writeoffs, what tax treatment they can get under current law, and the only guarantee that is asked or given is that we will not change the law on them in an adverse way.

In other words, what they are saying is we are going to put some money into this, we are going to go out and borrow \$1 billion to put into this thing; we do not want you changing the rules. Let us look at why they ask that.

Mr. BUMPERS. Mr. President, will the Senator allow me to interrupt him at that point?

Mr. McCLURE. Surely.

Mr. BUMPERS. If I may read to the Senator something that is called the CBO staff working paper and ask him to either confirm or deny the accuracy of it, here it is:

Under the proposed plan, the federal government would be required to cover the full costs of the equity investment, as well as principal and interest payments on the debt, through various tax benefits, project revenues, and, if necessary, federal payments. Thus, the proposal embodies virtually no risks to the new private sector participants. The short-term private investment of \$675 million would be retired in 1990 by the issuance (by the equity investors) of an estimated \$1.04 billion in 30-year bonds, which would cover the \$675 million in short-term construction loans plus interest accrued at 10 percent. The plan would require a government commitment to cover the principal and interest payments on the bonds, either from the reactor's power sales or, if those are not adequate, from other government funds. The sale of \$150 million in equity shares in the project would be attracted

through a guarantee of tax benefits and a share of revenue not needed to pay interest on the debt. Because of the uncertainties associated with the newness of the technology, licensing requirements, and the volume and price of future electricity sales, the BRC proposes that the government guarantee that both the equity and the debt holders will be repaid their investments, as well as a minimum rate of return. The actual rates of return would be open to negotiation and would reflect market conditions at the time. All cost overruns would be paid for in full by the federal government.

Does the Senator agree or not agree with that statement?

Mr. McCLURE. I will agree in part and disagree in part, and again the question that the Senator asks in reading that statement of the staff working paper does not really address itself to the point I was trying to make.

Mr. BUMPERS. Mr. President, let me read one sentence.

Mr. McCLURE. Yes.

Mr. BUMPERS. It says the \$150 million in equity in the project would be attracted through a guarantee of tax benefits.

Mr. McCLURE. That is a guarantee of tax benefit to the extent, if the Senator read it, that we guarantee we will not change the law. That is the only guarantee on tax benefits.

Mr. BUMPERS. In other words, if we change the law and say we cut down the rate of accelerated depreciation or we reduce the investment tax credits, these people will not be subject to the change of law, is that not correct?

Mr. McCLURE. They would be subject to it, but they would be guaranteed against loss because of it.

Mr. BUMPERS. That is the same thing.

Mr. McCLURE. No, it is not exactly the same thing. I will tell the Senator why they asked for that.

If he will look at the history of this project, the only delays that have occurred have been as a result of lawsuits and governmental inaction. We are asking them to put more money in, and they said, "OK, we will go out there." The Senator asked if there is any risk. Of course, there is risk to them. What if they cannot sell it at 11 cents? He said they could not. That is their risk, they believe they can. You have asked if indeed there was a market for it. You say there is not a market. They say there is, that is their risk. There is risk involved in this but a certain risk they are willing to take and not willing to take and one of them they are not is the make risk of politics in this body that may change the rules for them and cost them some money.

I submit it is not an unreasonable fear with the misunderstanding surrounding this issue.

Both the Senator from New Hampshire and the Senator from Arkansas said in effect much of this argument is

redundant. You have heard this five times before says the Senator from Arkansas. What we are trying to guarantee is we will not hear it five times more. This is a one-time shot. This is the opportunity indeed to put that matter behind us and get to other debates and the reason they are concerned about it is in spite of the fact Congress repeatedly voted to do this, there are some few in this body who come in and argue against it. You argue very eloquently, Senator. You said "I don't want any of the darn things not now, not ever, not under any circumstance," and I suspect there is some reasonable expectation on their part if we pass this and say it is a one-time financing package there may be someone, maybe perhaps you, to come back next year and say "I don't care what the rules are, I want to change them and stop it."

Of course, they are concerned about it. The Senator from Arkansas is eloquent and persuasive, not always accurate, but always persuasive and very often eloquent. They are concerned about that.

Mr. BUMPERS. Let me ask you, Senator, whether this is an accurate statement. Here is a committee report which says private sector financing could be a combination of debt and equity or, if equity can only be obtained at cost or terms that the Secretary determines are unreasonable, all debt.

In my original statement, and it has been said here many times today, the private sector put up \$150 million. They get a lot more than that in tax benefits, but they are supposed to put up \$150 million. Yet, if their cost of the \$150 million is determined unreasonable, then they can just go out and borrow the whole thing, \$825 million, and the U.S. Government will guarantee every penny of that, plus interest, is that not correct?

Mr. McCLURE. It is not quite correct.

Mr. BUMPERS. What is wrong with this committee report? You are chairman of the subcommittee.

Mr. McCLURE. It is not correct. The way the statement is made in the context of what you are suggesting here today is you are guaranteeing a rate of return which you have said is 37 percent. You are reading that statement in context with your other statement which CBO based upon the best hypothetical case possible. That statement must be read narrowly and cannot be read in the context of the other remarks made.

Mr. BUMPERS. The only point I am trying to make is that if the Secretary decides that requiring \$150 million in equity is unreasonable then it will not be required. The money will be borrowed in the private market to provide the private share.

Mr. McCLURE. I think the Senator misreads both the reports and meaning of the amendment.

Mr. BUMPERS. I am just reading it as it is.

Mr. McCLURE. That is what I understand, that is what I am trying to say if you will allow me to, and that is the reason for the provision in the report and the provision in the bill that the Secretary must be satisfied with the totality of the agreement. One hundred and fifty million dollars contributed equity is the minimum amount that is required of the plan; it may exceed that. Indeed, we hope it might exceed that and they would contribute more equity. Their guarantee on their equity is not a guaranteed rate of return—excuse me, a guaranteed rate of profit; it is guaranteed rate of return based upon the amount of money contributed and the market costs of that money. It is not a profit guarantee and that I think is essential to the discussion.

I think it is also well to note that while I do not agree with everything the CBO report has said I have been critical of it and tried to put it into proper perspective. Another part of what CBO says is that compared to current plan and current law the proposal before us will save the taxpayers \$59 million over the life, after all you have said and all that can be said about the increased costs and compared to total Federal financing under some hypothetical alternative that this plan in spite of their criticisms of it they admit will save money, at least \$59 million over current law. I would hope the Senator would agree even saving \$59 million is only a pittance—

Mr. BUMPERS. Who said it would save \$59 million?

Mr. McCLURE. CBO.

Mr. BUMPERS. Then you and I must be reading different reports.

Mr. McCLURE. I read it with different glasses than you do. I can see the fine print as well as the bold headlines.

Mr. BUMPERS. Allow me a moment if you will.

Mr. McCLURE. I will give you all the time you need, I expect.

Senator, what I think is essential to the understanding of the CBO analysis is their own admission before our own committee that their base case is not the real case and they said that in testimony before our committee when we questioned them when they appeared at the hearing. You cannot explain it away. You can still ignore it and come back to some other conclusion but the fact of the matter is that CBO themselves said we built up a hypothetical comparison between their plan and hypothetical alternative and that base case which they call the base case analysis is not the real world that

they exist in but a better world they would like to create.

Mr. BUMPERS. You are asking us to take your word for a \$59 million savings but reject CBO's estimate, and say CBO does not know what it is talking about.

Mr. McCLURE. That was Mr. Penner's statement, and if I recall—

Mr. BUMPERS. Here is what the Congressional Budget Office said, it is not very long.

Mr. McCLURE. Let me tell you, if I may, and I am depending on staff for this, and we have no reason to doubt that it is correct.

Mr. BUMPERS. We have 500 people over in the CBO we depend on for giving us information.

Mr. McCLURE. I believe it was Congressman GORE in the other body who asked the question and in response to a question by Congressman GORE they said if you compare the current proposal, the one before us today, against the current law, that this proposal before us will save \$59 million as compared to current law.

Mr. BUMPERS. Senator, just let me get to the bottom line and ask you if you would agree on this: Would you agree the private sector takes absolutely no risk?

Mr. McCLURE. No, I do not agree with that.

Mr. BUMPERS. On the financial plan.

Mr. McCLURE. I do not agree with that.

Mr. BUMPERS. Tell me what their risk is.

Mr. McCLURE. I tried to tell you a while ago.

Mr. BUMPERS. Tell me again.

Mr. McCLURE. If I put it in the report, you overlook it or do not read it, and if I tell you, you say I do not tell you.

Mr. BUMPERS. I am now not talking about what they are already obliged to contribute. I am talking about the balance, \$825 million. I want you to tell me and my colleagues where their risk is.

Mr. McCLURE. Tell me, Senator, what you said earlier, repeat for the RECORD.

Repeat what was the criticism of your plan with respect to power revenues.

Mr. BUMPERS. With respect to what, Senator?

Mr. McCLURE. Power revenue. You said it is ridiculous for them to sell it for 11 cents, the market will not begin to bear it for 11 cents. Is that not what you said?

Mr. BUMPERS. I said that they are projecting a sale of \$110 million worth of power, based on the projection that this plant will operate at 65 percent capacity and that they could sell the power for 11 cents a kilowatt hour, which is supposed to be the avoided cost. The Congressional Budget Office

says, however, that by 1990 the avoided cost of the southeastern part of the United States, which is declining right now, could be as low as 3 or 4 cents per kilowatt. That is what I said before, and that is what I am saying right now.

Mr. McCLURE. All right. Where is their risk?

Mr. BUMPERS. I am not talking about risk of the plant. I do not think the thing is likely ever to produce electricity. I am talking about the risk in dollars to the private sector.

Mr. McCLURE. Well, I was trying to suggest to you that if, indeed, you are right and it cannot be sold for 11 cents, is there not a risk?

Mr. BUMPERS. That means for every dollar it brings in under \$110 million a year in sales—

Mr. McCLURE. You suggested there is no market there. You doubted whether the letter of intent means anything, and, therefore, they cannot sell it.

Mr. BUMPERS. I am trying to put it in the best light by saying if there is a market, all they would get is 3 to 4 cents a kilowatt hour for it.

Mr. McCLURE. As a matter of fact, what the Senator suggested a moment ago parallel to WPPSS, I am glad he mentioned that. That is something I have an attachment to and I think some reasonable knowledge about.

He suggested there is a glut of power in the Northwest and therefore we will not be able to sell any kilowatts if we happen to complete two or three plants out there. As a matter of fact, does the Senator know what the Northwest Power Planning Council projections are of power demand by the 1990's in the Northwest?

Mr. BUMPERS. I do, indeed, I sat in the same hearings you did.

I listened to the administrator of WPPSS testify that if they do not build those two plants by 1990 they would still have an excess capacity of 900 megawatts.

Mr. McCLURE. That is not what the administrator of the Bonneville Power Administration said, as a matter of fact, Senator. Your hearing is faulty as well as your eyes.

Mr. BUMPERS. I am not interested in WPPSS at this time. That is a separate debate. Let us talk about Clinch River.

Mr. McCLURE. I think it is worthwhile to analyze the statements you made and the basis upon which they have been made.

Mr. BUMPERS. Let me analyze one you just made a moment ago, that is this is going to save \$59 million to the Government. Here is what the CBO says on page 10. "Under the assumptions used in this analysis"—

Mr. McCLURE. There. You see, you have put the key words in there. "Under the assumptions made in this analysis."

Mr. BUMPERS. You are the one who is telling everybody else that CBO has used wrong assumptions. You are going to force me to put that long letter in the RECORD of how they reached that assumption, and it is going to cost the taxpayers about \$2,000. I do not want to do that. Let me just hand it to you and you read it.

Mr. McCLURE. You can save \$2,000, if you wish.

Mr. BUMPERS. I am going to save it. I am not going to put that in the RECORD because it is too long.

CBO specifically, item by item, refutes all of the things you said the other day in the Appropriations Committee about how their assumptions were wrong.

Mr. McCLURE. I cannot help it if they may indeed—I have not seen that letter—if they may indeed, upon different occasions, say different things. I am just talking about what CBO themselves have said. They said before our committee that the assumptions that they were making were based upon changes in the law and do not deal with the current situation. They said that before our own committee. I think you were there for at least a part of that debate. I am not sure whether you were there when that particular exchange took place, but it is on the record and I read it into the RECORD a while ago.

I can read it into the RECORD again, but again, I think it is redundant.

The second part of it is, in their testimony in the other body under questioning from Congressman GORE, they made the statement to which I have referred with respect to the savings to the taxpayer under this plan of \$59 million. Now, that is not my figure. That is not my statement, Senator, that is CBO's statement.

Mr. BUMPERS. Senator, let me do two things quickly, because we are either going to vote here in a minute or I will have to run to the Appropriations Committee.

Here is a letter from the Director of the Congressional Budget Office, Rudolph Penner, to DICK OTTINGER, the chairman of the House Subcommittee on Energy Conservation and Power, which I herewith, by page, send over to you. That supports all those assumptions that you say are erroneous.

Second, if you will, so that our colleagues can choose to either believe CBO's assumptions or choose to believe that you are correct in that they used wrong assumptions, let me just read this into the RECORD. And this is a CBO paper.

Under the assumptions used in this analysis, the breeder reactor corporation plan would cost the Government almost \$250 million more than if the Congress chose to fully fund the project. More precisely, the discounted value of the private plan is \$258 million less than that of the Government financed version.

This indicates that the short-term savings from the CBO plan would not offset the higher cost to the Government over the life of the plant.

Mr. McCLURE. Senator, I do not think you are hearing. I think you are hard of listening.

Mr. BUMPERS. I am trying to penetrate your mind, not your ears.

Mr. McCLURE. You have succeeded in both, as a matter of fact. But let me repeat—you are forcing me to repeat myself because I have said it before and apparently you have not heard. So I am trying to penetrate through that bias you have against breeders and allow you to at least hear what I am saying.

I have not said that their calculations are wrong. I have not said that CBO admits their analysis is wrong. I am saying that the assumptions upon which it is based are not the real world. They are not the law that now exists. They compare the private plan, the current plan before us in this measure, with a hypothetical alternative that might exist if we change the law and that unless we change the law, according to the assumptions that they make, the comparisons are different. And that is exactly what they said in their testimony before the House when Congressman Gore asked them that question.

Look on page 12 of the staff working paper, if you would, Senator, to which you made reference. Do you have it before you?

Mr. BUMPERS. Yes.

Mr. McCLURE. Look at page 12, paragraph 5. Power sales to TVA.

Mr. BUMPERS. I almost have it memorized, Senator.

Mr. McCLURE. All right, then you would remember this one. The next to the last sentence in that paragraph.

By sharply reducing Federal receipts under the Government-financed plan, this assumption would significantly increase the attractiveness of the private plan, to the extent that its long-term cost to the Government would be \$59 million less than the cost to the Government-financed plan.

It is not just in their testimony before the House, it is in the staff working paper.

Now, Senator, there was a comment made a while ago—and I do not mean to belabor this.

Mr. BUMPERS. If I may one comment?

Mr. McCLURE. Surely.

Mr. BUMPERS. That statement is based on the proposition that we would sell power to TVA for 30 years and TVA has already said it will not buy it for 30 years. So how do you save the \$59 million when you already know that TVA is not going to buy the power?

Mr. McCLURE. We save a lot more money because we will not sell it to TVA and we will not be constrained to the market within TVA and we will

not be subject to those surpluses of energy to which you made reference earlier because TVA does have a surplus and they say they do not need it.

So we make the assumption that we go outside of that market and sell it where there is a market and, under current law, at avoided cost and under current projections at 11 cents or greater.

Now, those assumptions may all be false. Those conclusions may all be wrong. Your judgment may be entirely different. But they are not just mine. I am repeating what others have said, including CBO, in trying to put into context the various arguments that have been made here today.

The Senator said we have got to save money. We are all concerned about budget deficits. We are going to go home and tell the people we are against budget deficits. We are going to come back here and vote to save money and the place to do it is here right now.

The Senator is entitled to that conviction. But I believe the Senator shares with me the belief that the strategic petroleum reserve is a vital component of the security of this country. You know how much the cost of the Clinch River breeder reactor is in terms of imported oil? The cost of completing the Clinch River breeder reactor is the cost of 8 days of imported oil.

What is it we are talking about in the strategic petroleum reserve? We are talking about a Federal expenditure, a Federal investment in security, of about \$20 billion, depending upon what the future cost of oil will be over the balance of the fill rate. That \$20 billion, in the Senator's judgment and my judgment, is worth doing. We started out with a goal of 750 million barrels of oil in reserve in that strategic reserve, which translated into somewhere between 100 and 120 days of supply for our country based upon our projections of future demand at that time. We said that is worth it—\$20 billion for 120 days of supply. We have here an investment for 8 days supply at far lower cost.

What is the real world in which we live? Judgments may vary. Certainly, the Senator from Arkansas is entitled to his judgment, just as every other Member of the Senate is. His judgment says, do not build the breeder, we do not need it; we do not need it now, we will not ever need it.

As a matter of fact, there has been some criticism that the private sector is not investing enough.

Mr. BUMPERS. It is not investing anything.

Mr. McCLURE. What is the private sector investment?

Mr. BUMPERS. They are not investing a dime.

Mr. McCLURE. Mr. President, the Senator knows that is totally false; he

knows it. He may argue about what their rate of return is and what they are getting back, but they are putting money up.

Mr. BUMPERS. The Senator is not suggesting that they are taking any risk? Public utilities may not put up a dime of their money. The representative from Merrill Lynch testified in the committee the other day that they are going to call their best customers and say, "Have I got a deal for you."

Mr. McCLURE. Would the Senator answer a question?

Mr. BUMPERS. I shall be happy to.

Mr. McCLURE. What is the private sector contribution, contribution or investment, in fusion research?

Mr. BUMPERS. None that I know of.

Mr. McCLURE. Why should we invest one dime in fusion research if that is the test?

Mr. BUMPERS. There are a host of reasons, Mr. President: Because fusion is a technology that is going to be relatively clean compared to this. It is going to be a long-term supply of energy, not dependent on uranium or plutonium, simply on water, preferably ocean water. It has a theoretical prospect of literally solving all the electricity problems this country will ever have, as far into the future as the eye can see.

It is true, the Government is doing exactly what it is supposed to do on this. On the fusion reactors, they are putting up the money because it is long-term high risk.

Why do we have the private sector in this matter? Why do we even confuse the matter? They are not taking any risks.

Mr. McCLURE. I do not remember what the Senator's contribution was to the debate last year. It may have been an absolute, forthright presentation.

Mr. BUMPERS. It was about the same. I have been making this speech every year I have been here.

Mr. McCLURE. I focus on last year because it was last year that Congress decided after the debates that we would not go forward on this unless the private sector put in more money at the front.

Mr. BUMPERS. That is precisely correct.

Mr. McCLURE. Did the Senator vote for that?

Mr. BUMPERS. You bet I voted for it and I would vote for it today, but I did not expect they would come back with a scam like this.

Mr. McCLURE. The Senator voted if more money would be put in and that is precisely why; now he comes in today and says, now I am against it because they are not putting any money in, not as much as I would like.

Mr. BUMPERS. They are not putting a dime in.

Mr. McCURE. How about the \$325 million worth of contributions they are making?

Mr. BUMPERS. They put \$150 million in the past 10 years, which is only 10 percent. Now they propose to put up \$150 million and \$675 million as long as we get a lot more back in return for it. They do not want their \$150 million back, they want \$825 million back plus a 37-percent return on their money.

We are getting ready to vote here today and say, it is a deal. It is just that simple.

Mr. McCURE. Mr. President, it is not that simple. That is not an accurate statement and the last hour and a half would indicate that the Senator knows it.

Mr. BUMPERS. I am telling the Senator, we have the worst communication problem I have ever had in the Senate.

Mr. McCURE. That is right. I think that is right.

Mr. BUMPERS. Let me take the Senator back to a statement he made earlier indicating that this is not as risky as some people would suggest and alluding to the fact that, yes, we have had breeder reactors in this country before. The Senator is alluding to EBR-1 and EBR-2—those are called experimental breeder reactors. The first one was 1 megawatt, the next one was 62 megawatts. The private sector put up all the money for the Fermi experimental reactor in Detroit. Is that not correct?

Mr. McCURE. I think that may be correct.

Mr. BUMPERS. That is correct.

Mr. McCURE. I shall have to check my memory on that. I am not certain of that.

Mr. BUMPERS. Mr. President, you cannot blame the private sector for being a little gun shy, because it turned out to be a dismal, miserable failure.

The second thing I want to say is that we cannot assume that this plant will reach 65 percent capacity and even more because we have had that kind of experience with those experimental breeder reactors. Let me ask the Senator this question: Do any of those reactors have generators? Has any of them ever produced a watt of electricity?

Mr. McCURE. I am glad the Senator asked that question. I am glad he asked that question because he extends the chance of being enlightened on at least one subject. I have given ample opportunity on this one, but maybe on others, I shall succeed.

EBR-1 contributed the first electricity that went on the commercial grid. It is now a national landmark. It has been mothballed and is not operating, has not for several years. EBR-2 has contributed to the commercial grid for all of the years of its operation, oper-

ating for almost 20 years at better than 65 percent online availability. I said that before. The facts are there. I do not think even the Senator from Arkansas can disagree with that one, Mr. President.

Mr. BUMPERS. I am sorry, Mr. President, I was distracted again.

Mr. McCURE. We are having a communication problem today.

I shall go back, because I said at the outset—

Mr. BUMPERS. Mr. President, I stand corrected. I am apologizing in front of everybody. I stand corrected. There was some electricity—as a matter of fact, I am advised by staff that the original concept of nuclear power in this country was breeder reactors. The Fermi reactor out in Detroit, of course, just apparently disintegrated, did it not?

Mr. McCURE. I do not recall, Mr. President, but the EBR 1 did not disintegrate. It went through its lifetime, it contributed electricity to the grid. It has a plaque on its wall. I hope the Senator comes out to Idaho someday, where he can walk in and see the date on the blackboard. It is still there, the date they first contributed electricity. I hope he will see that.

Mr. BUMPERS. I think the Fermi reactor was blown through the ceiling.

Mr. McCURE. I hope the Senator will come out to EBR 2 and talk to the scientists as I have. Argonne National Laboratories activates that particular reactor. Argonne West is the operating entity. I am grateful the Senator from Arkansas at least heard that much of what the Senator from Idaho said.

Mr. BUMPERS. Let me ask one more point: How does the Senator project that this reactor will produce more than 65 percent when the French, who, by all odds, are way ahead of us, can only achieve 55 percent. No reactor has ever been built in the world with this particular technology. So how can the Senator be so sure we are going to receive 65 percent?

Mr. McCURE. Mr. President, every important scientist and engineer to whom I have talked, without exception, does not question the technological feasibility of this plant. None of them does, Mr. President. Some political figures do. There are some people who are on the fringes outside of the industry who might. But I have not talked to a single engineer or scientist who believes that this project will not work as it has been projected to work and 65 percent availability is, by all odds, a conservative estimate of availability.

Mr. BUMPERS. I think we have bored everybody about as long as we should, and I saw the Senator from Wisconsin (Mr. PROXMIRE) on the floor a while ago. I had promised to save him some time. And so, at this point, I am going to suggest the ab-

sence of a quorum to try to locate him and see if he would like to speak right now. 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. McCURE. 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. McCURE. Mr. President, we have a saying in the practice of law in the little country courthouse that the best rejoinder you ever made is a staircase rejoinder, it is that that you thought of as you were going down the staircase after the trial is over. This is not really in the nature of staircase rejoinder, it is just something that I intended to say earlier and did not say.

There are two reasons for the breeder reactor I did not outline in my prepared remarks, but, nevertheless, I think are important for the debate. One is economic value. The Senator has properly said that if we built a fusion reactor and if it works and if we can commercialize it, there is an almost infinite supply of energy for the future and an important reason to support the research and development of that technology, which I do. I fully support it. But there is a parallel in the breeder program. There is no shortage of uranium. The Senator is correct. But let me tell you what we do with uranium.

We go out and find a naturally occurring deposit of radioactive material created by nature and in place in the soil. We mine that ore and put it through a milling process. That milling process then goes into an enrichment process that produces yellow cake, which then goes into the fuel fabrication, which is then put through a reactor and all of the waste elements at various levels of what is left over are thrown away. In that process we use about 1½ percent of the potential energy in uranium and throw the 98½ percent away. A once-through cycle is one of the most wasteful uses of a resource you could imagine. There is no other resource that we treat so cavalierly and waste so extravagantly as we do uranium. The breeder reactor program is designed to enhance our capability of extracting from some of those products and byproducts an additional quantity of the energy.

I mentioned a moment ago that you mine the ore, and you then put it through a milling process before it goes into the enrichment process. That milling process has the byproduct of the majority of not only the energy but also of the bulk of the ore, and those mill tailings are now stored in yards around this country in 55-

gallon barrels and we call it a waste. It is a waste problem, a waste storage problem. The energy potential in just that one form—if we had a breeder program in which that energy could be further utilized, not totally but further utilized, the energy potential in just that one form of waste is worth at oil price equivalent \$26 trillion. We suggest that is something that should not be allowed in a country that has a conservation ethic, in a country that has some concern about the economics and the use of our resources. If you want another statistical equivalent, if we used the price of coal rather than the price of oil, it is \$15 trillion about 700 years of energy consumption at current rates of consumption in the United States. And that is an asset we are going to throw away. We are going to deny ourselves the ability to develop the technology that can use it.

Second, one of the arguments that has not figured very widely in the debate here today, but one of the arguments against the breeder is a familiar one that gets into the question of nonproliferation policy, the production of plutonium, and indeed as a matter of fact the breeder reactor in the process does produce some plutonium, but it consumes more plutonium than it produces. As a matter of fact, if those of us who are concerned about weapons proliferation and who support the President in his zero-zero option want to get rid of these nuclear weapons and if we are successful in getting rid of nuclear weapons, we still have a component of those weapons that is harder to get rid of and that is the plutonium element. Suppose we scrap all of our nuclear weapons. What do we do with the plutonium element?

Well, I suspect we would like to treat it like almost every thing else that we believe is garbage. We would like to put it in an incinerator somewhere and burn it up. The available technology for the incineration of plutonium, at least the most likely candidate for that is the breeder reactor in which that not only is a garbage which can be destroyed but it is like some other garbage that we use in some powerplants today. We burn it to produce heat, produce energy which is usable. We convert a liability into an asset. If we can demonstrate that the breeder reactor will work, if we can go ahead with the development of the technology to the point where we can commercialize it, if we go ahead and develop it so that we know that we can do it safely, if we continue both the demonstration of available technology and continue with the base program, we will then be able, with surety to the world, to say we know how to take care of that problem. And we will then be able to move forward with confidence on something that ought to be in the best interests of all of mankind.

Mr. BUMPERS. Will the Senator yield?

Mr. McCLURE. I would be happy to yield.

Mr. BUMPERS. We have been producing electricity in light water reactors now since 1949, that is 34 years. Yet, the Senator and I sat day after day in the Energy Committee laboring over what we were going to do with the radioactive waste from light water reactors; 34 years after the fact we still do not have a solution. So I want to ask the Senator how does he propose to do away with radioactive waste from this plant which is much more radioactive than radioactive waste from light water reactors?

Mr. McCLURE. As a matter of fact, the Senator asks a thoughtful question and comes to an erroneous conclusion because the last statement he made is not factually correct.

The waste products from a breeder reactor are less difficult from a storage process and from volumes than is a light water reactor.

Mr. BUMPERS. Is that after reprocessing?

Mr. McCLURE. You have to reprocess in that fuel cycle, that is correct. But that is before breeder, not after.

Mr. BUMPERS. The Senator and I are talking different scientists because I am telling him that the scientists I have talked to tell me that the waste from a breeder reactor is much more radioactive.

Mr. McCLURE. There again we have to get into an extended discussion of what radioactive waste is and what the parameters are. You have levels of radioactivity. The ones that are most long lived, the ones we worry about most in terms of geologic storage have very low radioactivity. That is why they last so long. What the scientists to whom you have talked, are talking about are those so-called hot elements, the ones that have high levels of radioactivity. The very fact that they have high levels of radioactivity means they have short lives, relatively speaking, and therefore they are a short-term greater problem but a long-term smaller problem. As the Senator knows from the debate both in the committee and on the floor last year which led to the passage of the Radioactive Waste Storage and Disposal Act, we are putting in place the storage programs which deal with the ultimate disposition as well as the interim disposition of those radioactive wastes which we then believe will have no further economic utility.

So we do have an answer to the radioactive waste problem, both from LWR's and from the breeder reactor.

Mr. JEPSEN. Mr. President, I have listened carefully to the arguments presented by both sides on the merits of the Clinch River breeder reactor project.

When this issue last came before the Senate, Secretary Model had been newly named as Secretary of Energy. I cast my vote in favor of the project at that time in order to give him the opportunity to work on the private financing aspects of the project which he assured me were in hand. Indeed, my vote was predicated on increased private participation in this project.

I was disappointed in the outcome of that effort. Though there is an appearance of increased private participation, the bottom line shows that the Federal Government is still far out on the limb with Federal guarantees exceeding \$1 billion.

I can only say to Secretary Model and the proponents of the project that a golden opportunity has been lost. In the long run it is the American people who have lost, because we do need this technology—but not at this price.

I cast my vote against continued funding for the Clinch River breeder project.

Mr. THURMOND. Mr. President, I rise in support of the Clinch River breeder reactor project. While I have supported this project in the past, the controversies involving financing, technology, nuclear proliferation, and need have prompted my careful reassessment of this project. After thorough study of the project and the new financing plan, I have concluded that the project should go forward with the necessary Federal Government support.

At the heart of this matter is the policy by which this Nation chooses to insure its energy future, and thereby its productive capacity, as we enter the 21st century. What is at issue is whether or not fast breeder reactors need be part of that policy.

Our use of energy has dropped by 5 percent in the last decade due to conservation, the influence of foreign cartels, and economic recession. However, our use of electricity has grown by 20 percent within the same timeframe, and we may expect it to increase. Conservation has been and should continue to be an important part of our national energy policy, but conservation alone cannot insure our energy future.

Our energy resources can be differentiated as renewable or nonrenewable; energy uses can be differentiated as electrical or nonelectrical. Our limited oil and natural gas resources will continue to be better used to run our automobiles, heat our homes, and fuel our industries than to produce electricity. Our Nation's coal reserves are large and must be tapped for the production of electricity. However, the environmental and health effects associated with coal must be adequately addressed, and these effects may eventually limit the rate at which coal will be utilized. Even conventional nuclear power, which we will be required to

utilize to a greater extent in producing electricity, must be recognized as an exhaustible energy resource. Of the renewable energy sources such as solar-based technology, hydroelectric power, breeder reactors, and fusion, only the latter two offer the potential for substantial baseload production of electricity. Only the breeder reactor has technology advanced enough to be available in the next few decades.

Other nations who do not enjoy our current abundance of energy alternatives have already confronted some of the tough choices America must face in the future. With limited or no organic fuel reserves, countries such as Belgium, Japan, France, Great Britain, Italy, India, The Netherlands, and the Federal Republic of Germany are developing breeder technology. Like the U.S.S.R., we too, will most certainly face the same set of options as those countries in the coming years. The U.S.S.R. has chosen to develop breeder reactors. We must, also.

Over the last 30 years, this Nation has invested \$3.8 billion in breeder technology research and development. In addition to that outlay, we have invested \$1.5 billion in the Clinch River breeder reactor project. The next logical step in that development program would be the completion of this important project. To stop now would not only result in the loss of that total investment of \$5.3 billion, but also would result in the expenditure of \$300 to \$500 million more in termination costs.

More importantly, to stop our breeder technology research and development program now will effectively forfeit to our economic competitors an energy edge, which translates into an economic edge. America's ultimate ability to compete economically in the markets of the world is at stake. During my tenure of service in this body, I have seen this Nation decline from its position of world economic dominance. It will be difficult to prevent further slippage of our economic position, unless we aggressively seek every advantage, and every edge available. The continuation of this Nation's breeder reactor program will help provide a much-needed energy edge for this Nation.

The new financing plan for completion of the Clinch River breeder reactor project has received support from many quarters, including the Secretary of Energy and the President. It is necessary and proper that the Federal Government support a prototype project of this size and scope if the national interest is to be served, as I believe it is in this case. The 7-year expenditure of \$1.5 billion needed to complete this project is substantial, but it is small when compared to the economic stakes involved.

Mr. President, in closing, I would caution that a decision to halt work on the Clinch River breeder reactor and

forego the international competition for reliable, independent energy resources cannot, as some seem to believe, place the nuclear genie back in the bottle. On the other hand, continued leadership in atomic energy development will allow us to influence how nuclear energy and its associated products are managed throughout the world. It is not in the American character to ignore a challenge. We courageously accepted the challenge of space; we must not be timid in the challenge of energy independence. For all these reasons, I hope that Congress will support completion of the Clinch River breeder reactor project.

Mr. SIMPSON. Mr. President, I have listened with great interest today to yet another round of debate on the Clinch River project—a debate that has been going on for a period long before I came to the Senate. With extraordinary regularity, the debate over this project always seems to involve the same issues—should we go forward with this project, and, if so, who should pay for it? We always seem to have a new and dazzling round of studies, a fresh handful of editorials, and a repackaging of the issues from both sides, but the basic issues that we have been asked to address time and again have essentially remained the same—is this a worthwhile venture and, if so, how should it be financed?

Unfortunately, we have reached the point over these many years, Mr. President, where this project has now become but a symbol—the saliva test, if you will—of whether one is for or against nuclear power. That is too bad. And I, for one, think that it is most unfortunate that we have reached that point. We have long since passed the time, in my judgment, when a vote for or against Clinch River is a vote for or against nuclear power—and I do not certainly cast my vote today on that basis.

I have long held to the view that nuclear power can and must play a critical role in supplying electricity to meet future energy demand, and I have devoted significant efforts since the day I arrived in the Senate—first as ranking member and then as chairman of the Subcommittee on Nuclear Regulation—to insuring that nuclear energy can fulfill its potential and do that safely, efficiently, and effectively. I truly believe that it can.

But the issue here, pure and simple, is one of economics—a question of whether we can justify continued Federal involvement in the financing of this project on the order contemplated under the new cost-sharing plan. I have given a good measure of thought to this issue over the years, and, increasingly, I have come to puzzle whether we have lost sight of what we set out to accomplish with this project back in 1970, when the Congress first authorized CRBR as a demonstration

project. For here we are again—12 years later, with \$1.6 billion spent and the first trees cleared off the site just over a year ago—and still debating questions that should have been resolved so very long ago.

Assuredly, Mr. President, a large part of the responsibility for 12 years of indecision on Clinch River rests squarely with the Federal Government—time and again we have subjected this project to the consequences of our inability to make long-term decisions on the energy future of this country, and the results have been devastating. A project originally estimated to cost \$700 million has soared to nearly six times that amount, 11 years passed before even the most preliminary of site preparation activities began, and a construction permit is not expected until later this year. But we have mindlessly managed to spend \$1.4 billion of the taxpayers' money and \$150 million of the utilities' money.

And now we are back to ponder, once again, where we wish to go with this project.

All of us are now familiar with all of the facts and figures. Clinch River was authorized by Congress in 1970 as a research and development project to provide operational experience on the safety and environmental advantages and economic potential of liquid metal fast breeder reactor technology. At that time it was estimated that it would cost about \$700 million to build a demonstration breeder reactor—an estimate that included 5 years of operation. As it was originally envisioned, this project was to be a joint effort between the Atomic Energy Commission and private industry, with the costs to be shared jointly. In exchange for footing part of the bill, the utilities who agreed to participate were to then be entitled to share in the technological benefits to be derived from the project.

The original authorization for a demonstration breeder reactor—Public Law 91-273, passed in June of 1970—included a provision addressing the question of what the Federal financial role in the project should be: That law provided "That such assistance which the Commission undertakes specifically for this demonstration plant shall not exceed 50 percent of the estimated capital cost of such plant."

At about that same time a group of utilities agreed to contribute \$257 million to the project, in exchange for the opportunity to share in the technological benefits of breeder reactor technology. With the mutual backing of the Federal Government and private industry, the Clinch River project was off and running, and estimated to be finished by July of 1982.

In August of 1974, the Atomic Energy Commission then revised its

cost estimate for CRBR upward to \$1.7 billion. A year later, the estimate increased to \$1.9 billion, and in late 1975, the Congress deleted the language that had been adopted in 1971 discussing the share of the capital costs to be borne by the Federal Government. This action was followed by two further cost increases—\$2.2 billion in April 1977 and \$3.2 billion in December of 1980.

DOE currently estimates that this project will cost \$4 billion—and an additional \$100 million will be required for the fascinating item of "startup costs." The project is now estimated to be completed in November of 1989.

With \$1.6 billion already expended on this project, an additional firm sum of \$2.4 billion will be required to finish it—assuming that the project stays on schedule and within its budget. There is a "great bridge" for sale near the Gowanus in Brooklyn if you believe that one. In addition, we have this \$100 million being sought for startup costs. The total—\$2.5 billion—is the subject of the cost-sharing plan that we are now considering.

I have cast a jaundiced orb over this cost-sharing plan since it was submitted to the Congress earlier this year, Mr. President, and have had extended discussions over the past few weeks with many of those who were responsible for assembling the plan. In all honesty and candor, I certainly fail to see how the plan before us represents the kind of cost-sharing arrangement that I think Congress—or I—had in mind when we directed DOE to "vigorously explore proposals, including a reconsideration of the original cost-sharing arrangement, that would reduce Federal budget requirements for the Clinch River project and secure greater participation from the private sector." More importantly, I do not believe that the proposal matches up with the kind of cost-sharing that the American public expects or deserves.

For here we see that the Federal Government would put up \$1.5 billion toward completion and startup of the project—60 percent of the remaining cost. If the project comes in within its budget—hold your breath here—this one-shot, multiyear appropriation would presumably be the very last appropriation of Federal funds required by the project. In exchange for this Federal funding, the plan calls on the private sector to come up with \$1 billion—or 40 percent of the remaining cost; \$175 million of the private sector contribution represents the balance due, plus interest, from the utilities on their initial pledge of \$257 million; \$150 million would be raised by the sale of equity shares; and \$675 million would be borrowed from the private sector and repaid, with interest, by the issuance of approximately \$1 billion in bonds.

If this plan then unfolds as its proponents intend—with construction to be completed on schedule and within budget, and operation of the plant and sale of the electricity to meet the assumptions set forth in the plan—the Federal Government will then have financed \$2.95 billion, or slightly over 72 percent of the total project cost; and the private sector will have contributed \$1.15 billion, or just under 30 percent. If the assumptions that have been incorporated into this plan cannot be met, or if there are any additional cost overruns, the financial exposure of the Federal Government may, in fact, be much higher, due to the extensive Federal guarantees that have been included in this plan in order to back up the private sector investment.

As I observe this complex plan, Mr. President, I cannot but marvel as to how terribly distorted our vision of cost-sharing has become since the early days of this project, when the Congress managed to say in a single sentence that the capital costs of this project should be shared equally by the Federal Government and private industry. In fact, the supreme irony in all of this is that the Congressional Budget Office has estimated that this alternative financing plan will cost U.S. taxpayers \$248 million more over the life of the plant than if the Federal Government were simply to fund the remaining cost of the project up front with no cost-sharing.

I do not want to redundantly relate the points that have already been made by some of my colleagues here today, but I do wish to highlight a key point or two. First, as I ponder this plan, I note the largest portion of the private sector contribution—the \$675 million financed through the sale of bonds—involves absolutely no private sector risk. Quite to the contrary, these bonds are backed, lock, stock, and barrel, by the Federal Government through assurances that all debt service obligations will be met under any and all circumstances. Similar assurances have been provided to insure that the tax benefits now available to those who invest in this project will remain available throughout the entire life of the investment—even if it goes sour. This is, in effect, a guarantee that the Congress will not change the laws that provide these benefits. Would that we could all toady up our bucks that way in the investment areas.

Beyond that, the flow of dollars out of the Federal Treasury according to some estimates—as a direct result of the tax benefits that may be taken under this plan—will amount to approximately \$175 million, yielding a net private sector investment of about \$825 million.

Second, Mr. President, there is nothing in this plan that addresses the

issue of cost-overruns. We have been burned plenty on that one. Any such overruns will obviously be paid for by the Federal Government, thereby increasing the Federal share even further. And even though we are told that a good portion of the design work is now complete, and that many of the components have been ordered and delivered, I would be most boggled if this project were to really end up costing "only" \$4.1 billion and be ready to operate by November of 1989. It is almost certain that the Congress will, at some future unknown time, be right back again to address a request for additional funds for CRBR.

And finally, Mr. President, I simply cannot concur with the notion that a contribution of \$1.1 billion by the private sector toward the cost of a project for which the Federal Government will have to kick in an additional \$3 billion, constitutes the kind of cost-sharing that the Congress originally had in mind for this project when it was first authorized back in 1970, nor when the Congress just in this past year directed the Department of Energy to expore proposals for securing greater financial participation for the private sector.

Where substantial benefits will accrue as a result of a given project undertaken by the Federal Government, I firmly believe that the beneficiary of those benefits—whether it be State or local governments or the private sector—has an obligation to cough up its fair share of the costs of that project. And difficult as it may be, I am convinced that when we begin abiding by that principle—delicately referred to in my State as "putting your money where your mouth is" or "put up or shut up"—then we will begin to reasonably stretch the limited Federal dollars and get more of our truly necessary national projects underway. In fact, I have consistently urged the Congress to take just that approach with the Tennessee-Tombigbee Waterway, and with modifications to the Buffalo Bill Dam right there on my home ground in Wyoming. This latter project is particularly significant because of the State of Wyoming's legislative commitment to provide \$47 million for this project—an amount equal to almost one-half of the estimated project cost. Our State is fortunate to be able to do that. We know others are not. But those who can do should do. In these days of fiscal austerity and budget deficits, we simply have no choice, Mr. President, but to require those who stand to benefit the most from undertakings such as these to step forward and share in a greater portion of the costs. And this plan, Mr. President, which is heavily laced with Federal guarantees and assurances, simply does not pass the congressional test of securing greater par-

ticipation from the private sector. For that reason, Mr. President, I will not support this alternative financing plan.

Before I came to that tough decision, I gave a serious amount of thought to just what the full implications—financial and otherwise—would be of abandoning CRBR at this stage of construction. That is referred to as "cut and run" I believe. For indeed a substantial amount of work and a significant investment have already been made in this project; \$1.6 billion has already been spent, a large percent of the project research and development has been completed, many of the major components, prototypes, and test items have been ordered, and a large number of components have actually been delivered. Given all of that, I am told that we cannot now afford to pull the plug on CRBR and risk losing all of our initial investment of \$1.6 billion, plus an additional \$500 million to close up the shop.

Unfortunately, there are too many projects around this Nation that are testaments to the distorted logic that "Lord, we can't stop now!" Taxpayers in every State know a myriad of those misguided efforts which were usually testimonials to some departed congressperson who—during life—had been most generous with someone else's money, that is, yours.

Take a look at Tennessee-Tombigbee. My comments on that turkey are well documented. Look at the Hart Senate Office Building which was originally estimated to cost \$48 million and ended up costing \$137 million. There is an edifice that we should have said, "no more" to. If we but did that more often, I am convinced that we would end up saving a healthy bundle of jack and, at the same time, slow the swelling tide of projects of really questionable value.

It is indeed most unfortunate that we stand to lose most of the funds that have been invested in this project, but that does not justify in my mind agreeing to spend another \$1.5 billion plus in Federal money to finish off this project. It is really time that we call a halt to this project, and its continual draw on the Federal Treasury. It is time, Mr. President, to remove this absurd acid test from the arena of discussion about the future of the nuclear industry, in order that we can get about the task of restoring this industry to a position of strength and vitality through licensing reform and other measures which do not compromise human health and safety. For those and other unrepresented reasons, Mr. President, I most reluctantly have determined that I shall oppose this cost sharing initiative and the continuation of this long controversial project.

Mr. HART. Mr. President, once again the Senate is being asked to con-

sider the Clinch River breeder reactor. Once again, we are asked to appropriate huge sums of money for a commercial demonstration project being built before its time, a project that may well prove unsuccessful. And while there is a new twist this time: Incentives and guarantees for private investors so that these investors will receive full return on their investment, the facts remain the same. The Senate is being asked to spend even more money over the \$1.7 billion already spent on a project of dubious value.

We can choose among many reasons to oppose the Clinch River breeder reactor. There's something for conservatives, something for liberals, and something for moderates; indeed, one of the remarkable things about the project is the diversity of opposition to it. It is not often the Heritage Foundation, Public Citizen, Paul Weyrich and the New York Times can all agree. But they speak with one voice in support of efforts to terminate the Clinch River breeder reactor once and for all.

Mr. President, opponents of Clinch River can object to the cost. In 1972, when the CRBR project was launched, it was to cost some \$500 million, the Government and a group of utilities sharing the costs equally. But the cost of the project has ballooned to more than \$3 billion according to the Department of Energy, an estimate the GAO says is \$5 billion too low. And still the nuclear industry has yet to make good on its original obligation.

Or we can object to the Clinch River breeder reactor on grounds that it is not needed, that the technology is not ready for a project of this size, and that the demand in the Tennessee Valley area will not be sufficient to justify constructing a new nuclear plant.

Opponents of the Clinch River breeder reactor can also object on grounds that the financing plan the administration developed at the behest of Congress will do nothing but increase the Government's exposure to risks. Under the plan, the investors would receive ironclad guarantees that they would recover full return on investment regardless of the cost overruns or unforeseen technological obstacles. If the CBO is correct in its calculations that the alternative financing proposal will cost the Federal Government \$250 million more than a congressional appropriation for the entire cost of the project, the DOE's efforts to distribute the risks of the project more equitably do not inspire much confidence.

Mr. President, these are all excellent reasons to oppose the Clinch River breeder reactor. But the debate over CRBR over the years has not touched often on another important reason to oppose Clinch River: The threat the breeder technology poses to efforts to

control the flow of weapons-grade technology around the world.

Let me briefly describe the threat that our Nation faces. To date, our stockpiles include 44 metric tons of separated plutonium warehoused in nuclear power programs throughout the free world. If only 15 pounds of separated plutonium were in some way to surface in the hands of a terrorist group or other fanatical faction bent on destruction, they could construct a crude nuclear bomb that could hold the most powerful nations in the world at bay indefinitely.

Promoting commercial development of breeder reactors and reprocessing plants at home and abroad has paved the way for an industrial process that will produce, by the ton, plutonium that can be used by the pound to make atomic bombs.

We now possess enough separated plutonium to produce 6,500 bombs the size that devastated the city of Nagasaki. By the year 2000, based on industrial projections, if the free world pursues plutonium as a nuclear power fuel, we could have 600 tons of separated plutonium, enough for 88,000 nuclear weapons. In other terms, in less than 17 years, the free world will possess the capability to produce more nuclear weapons than are currently stockpiled by the United States and the Soviet Union combined.

Although encouraging the development of breeder technology may respond to limited industrial interests, it clearly runs contrary to the best interests of national security and it seriously jeopardizes the interests of the public at large.

It will not take long once separated plutonium, by the ton, takes to the highway, for terrorist groups to secure the raw materials of nuclear capability. NRC Commissioner Victor Gilinsky wrote.

*** the IAEA system does does not protect plutonium in national hands *** In the process of separation, the plutonium loses its national identity and effective control by any one fuel supplier becomes impossible.

Monitoring tons of plutonium being transported around the world in hundreds of different vehicles, and maintaining accurate accounting for the hundreds of facilities in which plutonium is handled would be an arduous enough task. Operating an intelligence system that could provide quick warning of a diversion or a theft of plutonium would be impossible to accomplish.

Even the President's own Department of Defense has voiced its reservations regarding the International Atomic Energy Agency's ability to safeguard plutonium and other dangerous materials. They cautioned the President about relying on the IAEA, contending that IAEA was "susceptible to third world and Eastern bloc politics, it lacked an intelligence capa-

bility" and then cited the agency as "weak" as an international institution.

With the potential of easy access to separated plutonium, it is a short step to a fanatic threatening to blow up the Washington Monument or a terrorist group smuggling a crude atomic device into a major metropolitan area in the trunk of a car. Thousands of lives would hang in the balance. This is the ultimate nightmare.

The administration repeatedly professes its concern for our national security. But nothing could more seriously jeopardize our security than a world in which every nation or subnational group has some nuclear capability. We must take swift and decisive action to discourage and sharply restrict commerce in nuclear materials and to provide incentives for other nations to forgo the use of plutonium.

Mr. President, if the Clinch River breeder reactor is built, the plutonium it produces probably will not be diverted into the hands of terrorists or a government intent on building a nuclear device. But the precedent it sets may well open a Pandora's box of nuclear proliferation.

Mr. HUMPHREY. Mr. President, unless others wish to make the point further, it is my intent to offer a tabling motion in just a moment.

May I say the situation is that we have before us an appropriation bill which presently contains no money for Clinch River. The pending amendment is a committee amendment that will add \$1.5 billion for Clinch River, a multiyear appropriation.

I think all observers recognize and acknowledge by now that Clinch River would no longer be an issue if it were not for the personal popularity of the majority leader. No one wishes to displease HOWARD BAKER, who is a fine man personally, and it is tough to vote against him.

Let me make this point. This is going to be a procedural vote, a tabling motion. It does not rule out any option that the proponents of the Clinch River might wish to exercise in the future. It simply tables this amendment with respect to this bill. The proponents will have ample opportunity on other bills, on separate legislation, which is presently in the Energy Committee and in the Finance Committee.

So this can be looked upon as a procedural vote and no one need fear cutting off the options of the proponents with respect of the future.

So unless my colleague from Arkansas has something to add, Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER (Mr. HECHT). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the committee

amendment on page 12, line 14. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STAFFORD (when his name was called). Mr. President, on this vote I have a pair with the Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. HOLLINGS), is necessarily absent.

I also announce that the Senator from Michigan (Mr. RIEGLE) is absent because of illness in the family.

I further announce that, if present and voting, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Michigan (Mr. RIEGLE), would each vote "yea."

The PRESIDING OFFICER. Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 56, nays 40, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—56

Armstrong	Ford	Moynihan
Baucus	Glenn	Nickles
Bentsen	Hart	Nunn
Biden	Hatfield	Packwood
Bingaman	Hawkins	Pell
Boren	Humphrey	Percy
Boschwitz	Inouye	Pressler
Bradley	Jepsen	Proxmire
Bumpers	Kassebaum	Pryor
Chafee	Kennedy	Quayle
Chiles	Lautenberg	Roth
Cohen	Leahy	Rudman
Cranston	Levin	Sarbanes
DeConcini	Lugar	Simpson
Dixon	Matsunaga	Trible
Dodd	Mattingly	Tsongas
Durenberger	Melcher	Warner
Eagleton	Metzenbaum	Wilson
Exon	Mitchell	

NAYS—40

Abdnor	Gorton	Murkowski
Andrews	Grassley	Randolph
Baker	Hatch	Sasser
Burdick	Hecht	Specter
Byrd	Heflin	Stennis
Cochran	Heinz	Stevens
D'Amato	Helms	Symms
Danforth	Huddleston	Thurmond
Denton	Johnston	Tower
Dole	Kasten	Wallop
Domenici	Laxalt	Weicker
East	Long	Zorinsky
Evans	Mathias	
Garn	McClure	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Stafford, for.

NOT VOTING—3

Goldwater	Hollings	Riegle
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So the motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

SECOND EXCEPTED COMMITTEE AMENDMENT—PAGE 24, AFTER LINE 21 INSERT NEW LANGUAGE

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

The legislative clerk read as follows:

On page 24, after line 21, insert new language down through page 25, line 17.

The excepted committee amendment is as follows:

On page 24, after line 21, insert the following:

SEC. 2003. (a) No funds appropriated by this Act or by any other Act through May 31 may be used to repeal, amend, or otherwise modify the applicability of section 73.658(j)(i) of title 47, Code of Federal Regulations (commonly known as the Syndication Rule; 23 FCC 2d 382); section 73.658(j)(ii) of title 47, Code of Federal Regulations (commonly known as the Financial Interest Rule; 23 FCC 2d 382); and section 73.658(k) of title 47, Code of Federal Regulations (commonly known as the Prime Time Access Rule; 23 FCC 2d 382).

(b) The first subsection of this section shall not limit the authority of the Federal Communications Commission to modify the provisions or applicability of any rule referred to in such section with respect to any network which has fewer than one hundred and fifty television licensees affiliated with such network and such licensees carry not more than twenty-five hours per week on programming from the interconnected program service offered by such network as of date of enactment. As used in this section, the term "network" has the meaning given such term in section 73.658(j)(4) of title 47, Code of Federal Regulations (as in effect August 1, 1983).

The PRESIDING OFFICER. The question is on the amendment.

Mr. HATFIELD. Mr. President, I know this is another one of the controversial amendments. In fact, I believe it is the only other controversial amendment I am aware of.

This is the syndication issue. It has to do with an amendment placed on an appropriation supplemental by the Senator from Alaska relating to the question of syndication of television programs.

I know the Senator from California and the Senator from Alaska and other Senators wish to be heard on this. I am hopeful that they will be on the floor to make their presentation so that we can move ahead and, I hope, complete the bill tonight.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. HATFIELD. I am happy to yield to the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, if I may have the attention of the Senate for just a moment, I sincerely regret the loss of this committee amendment and the project that it represented. But it is lost. I congratulate those who have won. I hope that there is at least one good thing that comes out of that

from my standpoint. That is, I hope we get on with the passage of this bill. I should like to see us pass this bill today.

Mr. President, may I also say that we still have the debt limit to deal with. While the 3-day rule will not run until Monday on that bill, I have filed a notice of my intention to ask the Senate to suspend the rules so that we can call up the debt limit yet this week.

The deadline for that action is Monday midnight. It is entirely possible that the Senate will be in session this weekend in order to complete action on that measure. It is possible, of course, that we can get an agreement, I suppose, for a time for passage on the debt limit, or that we can get started and finish. Otherwise, I advise Senators that the statement I have been making for some time—that is, that we must do supplemental and we must do debt limit in order to avoid a weekend session—still obtains.

Once again, Mr. President, I regret the loss of this project. I commend the Senator from Idaho for his most diligent effort. I thank those who supported our effort to avoid the tabling of the amendment, but it has grown more difficult with each session to hold on to this project.

What I am about to say next is in no way sour grapes; it is simply a statement of fact. One of these days, I think we shall regret not having an entry in this sweepstakes in this development field. The Senate has spoken. I shall not try to prolong this matter.

Mr. BUMPERS addressed the Chair. The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me say that the distinguished majority leader has responded with characteristic magnanimity. The majority leader is one of the most magnanimous men I know. It is always easy to be a good winner, but it is not so easy to be a good loser. Football coaches say, "Show me a good loser and I will show you a loser."

I am extremely grateful to the majority leader for his magnanimity and his attitude. It has been a fair fight, going on for many years. He has been the worthiest adversary anybody could have.

I ask the majority leader is it still his intention, if we finish this bill tonight, to lay down the natural gas bill or go to the debt limit bill?

Mr. BAKER. Mr. President, I am not sure. As I said a moment ago, the debt limit is of the utmost priority. I filed a notice of my intention to ask the Senate to suspend the 3-day rule. If we can reach the debt limit, and I hope we can, it is my intention to go to that this week. If we cannot do that, then it will probably be necessary to go to the Natural Gas Act.

If we do not get the Natural Gas Act this week, it is the intention of the leadership on this side to ask the Senate to turn to the Natural Gas Act as soon as possible, and that will probably be next week.

Mr. BUMPERS. I thank the majority leader.

Mr. HUMPHREY. Mr. President, will the majority leader yield? I wish to be recognized, in any case.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I certainly do not see in this a personal victory or defeat for anybody. I hope I see a defeat for a project that is not needed. I have not heard the proponents say they will not try in the future, so I am not prepared to see this phoenix finally reduced to ashes.

SECOND EXCEPTED COMMITTEE AMENDMENT

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

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. What committee amendment are we about to vote on?

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

The legislative clerk read as follows:

On page 24, beginning on line 22, insert a new section down through line 17 on page 25 relating to the Federal Communications Commission.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. HATFIELD. I would ask unanimous consent, as it has been cleared on both sides of the aisle, to temporarily lay aside the pending committee amendment in order that we may entertain other amendments and move on with the completion of this bill.

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

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. I will not take but a moment.

Mr. President, could I inquire of the managers how many amendments they know of to the bill itself other than the committee amendment which has now been set aside?

Mr. HATFIELD. We are aware of about five to six amendments that Members have indicated they expect to bring up.

Mr. BAKER. Does the distinguished manager and the chairman of the committee think he can finish this bill today?

Mr. HATFIELD. I do.

Mr. BAKER. How long will it take?

Mr. HATFIELD. Anywhere between 3 and 8 hours.

Mr. BAKER. Mr. President, I never dispute with my friend and chairman of the Appropriations Committee, but I do not plan to ask the Senate to stay 8 hours.

Would the Senator be willing then to try to complete this by 6 p.m.?

Mr. HATFIELD. I say to my most respected leader that I would like to be able to perhaps consider that we go beyond that hour as the light at the end of the tunnel begins to grow brighter. I expect that we could possibly do it by 6. We have a possible time agreement on one controversial amendment relating to the drug coordinator being offered by the proponents. I have not been able to clear it with the opponents of that.

If we get some time agreements, we could conceivably finish by 6, but I would think we ought to at least consider a minimum threshold of 8 p.m.

Mr. BAKER. Mr. President, I think there are a number of Senators who had not expected the Senate to go past the regular adjournment or recess hour today. What I would like to do is to continue until about 6 and then ask the Senate to resume at an early hour tomorrow, if the Senator is agreeable.

Mr. HATFIELD. I would be agreeable and would like to urge the leader to consider bringing the Senate in at 8:30 to be on the bill by 9 a.m.

Mr. BAKER. Mr. President, the chairman of the committee is a stern taskmaster, and I heard a swelling chorus of objections. The Senator from Connecticut will have to wait until I object, because I do not plan to be here at 8:30. But I take in good spirit the suggestion of the Senator. I will compromise with him.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 9 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. tomorrow.

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

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND CONSIDERATION OF THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order there be a period for the transaction of routine morning business until 9:30 a.m., in which Senators may speak for not more than 2 minutes each, and that at 9:30 a.m. the

Senate resume consideration of this bill, if it has not been completed prior to that time.

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

ORDER OF PROCEDURE

Mr. BAKER. Now, Mr. President, may I repeat what I said earlier. I hope we can finish this bill today. We have a good 2 hours to do it. Otherwise, I hope we can do it tomorrow.

I should also repeat what I said earlier. I today filed a notice to attempt to suspend the rules in order to reach the debt limit bill, and it would be my intention to try to do that tomorrow if possible in order to get to that measure. I note the debt limit bill is one of high controversy, but one way or the other we have to try to finish that before midnight on Monday.

Mr. BYRD. Will the distinguished majority leader yield?

Mr. BAKER. Yes.

Mr. BYRD. What rules does he have in mind?

Mr. BAKER. Mr. President, when the minority leader, who is such an expert on the rules, rises with that question, as the old Tennessee saying goes, "I ain't going to waive none of my rights."

But the rule I have in mind is the 3-day rule. The bill was reported last evening late, and as I count, since you do not count Saturdays and Sundays, I believe it would be Monday before I could reach the debt limit. What I would hope to do is to try to reach that bill tomorrow, or at the latest on Friday.

Mr. BYRD. He would also be waiving the rule that would make such a motion debatable. What I understand he is saying is he is going to waive the rule to permit him to be on the bill; is that right?

Mr. BAKER. We can do it either way. I would like to do that. To tell you the honest truth, I had not thought of that, but I think that is a splendid idea.

Mr. BYRD. Then what the majority leader is saying is that he is only waiving the 3-day rule and that he is not attempting to waive debate on any motion to proceed?

Mr. BAKER. No, Mr. President, I had not planned to do that, but I sure would like to do that. And now that the minority leader has mentioned it, I may. But the net of this is I do want to try to get to the debt limit bill tomorrow, but I want to see us finish the supplemental first.

I thank the minority leader and I thank the manager of the bill.

SUPPLEMENTAL APPROPRIATIONS, 1984

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2437

(Purpose: Reconcile funding level difference between \$55,000,000 appropriated in Public Law 98-45 (HUD—Independent Agencies Appropriations Act) and \$54,000,000 authorized in Public Law 98-94 (DOD authorization bill))

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

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

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes an amendment numbered 2437.

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

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

The amendment is as follows:

At an appropriate place in H.R. 3959 add the following new section:

Sec. —. The Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1984, under the account, Federal Emergency Management Agency, State and Local Assistance, is amended by adding the following before the period: "Provided, further, that notwithstanding any other provision of law for the fiscal year 1984, \$55,000,000 is available for contributions to the States under section 205 of the Federal Civil Defense Act of 1950, as amended, (50 U.S.C. App. 2286) for personnel and administrative expenses."

Mr. WARNER. Mr. President, this amendment is in the nature of a technical amendment. It has been reviewed by the managers of the bill. It is my understanding that it will be accepted.

The amendment to the bill now before us addresses funding for improved emergency management and response of State and local levels. My amendment addresses the appropriation language in the State and Local Assistance Account for fiscal year 1984 for the Federal Emergency Management Agency, as enacted in Public Law 98-45.

Mr. HATFIELD. Mr. President, this amendment has been reviewed by the staff and by both sides of the aisle, and we will accept the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 2437) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I express my appreciation to the managers of this bill for their consideration.

I yield the floor.

Mr. HATFIELD. Mr. President, I should like to reiterate the situation in which we are at the moment.

If staff or Senators are listening to these proceedings through the communications system, I urge Senators who expect to offer amendments to come to the floor now. We have notification of a number of Senators who have amendments; and if they are not going to offer them, we would like to know that as well.

We hope at this point to resolve the syndication question, which is the most controversial one; the committee amendment has been temporarily laid aside. The principals to that issue are now engaged in an attempt to resolve it, and I think we can be optimistic about getting it resolved. Once that is resolved, we can move rapidly to third reading.

So if Senators have amendments and wish to offer them, I do not think we should wait too long for them.

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

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

Mr. WARNER. Mr. President, I rise today to bring to the Senate's attention the Scottsville flood control project.

Scottsville is a small town located in Albemarle and Fluvanna Counties, Va.

The town is situated on a bend of the James River and is subject to severe flooding.

Flood losses in 1969 were about \$2 million and in 1972 were \$4.05 million.

According to the Corps of Engineers, the 1972 flood caused damage to the sewage treatment plant, a public school, 3 mobile classrooms, 45 commercial buildings, 20 residences, 2 churches, 2 municipal buildings, and 1 industrial building.

Scottsville is one of the most historical communities in the State of Virginia and traces its origins from 1744.

One of its principal assets is that the locality has some of the finest examples of architectural style known as Federal.

Since 1972, the residents of Scottsville have worked very hard to protect themselves from future floods; \$1.5 million has been spent to construct a dam on Mink Creek, which flows through the center of the town, and to design and acquire the property to

build a levy between the town and the James River.

An 8-foot levy has already been constructed and paid for, and the town is seeking the funds to raise the height of the levy to 15 feet, so that it will be protected from floods as severe as that which occurred in 1972.

The House of Representatives committee report on the fiscal year 1984 supplemental appropriations bill includes language which directs the Army Corps of Engineers to use funds already authorized for emergency situations to provide an adequate level of flood protection to Scottsville.

The House report directs the corps to use up to \$2 million in available funds as an advance measure under Public Law 84-99.

Mr. President, I bring this House report language to the attention of the distinguished managers of this bill and inquire if it is their intention to raise any objection to the language in the conference committee.

I point out that life and property and the very future of this historic community are in serious jeopardy.

Mr. WEICKER. Mr. President, it is my understanding that this is in the House report. Therefore, we do not disagree on this matter. But I want to go a step further.

Mr. WARNER. I am delighted.

Mr. WEICKER. Probably unknown to the distinguished Senator from Virginia, I spent 3 years living in Scottsville, Va., while attending the University of Virginia. So I can assure him that in deference to those very happy days and happy memories, I will see to it that the point he is making is carried through in the rest of the process, in honor of Scottsville, Va.

Mr. WARNER. Mr. President, I see that the distinguished chairman of the committee, the Senator from Oregon (Mr. HATFIELD), is presiding over the Senate, and I am heartened by the remarks of my distinguished colleague from Connecticut. I will be the first to move, at the appropriate time, that this project be named "The Honorable Lowell P. Weicker Flood Control Project in Scottsville, Va." [Laughter.]

Mr. MELCHER addressed the Chair. The PRESIDING OFFICER. Will the Senator from Montana permit the Chair to recognize the Senator from Pennsylvania since I have moved the Chair to relieve him specifically to offer an amendment.

Mr. MELCHER. Absolutely.

The PRESIDING OFFICER. I thank the Senator from Montana.

The Senator from Pennsylvania is recognized.

AMENDMENT NO. 2438

(Purpose: To provide \$5,000,000 for the construction of certain academic facilities in Cheyney and Lincoln, Pa.)

Mr. SPECTER. Mr. President, I thank the Chair for arranging the recognition, and I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER), for himself and Mr. HEINZ, proposes an amendment numbered 2438.

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

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

The amendment is as follows:

On page 24, between lines 11 and 12, insert the following:

CHAPTER VII—DEPARTMENT OF EDUCATION

HIGHER EDUCATION

For part B of title VII of the Higher Education Act of 1965, \$5,000,000 to remain available until expended, for construction, renovation and related costs of an urban research park facility to be established jointly by the Cheyney State College of Cheyney, Pennsylvania, and Lincoln University of Lincoln, Pennsylvania, except that the provisions of section 721 (a)(2) and (b) shall not apply to the funds appropriated under this heading, and the amount of the grants paid from funds appropriated under this heading shall not be subject to any matching requirement contained in section 721(c) of such part and shall be used for the facilities of the type mentioned in section 713(g).

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the "Dear Colleague" letter from Senator HEINZ and myself be printed in the RECORD at this point.

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

DEAR COLLEAGUE: When the Supplemental Appropriations bill is considered by the full Senate next week, we intend to offer an amendment to add \$5 million for "Grants for construction of academic facilities" under part B of title VII of the Higher Education Act of 1965.

If the Congress appropriates this \$5 million, Secretary of Education Bell has advised that he will use this funding to complete a transaction under which Provident Mutual Insurance Company will make a gift of properties worth approximately \$40 million to Lincoln University and Cheyney University which are two predominantly black universities located in southeastern Pennsylvania. We want to emphasize that this appropriation would not be earmarking because it would not specify the use of the money. Secretary Bell brought this matter to our attention rather than the other way around where Senators may sometimes seek an earmarking for their own states.

It is indispensable that the \$5 million appropriation be made immediately as a precondition of the \$40 million gift from Provident Mutual to the universities. If the transaction is not completed immediately, then Provident Mutual must make an alternative

gift by the end of the calendar year and the Redevelopment Authority of the City of Philadelphia is ready, willing and anxious to accept these properties.

The late availability of this potential gift prevented the U.S. Department of Education from processing this appropriation request in normal course. These buildings are located at 46th and Market Streets in Philadelphia which is approximately 10 blocks from the University of Pennsylvania, Drexel University and the University Science Center. We are personally familiar with the buildings and can attest to their tremendous value for these two distinguished universities.

Considering the high rate of unemployment among minorities, especially in the young adult category in large metropolitan areas, it is obvious that these facilities could make a tremendous contribution to the nation as well as the immediate area which they serve. These buildings would be available for a full range of technology courses for all eligible students. Dr. Herman Branson, President of Lincoln University, has advised that the locale of these buildings would aid both Lincoln and Cheyney in improving their multiracial attendance as called for by the guidelines of the U.S. Department of Education for the promotion of civil rights.

We would appreciate your personal consideration of this matter.

Sincerely,

JOHN HEINZ.
ARLEN SPECTER.

Mr. SPECTER. Mr. President, this letter describes the amendment in some greater detail than I need do at the moment.

This is an amendment seeking \$5 million for grants for construction of academic facilities under part B of title VII of the Higher Education Act of 1965.

The reason for this amendment is if the \$5 million is appropriated then there is an arrangement under which Provident Mutual Insurance Co. will make a gift of properties worth approximately \$40 million to Lincoln University and Cheyney University, which are two predominantly black universities located in southeastern Pennsylvania.

These properties are in the name of Drexel University and the university science center.

The information provided to me by Dr. Herman Branson, President of Lincoln University is that the locale of these buildings will aid both Lincoln and Cheyney in improving their multiracial attendance as called for by the guidelines of the U.S. Department of Education for the promotion of civil rights.

That, Mr. President, is the essence for the reason of the amendment.

Mr. HEINZ. Mr. President, I rise today to argue strenuously for favorable consideration of this amendment.

We have the opportunity to do something here today by passing this small amendment that would be truly historic.

Passage of this amendment would enable Lincoln University and Cheyney State College, two prominent historically black colleges in Pennsylvania to receive the largest private sector grant to black higher education in American history.

Mr. President, we simply cannot afford to pass up this opportunity to promote partnership between the private sector and black higher education.

The Provident Mutual Insurance Co. wants to give its present corporate headquarters to the Urban Education Foundation of Philadelphia, a consortium formed by Lincoln, Cheyney, and the University City Science Center, a high-tech research complex specializing in the incubation and development of small technology-oriented businesses.

That property, 22.2 acres of beautifully landscaped area with nearly 400,000 square feet of building space, is essentially an instant campus worth \$40 million.

The headquarters building must be converted to an academic facility with classrooms and science labs.

I am sure my colleagues know that it is a rare day in Washington, D.C. when we in Congress can build a college campus for just \$5 million.

Lincoln and Cheyney, both located outside of the Philadelphia metropolitan area, have had a longstanding interest in establishing an inner city campus.

This campus would serve one of the most economically distressed communities in the city.

It would provide a beacon of hope for the poor and minority residents of west Philadelphia, the entire metropolitan area, and, indeed, the entire Nation.

We all know that as a Nation we must redouble our efforts to educate and train this country's black and Hispanic youth, particularly those in our inner cities where teenage unemployment is the worst.

Lincoln and Cheyney have as their principal goal the education of the city's minority youth.

The universities estimate that they would serve a minimum of 6,000 students within the first 3 years of operation.

In addition, to basic courses in English and math, the campus would offer a full range of technology courses including maintenance and repair, business administration, nursing and related health and medical technology courses with a special emphasis on job creation and economic revitalization.

Indeed, Mr. President, the participation of the University City Science Center, established 10 years ago as one of the first university research parks in the Nation. It will provide the national black higher education community

with its first model of entrepreneurial partnership.

That is in part why the president of the National Association for Equal Opportunity in Higher Education agreed to ask their member institutions to call their respective Senators urging them to support this amendment.

Never before have any of the prominent historically black colleges been in the position to work in a cooperative venture with an organization with such an outstanding record of economic development in the high-technology area.

The University City Science Center has created many successful small businesses and thousands of jobs over the last 10 years.

Mr. President, this is truly a unique opportunity for us to demonstrate our commitment to black higher education, to private sector support of public services and to the education, training and employment of the Nation's black and Hispanic teenagers.

I urge all of my colleagues to join me in support of this amendment.

Mr. WEICKER. Mr. President, these matters have been discussed in some detail during the past several weeks, and the fact remains that, insofar as the position of the administration, this particular request came with a great deal of suddenness. It was not part of a formal budgetary submission. There are questions about it. By the same token, I do not think anyone can doubt the effort of the Senators from Pennsylvania, Senator SPECTER and his colleague Senator HEINZ, and their desire to do something on behalf of the communities that they represent.

I still think there are answers that have to be given to this matter. On the other hand, I do not think it is going to be resolved in a roaring debate in the Chamber, very few having intimate knowledge as to the institutions involved, the terms of the proposition, et cetera.

In essence, what I am saying is there is great merit to what is being proposed as an amendment, but questions remain. It would be the position of this Senator, speaking on behalf of the committee, that we accept the amendment of the Senator from Pennsylvania at this time.

Mr. SPECTER. Mr. President, will the Senator from Connecticut yield for a question?

Mr. WEICKER. I yield.

Mr. SPECTER. Did I understand the Senator to say he would accept the amendment?

Mr. WEICKER. The Senator is correct.

Mr. SPECTER. Let me express on behalf of my colleague, Senator HEINZ, and myself, appreciation for the Senator's willingness to do that.

I wish to be sure there is no reservation that is going to appear in the conference on the matter. Is there any-

thing to be determined between now and the conference that would affect the attitude of the distinguished Senator from Connecticut on this particular amendment?

Mr. WEICKER. Mr. President, the Senator from Connecticut tries at all times to be totally candid on this matter.

I said I think questions still have to be responded to. I do not think they are going to be answered in a floor debate.

Obviously, the first response to the Senator's question is it will be in conference.

Second, if between now and the conference satisfactory answers can be given to some of these questions, I say it has a good chance of surviving conference.

Third, not being in total control of the conference, there being another side of the Congress, I cannot guarantee 100-percent success.

I think that fairly answers everything that the Senator would want to know.

Mr. SPECTER. Mr. President, I appreciate the Senator from Connecticut cannot guarantee what the other side is going to do.

My sole purpose in inquiring is to inquire of the Senator from Connecticut if he will defend the amendment in conference.

Mr. WEICKER. Mr. President, I have been informed that there is opposition to this amendment which I did not know about. I wonder if we might just have a quorum call while this matter is resolved. It just came again as a surprise to me. If I could I think we owe it to one of our colleagues to check before taking our final action on this measure.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Who seeks recognition?

Mr. WEICKER. Mr. President, I yield to the distinguished Senator from Missouri.

Mr. DANFORTH. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. Has Senator SPECTER offered his amendment and is his amendment being agreed to?

The PRESIDING OFFICER. It has been offered and it has been reported, been discussed.

Mr. DANFORTH. I thank the Chair. Mr. President, as I understand the Spector amendment it is my belief

that it is terrible public policy. I can understand the interest of the Senator from Pennsylvania in attempting to get a special appropriation for a particular college or for two particular colleges, and I am confident that the circumstances that would support this appropriation are compelling.

However, I think the bad public policy is if Members of the Senate are to come to the floor of the Senate and offer amendments to appropriations bills for specific educational institutions. Educational decisionmaking is then made on the floor of the Senate and it is made not on the basis of professional judgment as to the relative needs of colleges or universities but rather the decision is made on the basis of what amounts to logrolling by Members of the Congress.

Mr. President, the American Association of Universities held a meeting yesterday and at that meeting the American Association of Universities adopted a position relating to research funds, and the position of the American Association of Universities is to not go to the Congress and ask for appropriations for specific educational institutions. I ask unanimous consent to include in the RECORD, first, a list of the members of the American Association of Universities and, second, a copy of the AAU statement on decisionmaking in Federal funding for research facilities which was agreed to by the association yesterday.

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

ASSOCIATION OF AMERICAN UNIVERSITIES:
AAU MEMBERSHIP

Brown University, Providence, Rhode Island.
California Institute of Technology, Pasadena, California.
Carnegie-Mellon University, Pittsburgh, Pennsylvania.
Case Western Reserve University, Cleveland, Ohio.
Catholic University of America, Washington, D.C.
University of California, Berkeley, Berkeley, California.
University of California, Los Angeles, Los Angeles, California.
University of California, San Diego, La Jolla, California.
University of Chicago, Chicago, Illinois.
Clark University, Worcester, Massachusetts.
University of Colorado, Boulder, Colorado.
Columbia University, New York, New York.
Cornell University, Ithaca, New York.
Duke University, Durham, North Carolina.
Harvard University, Cambridge, Massachusetts.
University of Illinois, Urbana, Illinois.
Indiana University, Bloomington, Indiana.
Iowa State University, Ames, Iowa.
University of Iowa, Iowa City, Iowa.
The Johns Hopkins University, Baltimore, Maryland.
University of Kansas, Lawrence, Kansas.
University of Maryland, College Park, Maryland.

Massachusetts Institute of Technology, Cambridge, Massachusetts.

McGill University, Montreal, Quebec, Canada.

Michigan State University, East Lansing, Michigan.

University of Michigan, Ann Arbor, Michigan.

University of Minnesota, Minneapolis, Minnesota.

University of Missouri, Columbia, Missouri.

University of Nebraska, Lincoln, Nebraska.

New York University, New York, New York.

University of North Carolina, Chapel Hill, North Carolina.

Northwestern University, Evanston, Illinois.

Ohio State University, Columbus, Ohio.

University of Oregon, Eugene, Oregon.

Pennsylvania State University, University Park, Pennsylvania.

University of Pennsylvania, Philadelphia, Pennsylvania.

University of Pittsburgh, Pittsburgh, Pennsylvania.

Princeton University, Princeton, New Jersey.

Purdue University, Lafayette, Indiana.

University of Rochester, Rochester, New York.

University of Southern California, Los Angeles, California.

Stanford University, Stanford, California.

Syracuse University, Syracuse, New York.

University of Texas, Austin, Texas.

University of Toronto, Toronto, Ontario, Canada.

Tulane University, New Orleans, Louisiana.

Vanderbilt University, Nashville, Tennessee.

University of Virginia, Charlottesville, Virginia.

University of Washington, Seattle, Washington.

Washington University, St. Louis, Missouri.

University of Wisconsin, Madison, Wisconsin.

Yale University, New Haven, Connecticut.

AAU STATEMENT ON DECISION MAKING IN
FEDERAL FUNDING FOR RESEARCH FACILITIES

The Association of American Universities represents institutions whose faculties are deeply engaged in research. We share with many other institutions and individuals a commitment to advancing the quality of the nation's research effort. Since the vitality of this effort is closely linked to the soundness of decisions made about science by public bodies, it is both appropriate and important for the AAU to state its collective views about the ways in which those decisions are best made.

The United States has evolved an admirable but fragile system of awarding federal funds for research. In general, Congress appropriates funds for the support of broad categories of research. Subsequently, the administering federal agency issues guidelines for making applications in a manner that assures fair and open competition. Researchers then submit detailed proposals that are judged by experts, scientists chosen for their ability to make sound and careful judgments in the scientific area involved. This method maximizes the scientific return on the federal investment by assuring that awards are made on the scientific merit of

the proposal and the professional merit of the proposer.

The same method governed most federal programs in support of scientific facilities when such programs existed. However, in the early 1970s, most federal government programs in support of the construction and renovation of research facilities ended. The subsequent decade-long failure to attend to the capital base of university science has led to a backlog of need that has hampered American science and placed great stress on the processes by which the government allocates scientific resources.

We believe that processes based on the informed peer judgments of other scientists need to be preserved and strengthened. We therefore urge scientists, leaders of America's universities, and Members of Congress to support the practice of awarding funds for the support of science on the basis of scientific merit, judged in an objective and informed manner. Further, we urge them to refrain from actions that would make scientific decisions a test of political influence rather than a judgment on the quality of the work to be done. These principles should apply in making decisions about scientific facilities as well as in awarding funds for research projects.

Finally, we urge officials of the national Administration and Members of Congress to deal promptly with the decay of the physical plant that houses much of the nation's basic research. S. 1537, introduced by Senators Danforth and Eagleton, is a bipartisan effort to deal with this national priority and deserves strong and prompt support.

Mr. DANFORTH. Mr. President, I am not going to prolong this except to say this: We have many colleges and universities located in the State of Missouri. It would be a simple matter for the Senator from Missouri to come to the floor of the Senate and ask for appropriations for my specific institutions.

For example, Stephens College in Columbia, Mo., is now in the process of selling real estate in order to pay for its operations. If Stephens College is now selling real estate to pay for its operations, what would be the difference between the amendment that is now on the floor of the Senate relating to two colleges in Pennsylvania to provide that they can buy real estate and the situation of Stephens College where an amendment could be offered in order to provide the funding so as to prevent Stephens from selling real estate? In other words, a very strong case could be made for an unlimited number of colleges and universities that they have financial needs of one kind or another, and if in the Senate we are going to come before the Senate and ask for appropriations for specific institutions, I think it undercuts any considered way of making decisions on educational funding.

That, Mr. President, is the real point I wanted to make. I think this is a very bad precedent. I think it is not possible to distinguish between the precedent that would be established by this amendment and the circumstances of an unlimited number of colleges and

universities that can put themselves in the same boat.

Mr. SPECTER. Mr. President, I can understand the concern that the Senator from Missouri has expressed, although I do not think it rises to the level of a terrible public policy any day. But the circumstances surrounding this amendment are not those that the Senator from Missouri is concerned about for this reason: The decision to use this money has been made independently by the Department of Education and it is not a matter which has been initiated by the Senators from Pennsylvania in coming to the floor of this body and asking for \$5 million as a precondition to getting \$40 million worth of building from Provident Mutual.

This matter came to my attention when Secretary of Education Bell called me and said that the Department of Education wanted to undertake this transaction but needed an appropriation of \$5 million.

So that it is in response to a determination made by the Department of Education in accordance with the Department's existing procedures and is not a matter of a special privilege for the Commonwealth of Pennsylvania for these two universities in Pennsylvania at the instance of the Senators from Pennsylvania.

The PRESIDING OFFICER. Who seeks recognition?

The question is on the amendment.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr. President, I beg the Chair's pardon. I wanted to be sure my friend, the Senator from Mississippi, was here.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. Mr. President, I just walked into the Chamber. I have been out on another matter. I, frankly, do not know of any opposition to this matter on this side.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. SPECTER).

The amendment (No. 2438) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2439

(Purpose: To extend the supplemental railroad unemployment benefits for one year)

Mr. SPECTER. Mr. 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 Pennsylvania (Mr. SPECTER), for himself, Mr. FORD, Mr. MOYNIHAN, Mr. DIXON, Mr. SASSER, and Mr. METZENBAUM, proposes an amendment numbered 2439.

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

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

The amendment is as follows:

On page 10, between lines 19 and 20, insert the following:

EXTENSION OF SUPPLEMENTAL RAILROAD UNEMPLOYMENT COMPENSATION

SEC. 1206. (a) Section 17 of the Railroad Unemployment Insurance Act is amended—

(1) in subsection (a)(2), by inserting “, or the benefit year beginning July 1, 1983” after “July 1, 1982”; and

(2) in subsection (e), by striking out “June 30, 1983” and inserting in lieu thereof “June 30, 1984”; and

(3) by amending subsection (f) to read as follows:

“(f)(1) For purposes of this section the term ‘period of eligibility’ means, with respect to any employee for the benefit year beginning July 1, 1982, the period beginning with the later of—

“(A) the first day of unemployment following the day on which he exhausted his rights to unemployment benefits (as determined under subsection (b)) in such benefit year; or

“(B) March 10, 1983,

and consisting of five consecutive registration periods (without regard to benefit year); except that for purposes of this paragraph, any registration period beginning after June 30, 1983, and before the date of this enactment of the Supplemental Appropriations Act, 1984, shall not be taken into account for purposes of payment of benefits, or in determining the consecutiveness of registration periods.

“(2) For purposes of this section the term ‘period of eligibility’ means, with respect to any employee for the benefit year beginning July 1, 1983, the period beginning with the later of—

“(A) the first day of unemployment following the day on which he exhausted his

rights to unemployment benefits (as determined under subsection (b)) in such benefit year; or

“(B) the date of the enactment of the Supplemental Appropriations Act, 1984,

and consisting of five consecutive registration periods; except that no such period of eligibility shall include any registration period beginning after June 30, 1984.”

(b) The amendments made by this section shall apply with respect to days of unemployment during any registration period beginning on or after the date of the enactment of this Act.

(c) Amounts appropriated under section 102(b) of Public Law 98-8 shall remain available without regard to fiscal year limitation for purposes of carrying out the amendments made by this section, and amounts appropriated under such section into the railroad unemployment insurance account in the Unemployment Trust Fund may be transferred into the railroad unemployment insurance administration account in the Unemployment Trust Fund as may be necessary to carry out the amendments made by this section (as determined by the Railroad Retirement Board).

Mr. SPECTER. Mr. President, this amendment would reinstitute the program of supplemental benefits for railroad workers which was authorized in the emergency jobs bill that expired on June 30, 1983. Those unemployed workers who have exhausted all available benefits on June 20, or those who were receiving supplemental benefits on that day will now receive a full 10 weeks under this amendment made available by that provision.

This amendment was on other legislation which had been accepted by the distinguished Senator from Kansas (Mr. DOLE). I understand that it is agreeable from his point of view to have this amendment accepted at this time.

I believe it is acceptable to the distinguished Senator from Connecticut (Mr. WEICKER).

Mr. SASSER. Mr. President, I join my distinguished friend and colleague from Pennsylvania, Mr. SPECTER, in offering legislation which is aimed at lessening the dreaded consequences of unemployment for thousands of railroad workers in this country.

Continued high levels of unemployment represent the most pernicious and frustrating of forces which undercut economic efficiency. Unemployment during this last recession climbed to levels not seen since the Great Depression. The Congressional Budget Office predicts that unemployment will average 8.4 percent for the calendar year 1984, and will continue to remain over 7.5 percent until 1988. Today, there are over 10 million Americans out of work.

The railroad industry has been particularly hard hit by this economic downturn. The purpose of this amendment is to help soften the blow for those railroad workers who find that they have slipped through the cracks,

so to speak, when it comes to extended unemployment benefits.

The current situation reads like this. Prior to the enactment of the Omnibus Budget Reconciliation Act of 1981, railroad employees with less than 10 years of service who exhausted their regular unemployment insurance benefits could receive extended unemployment benefits under the Railroad Unemployment Insurance Act during periods of high national unemployment. This was the case because there is a reference in the Railroad Unemployment Insurance Act to the so-called national "trigger" which used to usher in extended benefits under the regular Federal-State unemployment programs. This reference provided that whenever the National Trigger was on for purposes of providing extended unemployment insurance benefits under the Federal-State program, extended benefits would be provided under the Railroad Unemployment Insurance Act for rail employees with less than 10 years of service. The cost of these benefits, of course, was paid from the Railroad Unemployment Insurance Account. The Omnibus Budget Reconciliation Act of 1981, for budgetary reasons having nothing to do with the Railroad Unemployment Insurance program, eliminated the National Unemployment Trigger. This left the Railroad Unemployment Insurance Act with a reference to something that no longer exists with the result that extended benefits could never go into effect for railroad employees with less than 10 years of service—rail employees with more than 10 years service can qualify for extended benefits without regard to the national rate of unemployment. Rail employees with less than 10 years of service are now the only group of workers who cannot automatically qualify for extended benefits.

Workers under the Federal-State programs can still look to the individual State triggers to usher in extended benefits, and they have also received federally mandated extended and supplemental benefits—much of the cost being sustained by direct Federal appropriations.

Earlier this year, in the emergency jobs appropriation, the Congress did appropriate \$125 million to provide a one-time 10-week period of supplemental benefits for rail employees with less than 10 years of service. The period of time for payment of these supplemental benefits expired in June of this year, again, leaving short-term rail employees with only the basic 26 weeks of unemployment benefits. Of the original \$125 million appropriated in the jobs bill, \$83 million is still left, meaning the program enacted in the jobs bill could be extended without need of an additional appropriation. The Railroad Retirement Board estimates that such an extension would

cost between \$60 and \$65 million and that approximately 50,000 unemployed, mostly young family people and desperately needy individuals, would take advantage of the extension.

Rail employees have always had their own program financed by railroad employers who do not pay into State programs. During normal periods, railroad employees did not get benefits under State programs, and this is appropriate. However, during the current economic crisis, both individual State unemployment programs and the railroad unemployment program have been ravaged. As a result, Federal tax dollars have, properly, been pumped into the State programs. These dollars come from income tax paying American citizens and corporations. Since we are now talking about spending these dollars—not the earmarked dollars paid exclusively by participants of the Federal-State programs—I should point out a fact which, while obvious, is not often mentioned during these debates: Railroad employees and their employers are income tax paying citizens. Since their money is in part financing Federal supplemental benefits, rail employees have an equitable right to receive such benefits.

The amendment we are offering embodies fundamental tenets of fairness and equity. It is both fair and equitable and it requires no additional appropriation. I, therefore, urge my colleagues to join us in adopting this amendment.

Mr. DIXON. Mr. President, I am happy to join my good friend from Pennsylvania, Senator SPENCER, in offering this amendment once again.

Last September 30, the Senate passed this amendment as part of the extension of the Federal Supplemental Compensation Act. Unfortunately, it was deleted from the bill in conference.

This amendment will provide 10 weeks of Federal supplemental compensation to railroad workers who lost their jobs after June 30, 1983. It would also allow those workers who were eligible for the program prior to June 30, but who did not collect their full 10 weeks of benefits before the program expired, to receive the remaining number of weeks.

There is ample money available from the March supplemental appropriation. It is estimated that this amendment will cost \$60 to \$65 million. The original appropriation was \$125 million. As I understand it, there is \$83 million remaining unexpended.

The railroad unemployment insurance system is separate from the regular State-Federal system, and when Congress abolished the national trigger in the 1982 omnibus reconciliation bill, it also abolished the method by which these workers qualify for ex-

tended benefits. Therefore, without this amendment, there are only 26 weeks of benefits available to railroad workers, instead of the 45 weeks available to some. There are no federally funded benefits for rail workers and a maximum of 14 weeks for those under State-Federal system. That, Mr. President, is unfair.

By extending this program, we will be helping approximately 5,000 people in Illinois and approximately 50,000 people nationwide.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. DOLE. Mr. President, I was not on the floor when the distinguished Senator from Pennsylvania was discussing his amendment. It is the understanding of this Senator that it is pretty much the same as the amendment we had to the Federal supplemental compensation proposal.

Mr. SPECTER. It is. And I made the representation that it was the same as legislation previously accepted by the chairman of the Finance Committee.

Mr. DOLE. Mr. President, let me say that this was a matter discussed in the FSC proposal. We had no objection to it on the Senate side. As I understand it, there was not a rollcall on it. I think it was adopted.

The House conferees had misgivings about it. I cannot speak for the conferees except to say that I know they were contacted by Members who were interested in the legislation. There were some who changed their positions, but, by the time that happened, it was too late to take care of it in the FSC bill.

I would say to the distinguished chairman of the committee and the manager of the bill that we did approve this legislation. I certainly have no objection to it going on this bill. I hope the amendment might be accepted without a rollcall.

Mr. SPECTER. I thank the Senator from Kansas.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania (Mr. SPECTER).

The amendment (No. 2439) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

amendment no. 2440

Mr. HATFIELD. Mr. President, on behalf of the Senator from Alaska (Mr. STEVENS), I send a technical amendment to the desk which has been cleared on both sides of the aisle and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD), for Mr. STEVENS, proposes an amendment numbered 2440.

On page 21, line 1, after the word "Alaska" insert the following: "shall remain available until expended and".

Mr. HATFIELD. Mr. President, there is a bill that appropriated the \$11.1 million for the 17 day schools in Alaska they transferred in 1982. The language not only restricted the purposes for which the funds could be used in conjunction with the schools, but also the time period in which they could be obligated. This time period is through September 1984. I want to extend the availability until expended. There is nothing sinister about this, Mr. President.

Mr. METZENBAUM. Will the Senator repeat that once more?

Mr. HATFIELD. All this technical amendment is doing is extending the availability of the funds appropriated in 1984 for that purpose until they are expended. That was the intent originally.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2440) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

amendment no. 2441

(Purpose: To appropriate \$1,000,000 for Federal financial assistance to any program carried out by a State to assure the honorable burial of certain veterans)

Mr. PRYOR. Mr. President, I have an amendment which I will send to the desk shortly. First, however, I would like to present a brief statement.

Mr. President, I was shocked and dismayed to read in the Washington Post on October 17 that a veteran of the U.S. Navy had been buried in a cardboard casket. This took place at Quantico National Cemetery in Virginia.

I find it unconscionable that this is happening to deceased veterans who leave no money or resources for burial expenses.

I am therefore offering at this time, Mr. President, with the distinguished Senator from Virginia (Mr. WARNER), and also with Senators MELCHER, BYRD, and BINGAMAN, an amendment to provide \$1 million to meet this need.

This proposal would provide financial assistance to any program carried out by a State to assure an honorable burial for each veteran who is buried in that State and, during the year ending on the date of the veteran's death, received less than \$10,000 in income of any kind.

The distribution formula would be based on the veteran population in each State and the program would be administered by the States in whatever capacity serves veterans and their interests. Arkansas, for example, has a fine and sensitive department of veterans' affairs that could assume responsibility for the project. Most of the States maintain similar operations and would be fully equipped to administer the program.

Mr. President, the group of veterans at least 65 years of age, presently numbering around 4 million, will grow to nearly 9 million by 1999. Additionally, 60 percent of all veterans served by VA hospitals make less than \$10,000 a year. There are a lot of poor and elderly veterans in this country and, sadly, many who will be unable to pay for, or have their families pay for, their own funerals.

I believe that this legislation is responsive to the problem. I hope that no veteran in the future need fear that lack of personal funds will mean that an honorable burial will be unavailable.

These patriotic Americans have served us well and their burial arrangements should honor them for their service to our country.

At this time, Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR), for himself, Mr. WARNER, Mr. MELCHER, Mr. BYRD, and Mr. BINGAMAN, proposes an amendment numbered 2441.

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

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

The amendment is as follows:

On page 5, after line 20, add the following:

VETERANS' BURIAL EXPENSES

For payments in providing financial assistance to any program carried out by a State (including the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) to assure an honorable burial for each veteran who is buried in such State and, during the year ending on the date of the veteran's death, received less than \$10,000 in income of any kind, \$1,000. The Administrator of Veterans' Affairs shall determine whether a program carried out by a State is a program described in the preceding sentence. The total amount of the financial assistance which the Administrator may provide to any State hereunder shall be an amount which bears the same ratio to the total amount of such assistance available for all States during fiscal year 1984 as the total number of veterans residing in such State on the first day of such fiscal year bears to the total number of veterans residing in the United States on such day.

Mr. PRYOR. Mr. President, that concludes my remarks. I think the distinguished Senator from Virginia (Mr. WARNER), who is a cosponsor, may want to make a statement.

Mr. WARNER. Mr. President, I commend my distinguished colleague, the Senator from Arkansas (Mr. PRYOR). He is alerting America to this problem. It is indeed an honor for me to be associated as his principal sponsor of this amendment.

Currently, there are over 28 million veterans in the United States, its territories and protectorates. Of that number, at least 4 million are 65 years of age or older. By the turn of the century, the number of veterans over the age of 65 is expected to increase to nearly 9 million.

These figures reflect an inevitable increase in the number of veterans who will require funds for interment. It is an unfortunate fact that some of those veterans will have neither surviving family members nor sufficient assets to assure interment with the dignity which they deserve.

The Veterans' Administration administers a program providing burial allowances for certain eligible veterans which addresses part of this need. However, it does not cover all those who are in need, nor does it fully reimburse, in all cases, the expenses involved.

Recently, we were all made aware of a sad example when Mr. Albert W. Reynolds, a Navy veteran, was interred at Quantico National Cemetery in a casket that can only be described as unsuitable. It is to the credit of the Administrator of the Veterans' Administration, the Honorable Harry N. Walters, that, when this oversight in the VA burial regulations was brought to his attention, he immediately convened a review which resulted in the issuance of a new regulation to set a minimum standard for the casket used by veterans.

I also commend Mr. Raymond Evans of Arlington, who was the first to bring this sad situation to my attention, and Mr. John E. Sullivan, District Commander of the Veterans of Foreign Wars in Northern Virginia, who has volunteered—with the support of 20 veterans groups—to give Mr. Reynolds a new burial in a more appropriate casket.

We cannot accept undignified interment of the remains of any of our veterans, to whom we owe so great a debt. As the recent tragic events in Lebanon—and now in Grenada—have once again underscored, we call upon our service people to risk their lives in support of the freedoms that we all enjoy.

Their brave courage and willingness to take that risk must receive our highest admiration and a debt of gratitude which cannot be repaid. The very least we can do is insure that the respect we accord them at their passing befits the contribution they made to their Nation and their fellow citizens who reap the benefits of their service.

This bill will encourage the use of State programs to address those cases which are not adequately covered by Veterans Administration statutes. The addition of \$1 million to the State programs will insure that every needy veteran will receive a dignified burial. We must never again permit an undignified or dishonorable interment of a veteran's remains to take place.

The soldiers, sailors, marines, and airmen who have served their country with honor and distinction deserve our gratitude and respect. This Nation, which is the symbol of freedom in a troubled world, can do no less than assure that the guardians of that freedom receive the last full measure of our respect when they are laid to rest.

Mr. President, I yield the floor to my distinguished colleague.

Mr. PRYOR. Mr. President, I thank my distinguished friend from Virginia for a very fine statement and also for being a cosponsor, the chief cosponsor on his side of the aisle, for this amendment. He has had a very distinguished career over the last 5 years as a member of the Committee on Armed Services and formerly as Secretary of the Navy. I do not think any Member of this body could give this amendment or this proposal any more credi-

bility. I am very honored to have been able to work with him and to have seen his commitment to the veterans of our country.

Mr. President, I ask unanimous consent that Senator RANDOLPH, the distinguished Senator from West Virginia, be added as an original cosponsor.

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

Mr. PRYOR. Mr. President, I yield the floor at this time.

The PRESIDING OFFICER. Is there further debate?

Mr. HATFIELD. Yes, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, this is one of those very difficult issues—difficult in the sense that to oppose it casts one in the role of being hardhearted, insensitive, or indifferent, not caring. But I certainly reject that assessment for the following reasons.

First, we have contacted the Veterans' Administration. They have issued regulations to prohibit the recurrence of this kind of terrible experience that the Senator from Arkansas related to us. The House of Representatives Committee on Veterans' Affairs has been sensitive to this issue. They are going to begin hearings on it on November 16.

The VA's first view of the proposed amendment is that it is not possible to administer based on problems of obtaining funeral directors' charges and other details, the verification of costs, and so on.

The chairman of the subcommittee (Mr. GARN) does not support this amendment at this time. The Senate Committee on Veterans' Affairs does not support it at this time. They would like to have the matter referred to them.

The Veterans' Administration itself does not support this amendment at this time until they have had an opportunity to become more intimately involved.

Mr. President, I say to the Senator from Arkansas that the amendment in itself represents a very worthy objective. I think the question is more a matter of timing and in the context that various committees of the Congress and the agencies involved—the agencies of the Veterans' Administration—are trying to correct this matter without this particular route being pursued.

I would be happy to be a cosponsor of an amendment of this kind if, at that point, this problem were not otherwise solved. With the kind of opposition that I know we would face in the Congress, particularly with an authorizing committee that has set itself into some role of action, I know it would be very difficult for this amendment to survive in conference even if we accept it.

Mr. President, I would like to ask the Senator from Arkansas if, on the basis of assurances that we will pursue this at a later time through the appropriations process, if it has not been resolved through the authorizing process, he would be willing to pull his amendment down.

Mr. PRYOR. Mr. President, let me respond to my very distinguished friend, the chairman of the Committee on Appropriations, the Senator from Oregon (Mr. HATFIELD). First, I would like to comment on something he said about himself. That is that some may look at the Senator from Oregon as being hardhearted or something of that nature. I think if people accuse the Senator from Oregon of being hardhearted, they know not whereof they speak. I have the greatest respect for the Senator from Oregon. I only wish that I could go along with his wishes and withdraw this amendment but, for one or two reasons, I think it should not be withdrawn.

First, as to the Committee on Veterans' Affairs in the Senate, I am not a member. One of our chief sponsors (Mr. RANDOLPH) is a member. It is my understanding that this committee has no more scheduled meetings for the remainder of this calendar year.

Second, the distinguished Senator from Oregon mentioned that the Veterans' Administration did not support this amendment. I only say that I have the greatest respect for the Veterans' Administration, but it was the Veterans' Administration itself that has allowed, in the past, certain veterans whose families could not pay their burial expenses to be buried in a cardboard casket.

Mr. President, I say to the very distinguished Senator from Oregon that I think we should push forward with the amendment.

I think it is very proper that this extra \$1 million we are adding to the supplemental appropriation bill should flow to the States, to the respective veterans service directors in the States. I know that those of us who have been Governors realize that these organizations and these offices work closely with our veterans and are certainly very sensitive to the concerns of veterans on the local level. Therefore, I think that such moneys appropriated could be very, very efficiently and wisely expended in those circumstances which are necessary and justified.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I join with my distinguished colleague from Arkansas in urging that we move forward at this time on this amendment. Indeed, the distinguished chairman of the Appropriations Committee—and

he is too modest to say it—served in World War II as a naval officer; he was the captain of a ship, so I know his heart rests with this measure and as was his duty he brings up possibly some technical objection.

But bear in mind, Mr. Chairman, that the flags of the United States of America are at half mast at this very moment in honor of those who have fallen in the cause of freedom, and we cannot risk having one more veteran of the United States of America between now and whenever the wheels of democracy in the Congress may roll to meet the fate as was dealt a distinguished Virginia veteran.

In view of that, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HATFIELD. Mr. President, will the Senator withhold for a moment?

Mr. WARNER. The Senator will withhold that request.

Mr. HATFIELD. Mr. President, I fear that perhaps this is one of those situations where we have had a bit of miscommunication or conflict in information. I would like to state for the record that there was a direct inquiry made to the majority staff counsel of the Veterans' Affairs Committee and to the minority staff director of that committee as to the committee position. Both of those individuals responded in the negative as to our inquiry.

When we have amendments that we know are coming down the pike, we try to check with the authorizing committees, at least the majority staff and minority staff of each committee, to ascertain the committee position. Wherever it is possible, we would check with the chairman and ranking minority member, of course, but in this case I must state for the record that the information supplied to our committee from the chief counsel of the Veterans' Affairs Committee and the ranking minority staff director is that the committee did not support this amendment.

Rather than running head on into authorizing committees, as we frequently do in the appropriations process, I have tried to be particularly sensitive to the authorizing committees so as not to get at cross-purposes between the appropriations process and the authorizing process.

That happens to be the information that we have in hand. Now, if there has been some misunderstanding, I would like to suggest the absence of a quorum for a moment. Senator SIMPSON, the chairman of that committee, is on his way to the floor and wishes to be heard. I am willing to accept the amendment without the necessity of a rollcall if such position is wrong or if we can get a new position established by the authorizing committee. I was merely trying to protect the authoriz-

ing committee in part in my objections to the amendments at this point.

I do not want the Senator from Virginia or the Senator from Arkansas to think that we are merely taking an arbitrary position on a very emotional, a very sensitive question that we all appreciate.

Mr. WARNER. Will the Senator yield?

Mr. HATFIELD. Yes.

Mr. WARNER. Mr. President, we fully recognize, as I stated, that the distinguished chairman of the committee and, indeed, the ranking manager of the committee both have long and distinguished careers in matters relating to the Armed Forces of the United States. We did provide this amendment to the Appropriations Committee staff so that they were on notice. We do not suddenly rise here this afternoon.

I think we all find ourselves in a slightly awkward position. I defer to my colleague from Arkansas as to the amount of time that we have had between putting the Appropriations Committee on notice of our amendments and this afternoon.

Mr. PRYOR. I cannot actually specify how much notice the Appropriations Committee has had. If I have failed in my communication, I do apologize. But I would think that the distinguished Senator from Oregon might want to suggest a short quorum call to see if we might have a conversation about this matter.

Mr. WARNER. I am happy, Mr. President, to comply with the wishes of the distinguished managers of this bill.

Mr. HATFIELD. I thank my colleagues.

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

Mr. DECONCINI. Will the Senator withhold that for a moment?

I wonder if the distinguished chairman might consent to setting the pending amendment aside to take up the emergency conservation program amendment that I understand is acceptable to the committee.

Mr. HATFIELD. Mr. President, I would seek to accommodate the Senator from Arizona and ask unanimous consent to temporarily lay aside, with the acquiescence of the Senator from Arkansas, this amendment so that we might take up an amendment of the Senator from Arizona that the committee is going to accept.

Does the Senator have any objection?

The PRESIDING OFFICER (Mr. DANFORTH). Is there objection?

Mr. PRYOR. The Senator from Arkansas has no objection.

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

The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I thank the distinguished chairman and also the Senator from Arkansas.

amendment no. 2442

(Purpose: To make a supplemental appropriation to carry out the emergency conservation program)

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an amendment numbered 2442:

On page 24, between lines 11 and 12, insert the following:

EMERGENCY CONSERVATION PROGRAM

For an additional amount to carry out the emergency conservation program authorized by title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.), \$7,000,000, to remain available until expended.

Mr. DECONCINI. Mr. President, my amendment would appropriate \$7 million for the emergency conservation program which is authorized under title IV of the Agricultural Credit Act of 1978, Public Law 95-334. Under this program, administered by the Agricultural Stabilization and Conservation Service, the Government shares the cost of assisting and encouraging farmers to rehabilitate farmland damaged by natural disasters.

Cost-sharing under the program is limited to new conservation problems that are created by natural disasters and:

First, if not treated will impair or endanger the land;

Second, materially affect the productive capacity of the land;

Third, represent damage that is unusual in character and, except for wind erosion, is not the type that would recur frequently in the same area, and

Fourth, will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.

Basically, the program is used for the removal of debris from farmland; the grading, shaping and releveling of farmland; the restoration of permanent fences, and the restoration of structures and other installations destroyed as a result of flooding, volcanoes, tornadoes, hurricanes, and other natural disasters.

In fiscal year 1983, Congress did not appropriate additional funds for the emergency conservation program since there was a carryover of unallocated funds from 1982 in the amount of \$18,590,150. Last year, 27 States received funds under this program totaling \$16,867,010, and I ask unanimous consent that the fiscal year 1983 allocations by State be included at this point in the RECORD.

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

Fiscal year 1983 allocations under emergency conservation program

Alabama.....	\$3,000
Arizona.....	50,000
Arkansas.....	1,900,000
California.....	4,700,000
Colorado.....	495,360
Georgia.....	39,500
Hawaii.....	149,000
Illinois.....	70,000
Iowa.....	127,500
Louisiana.....	200,000
Maine.....	50,000
Michigan.....	30,520
Minnesota.....	5,000
Mississippi.....	4,135,630
Missouri.....	267,000
Nebraska.....	200,000

Nevada.....	500,000
New Mexico.....	86,800
Oklahoma.....	100,000
Oregon.....	190,000
Pennsylvania.....	48,000
South Dakota.....	55,000
Tennessee.....	175,000
Texas.....	2,200,000
Utah.....	3,800,000
Washington.....	198,000
Wyoming.....	100,000

Total..... 16,876,010

Mr. DECONCINI. Mr. President, as of today, only \$2,045,322 remain available in the program.

As you know, Mr. President, Arizona recently experienced its worst flood this century. Out of 15 counties, nine have been declared Federal disaster areas, and portions of an additional

two counties have received the same designation. Estimates of losses resulting from the flood are in excess of \$500 million. I have toured the flooded areas and can assure you that many of our farms have been totally devastated.

The Arizona Agricultural Stabilization and Conservation Service has submitted an estimated request of \$14,915,674 under the emergency conservation program. I ask unanimous consent that those estimates, by county, be printed at this point in the RECORD.

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

ENERGY CONSERVATION PROGRAM

(Arizona's estimates of need for fiscal 1984)

County and practice	Number of estimated units needed	Estimated cost per unit	Estimated actual cost of damage	Estimated funds requested
Cochise:				
EC-1 Debris removal.....	3,000 ac.	\$100 ac.	\$300,000	\$180,000
EC-2 Grading, releveling.....	5,000 ac.	250 ac.	1,250,000	750,000
EC-3 Fence.....	12,800 rd.	7.80 rd.	99,840	59,904
EC-4 Ditch.....	105,600 ft.	7.00 ft.	739,200	443,520
			2,389,040	1,433,424
Gila:			53,000	35,000
Graham:				
EC-1 Debris removal.....	8,000 ac.	200 ac.	1,600,000	1,024,000
EC-2 Grading, releveling.....	9,000 ac.	300 ac.	2,700,000	1,728,000
EC-3 Fence.....	100 mi.	2,000 mi.	200,000	128,000
EC-4 Ditch.....	211,200 ft.	7.00 ft.	1,478,400	946,176
Livestock watering facilities.....	3,000	5,000 ea.	1,500,000	960,000
			7,478,400	4,786,176
Greenlee:				
EC-2 Grading, releveling.....	400 ac.	300 ac.	120,000	76,800
EC-4 Ditch.....	16 sys.	10,000 ea.	160,000	102,400
EC-4 Ditch.....	5 sys.	1,000 ea.	5,000	3,200
			285,000	182,400
Pima:				
EC-1 Debris removal.....	5,400 ac.	150 ac.	810,000	486,300
EC-2 Grading, releveling.....	6,486 ac.	500 ac.	3,243,000	1,945,800
EC-3 Fence.....	324 mi.	2,500 mi.	810,000	486,000
EC-4 Ditch.....	682,753 ft.	4.75 ft.	3,243,124	1,945,574
			8,106,124	4,863,674
Pinal:				
EC-1 Debris removal.....	75 mi.	1.00 ft.	396,000	198,000
EC-2 Grading, releveling.....	70,000 ac.	100 ac.	7,000,000	1,000,000
EC-3 Fence.....	20 mi.	11 rd.	70,400	35,000
EC-4 Ditch.....	75 mi.	19,536 mi.	1,465,200	732,000
			8,931,600	1,965,000
Santa Cruz:				
EC-1 Debris removal.....	5,400 ac.	150 ac.	810,000	486,000
EC-2 Grading, releveling.....	2,058 ac.	500 ac.	1,029,100	617,460
EC-3 Fence.....	100 mi.	2,500 mi.	250,000	150,000
EC-4 Ditch.....	216,989 ft.	4.75 ft.	1,030,700	618,420
			2,500,000	1,500,000
Yavapai:				
EC-2 Grading, releveling.....	1,500 ac.	20-35 hr.	150,000	75,000
EC-4 Ditch.....	50 mi.	1,500 mi.	100,000	75,000
			250,000	150,000
Total estimated damage.....			29,143,164	
Total estimated funds requested.....				14,915,674

Mr. DECONCINI. Clearly, the \$2 million in unallocated funds remaining in the emergency conservation program will not begin to meet the needs of Arizona farmers, let alone the farmers devastated by floods in Texas and Oklahoma.

The \$7 million I am requesting in this amendment is, I believe, modest and reasonable. Although it will not meet the total needs of farmers nationally, it will give us some breathing room until the Department can prepare a supplement request, which, it is

my understanding, they are in the process of doing.

I would like to underscore the fact that this is not a giveaway program. It is a cost-sharing program. Current regulations require that the agricultural producer assume the first 20 percent or the cost of a practice to restore his

loss. On the remaining cost of completing the practice, the Government share is 80 percent of the first \$50,000, 50 percent of the second \$50,000, and 25 percent of the cost above \$100,000. The overall maximum level of cost shared by the Government is 64 percent of the total eligible cost. In addition, the maximum payment available under the program is limited to \$200,000 per person, per disaster. Our farmers are willing to share in the cost of rehabilitating their property, but they need some Federal help, and they need it now.

Although Arizona recently received \$2 million under the emergency conservation program, additional relief is necessary. No Senator enjoys coming to this floor to plead for additional Federal assistance for his or her State, but I can assure you that the Arizona flood was not ordinary in its scope. The physical damage, coupled with the human and emotional suffering resulting from the flood, are a once-in-a-lifetime occurrence. The flood was, quite simply, a catastrophe of monumental proportions. I hope, therefore, that my colleagues will support this amendment, not only to help Arizona, Texas, and Oklahoma farmers, but to reassure their own farmers that assistance will be available should they be struck by a natural disaster.

Mr. DECONCINI. I thank the Senator from Mississippi (Mr. COCHRAN) and his staff for their assistance, and of course the Senator from Missouri (Mr. EAGLETON) and his staff, and the Senator from Oregon who so painstakingly listened many, many times when I offered such an amendment.

Mr. COCHRAN. Mr. President, I commend the Senator from Arizona for bringing this matter to the attention of the State. I certainly sympathize with his situation in Arizona, as well as similar circumstances in Texas, Oklahoma, and perhaps other areas in the country where extensive floods have caused major damage to cropland and have necessitated emergency conservation measures. Earlier this year a similar situation occurred in my State of Mississippi, and emergency conservation measures were implemented with funds from the emergency conservation program of the Agricultural Stabilization and Conservation Service.

In the emergency conservation program, an allocation to a State occurs after the State makes preliminary estimates of the extent of damage caused by the disaster and after DASCO approval, but before SCS technical determinations have been made. These allocations are made for specific disasters and cannot be used for other disasters. After the allocation is made, producers have between 30 and 50 days to make applications for cost-sharing. In the vast majority of cases a Soil Conservation Service technician and an ASCS

employee must make a technical determination regarding the acceptability of the proposed work and the actual extent of damage. After a positive determination is made, a signed agreement between the producer and ASCS can go into effect.

Mr. President, I agree with the Senator that this supplemental funding is necessary at this time. As of Monday, October 24, ASCS had approximately \$2 million available for this program, which would not be adequate for current estimated finding requirements.

Mr. PRESIDENT. Once again, I commend the Senator from Arizona for offering this amendment, and I ask that the Senate accept the amendment.

Mr. HATFIELD. Mr. President, the Senator from Arizona has presented this amendment for consideration. It has been cleared by, as he indicated, the chairman of the Subcommittee on Appropriations (Mr. COCHRAN), and the staff from both sides of the aisle. The committee is willing to accept the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. STENNIS. Mr. President, if the Senator will yield, there is no objection to the amendment being accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 2442) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the Pryor amendment.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AMENDMENT NO. 2441

Mr. SIMPSON. I have been listening to portions of the debate. I regret that I was not present earlier to debate this issue. I heard the statement of my friend from Oregon that it is easy to see another situation where one can be portrayed as, I believe, mean-spirited or less than compassionate. The Senator from Arkansas indicated that there is no one in this body who would less fit that description than MARK HATFIELD of Oregon. I believe that.

So here we are again in one of those remarkable things that I get into as chairman of the Veterans' Affairs Committee. I can only tell you that I do not enjoy the role of looking to be less than compassionate or a person who would look like someone out of a Charles Dickens' novel with Uriah Heep overtones.

That is not me. But I can tell you this: As we have our jurisdictional

areas, this has never been requested for a hearing by the Veterans' Affairs Committee. I am perfectly willing to hold a hearing on this issue, without question.

I think what we effectively find here is an attempt to appropriate outside of the normal process. That is exactly what we are finding here—extraordinary adventure.

I am not a turf protector. I have plenty to do around here without protecting turf.

The ranking minority member, Senator CRANSTON, and I do not agree with this amendment. I wish Senator CRANSTON were here, and he would express very clearly why he, too, feels that he does not agree with this amendment.

It is a very interesting and emotional and rather compassionate effort, but it does not fit the normal processes in this place. Senator CRANSTON and I, regretfully, would hope that you would not adopt the amendment.

It was stated that the majority and minority of the committee were consulted, and that is not so. Let the record show that that is not so. Let the record show, correctly, that there are no more hearings of the committee scheduled for this session. But let the record also show that we will deal with this matter, because this could be handled administratively by the VA. Indeed, it can.

Two years ago, we had the budget cuts. We know what we went through there with burial benefits. The amendment would propose to add \$1 million to preclude the burial of indigent veterans in what are referred as "cardboard boxes." I do not know how that got into the debate, but we are dealing with those issues, as I do in many other areas. It is there. There is not one of us here who does not believe that we should provide the most respectful burials for our Nation's eligible veterans.

If my understanding is correct, the amendment offered by my seatmate, the Senator from Virginia, and by my good friend the Senator from Arkansas attempts to respond to an incident recently brought to the attention of the press, in which an indigent veteran was buried in a "cardboard box."

That unfortunate reference has to do with the material of caskets sometimes being made of something less than some quality of wood. According to Paul Bannai, the Director of Memorial Affairs of the Veterans' Administration, the issue in this case is not one that has to do with lack of money but a lack of minimum standards and proper monitoring. The VA has already issued new standards to preclude burials in this unfortunate fashion. If, indeed, cardboard boxes were used, that is something that rankles me, disturbs me, distresses me. But

new standards have been set up and guidelines have been set up for the monitoring of those standards.

As I say, every one of us here wants to insure that the Nation's veterans will not have to suffer any indignity of interment in cardboard boxes.

However, in this case, merely adding money to an appropriations bill to solve this problem is not the way to go. It is outside the normal processes.

The House has a hearing scheduled on this issue for November 16, and we will be monitoring that. I assure you that we will then see if legislation is required to address this issue.

Again, we seem to choose to legislate in this way, and I hope we would not. I hope we would allow the House to work its will on November 16 with the scheduled hearing. I assure you that we will deal with this matter in the Senate in a responsible method, rather than in this bill, which is so capably managed by the Senator from Oregon.

Mr. WARNER. Mr. President, could the distinguished chairman of the Veterans' Committee be more precise with respect to the fact that the House is to hear it on the 16th of November? What, more precisely, would be the appropriate action thereafter of the Senator's committee?

Mr. SIMPSON. The action of my committee, I say to my colleague, would be to hold a hearing and at the hearing to hear the testimony of the Veterans' Administration, that the case which the Senator from Arkansas and the Senator from Virginia have brought up was created by a lack of proper guidelines for the monitoring of standards, and that has already been adjusted administratively. That will be one of the things that will come out of the hearing, I trust. At that time, there will be testimony from anyone who wishes to say that this is some kind of consistent pattern, which I believe it is not.

Mr. WARNER. The precise question I put to my distinguished colleague is this: Would his hearing be in a time frame, say, immediately following that of the House?

Mr. SIMPSON. Mr. President, our schedule for the recess of this Friday, I believe, is the 18th of November. If that is the case, I think it would be very difficult for the Senate Veterans' Affairs Committee to hold a hearing within 2 days after the House hearing, which is scheduled for November 16.

However, I can assure both my colleagues that the issue will be addressed by this committee in the appropriate forum of a committee hearing. I will assure them of such a hearing, and they will be the first witnesses to appear at that hearing. We will do that soon after we return here on January 23.

Mr. WARNER. Mr. President, I wish to speak further, but at this time I

yield to my distinguished colleague from Arkansas.

Mr. PRYOR. Mr. President, I should like to respond with respect to my friend from Wyoming, Senator SIMPSON, the chairman of the Veterans' Affairs Committee.

I first want the distinguished Senator from Wyoming to know that in no way was there an attempt to make a so-called end run—those are my words, my description—around any committee or any jurisdictional entity in the Senate, in bringing this matter to the attention of our colleagues at this time.

However, I think all of us realize that we have to respond to a problem. We are nearly out of time. We will not be permitted, it appears, to have any kind of meaningful hearing before some time next year, 1984, on this issue. I should like to inquire of the distinguished chairman of the Veterans' Committee a little more specifically about that.

He says it would be sometime after the first of the year. Could there be any more specificity in that date?

Mr. SIMPSON. Mr. President, will the distinguished Senator repeat the question?

Mr. PRYOR. Could there be more specificity in the date the distinguished chairman of the Veterans' Affairs Committee had reference to, as to the time for a hearing?

Mr. SIMPSON. Knowing my colleagues from Arkansas and Virginia as I do, since we all came to this place at the same time, persistence is not exactly the weak suit of either Senator. In view of that, and in an attempt to resolve this, I assure them that we will have some type of hearing on this matter before we leave for the Thanksgiving recess. I do not anticipate that it would be a lengthy hearing. But I certainly assure that both sides will be heard.

We have a unique, disturbing type of issue on one case that has appeared before the Veterans' Administration. At that time, I will present everything I can, except those things that would impinge upon family confidentiality. I think the Senators will find, as we often do in this place, that there is another side.

That is what I am requesting, and we will have that hearing after the House hearing and before the recess.

Mr. STENNIS. Mr. President, will the Senator yield to me briefly?

Mr. SIMPSON. I yield.

Mr. STENNIS. Mr. President, I highly commend the statement and position of the chairman of the proper committee, the authorizing committee. On top of that, we know he will do exactly what he says he will do. That is the pattern he follows here. It is a timely matter.

I appreciate the Senator from Arkansas and the Senator from Virginia. I know how genuine it is.

I know around here, when you get an authorization committed to really going into a matter and get some law on the books about it when it is justified, that is the way to really begin a solution of a problem rather than have to come up every year for an appropriation. Whether you get it or not, it is not established until it gets authorized.

The man who represents me in the House of Representatives is named Montgomery, and he is on the committee over in the House of Representatives and is chairman of it now. I feel he will feel this way about it, and I am sure he will act, also.

I thank the Senator.

Mr. SIMPSON. Mr. President, let me assure the Senator from Mississippi, the senior respected Member of this body, that it is one of my great pleasures in working with his Congressman, Mr. MONTGOMERY, as Chairman of the House Veterans' Affairs Committee, and there is no one I enjoy or regard more, and we work well together. We do not let partisanship intrude on our efforts.

I appreciate what the Senator from Mississippi is saying, and I will state quite clearly again that if the Senator would see fit to withdraw this amendment at this time, I will promise that on or before we recess, hopefully between the date of the House meeting, which I am told is November 16, even if that should not take place, we will still have a hearing on that issue before we are to recess for the Thanksgiving period.

Mr. PRYOR. Mr. President, I appreciate the statement of the Senator from Wyoming and also his commitment.

I wish all of our colleagues to know that Senator WARNER and I came to the Chamber with every intention of trying to do whatever it took with the yeas and nays, a germaneness fight, or whatever, to bring this matter up and to have a showdown on it today because we feel it is so important.

But I do accept unreservedly the assurance of the Senator from Wyoming. He is a man of great honesty, integrity, and knowledge in the whole area of veterans' affairs.

I do not want to extract one more drop of blood, so to speak, but I do wonder if my very good friend from Wyoming and perhaps if our chief cosponsor, Senator WARNER, of Virginia, might assure this Senator and this body that no burial will take place, in the meantime, such as the one we read about in the October 17 issue of the Washington Post involving a cardboard coffin.

Do the Senators feel that there are regulations or a monitoring device or

an administrative procedure now in effect at least to carry us over until the time we have some final action on the legislation of this nature?

Mr. SIMPSON. Mr. President, I am advised by the Veterans' Administration just within the past hour that all of the regulations and administrative procedures are in place to assure that this type of thing does not happen again, and the general counsel of VA has assured us that that is in process and implemented within the VA.

Mr. PRYOR. I deeply appreciate the remarks and the commitment from the distinguished Senator from Wyoming and, with the consent of my distinguished colleague from Virginia, Senator WARNER, we will at this time pull this amendment down and, I hope, have a very good hearing on the merits of this issue at the proper time before Thanksgiving.

Mr. WARNER. Mr. President, I respectfully agree with my distinguished colleague from Arkansas and indeed I think the purpose for which we came to the Chamber today has been properly redressed by the distinguished chairman of the committee and although the ranking minority member, Mr. CRANSTON, of California, who is not present, I am sure the Senator from Wyoming will speak for him on this matter because the two of them provide a great deal of leadership in this area, and with the assurances that this incident will not happen again until such time as Congress has the opportunity to address and remedy this situation, I am quite agreeable not to press for the yeas and nays.

Mr. SIMPSON. Mr. President, I deeply appreciate that action on behalf of Senator PRYOR and Senator WARNER.

I assure them that in this instance I do speak for the Senator from California, my colleague, Senator AL CRANSTON. I appreciate the magnanimous action on the part of Senator WARNER, and please know that I remain a very accessible figure and should they wish to discuss those types of amendments at any future time, do not hesitate to contact me. And in the event they do not, I say to my colleague and seat mate, I shall never furnish him any further cigars.

Mr. WARNER. Mr. President, I think we have a technical requirement. If it is agreeable to the Senator from Arkansas, Mr. President, on behalf of the distinguished Senator from Arkansas and myself we at this time ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HATFIELD. Mr. President, we are down now to about the time of ending for the day's session according to the leadership.

First of all, I thank the Senator from Arkansas, the Senator from Vir-

ginia, and the Senator from Wyoming for working out this matter in an amicable satisfactory manner.

Mr. President, I wish to propound a unanimous-consent request on a time agreement on the DeConcini-Biden amendment which has been cleared by both sides of the aisle.

Mr. President, I ask unanimous consent that a half-hour time limit be equally divided.

Mr. President, I withdraw my request at this moment and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. 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. HATFIELD. Mr. President, I propound a unanimous-consent request. I ask unanimous consent that on the Biden-DeConcini amendment that will be called up next that there be a time agreement of 20 minutes equally divided between the proponents of the amendment and the Senator from South Carolina (Mr. THURMOND) to manage the time on the opposition side, with only a tabling motion that would be in order, and no amendments.

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

AMENDMENT NO. 2443

(Purpose: To establish an Office on National and International Drug Operations and Policy and a Commission on Drug Interdiction and Enforcement)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware (Mr. BIDEN), for himself, Mr. DeCONCINI, Mr. CHILES, Mr. PELL, and Mr. MOYNIHAN, proposes an amendment numbered 2443.

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

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

The amendment is as follows:

At the appropriate place in the bill, add the following new account:

Office of the Director of National and International Drug Operations and Policy and the Commission on Drug Interdiction and Enforcement

For salaries and expenses, not otherwise provided for, of the Office of the Director of National and International Drug Operations and Policy and the Commission on Drug Interdiction and Enforcement, \$1,000,000: Provided that

(a) The Congress hereby makes the following findings:

(1) The flow of illegal narcotics into the United States is a major and growing problem.

(2) The problem of illegal drug activity falls across the entire spectrum of Federal activities both nationally and internationally.

(3) Illegal drug trafficking is estimated by the General Accounting Office to be a \$79,000,000,000 a year industry in the United States.

(4) The annual consumption of heroin in the United States is in the range of four metric tons, and annual domestic consumption of cocaine is estimated to be forty to forty-eight metric tons.

(5) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no more than 5 to 15 per centum of all hard drugs flowing into the country.

(6) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(7) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 per centum of heroin users rely upon criminal activity as a means of income.

(8) Much of the drug trafficking is handled by syndicates which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(9) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(10) The magnitude and scope of the problem requires a director of National and International Drug Operations and Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies.

(11) Such a director must have broad authority and responsibility for making management, policy, and budgetary decisions with respect to all Federal agencies involved in attacking this problem so that a unified and efficient effort can be made to eliminate the illegal drug problem.

(b) It is the purpose of the Office to insure—

(1) the development of a national policy with respect to illegal drugs;

(2) the direction and coordination of all Federal agencies involved in the effort to implement such a policy; and

(3) that a single, competent, and responsible high-level official of the United States Government, who is appointed by the President, by and with the advice and consent of the Senate, and who is accountable to the Congress and the American people, will be charged with the responsibility of coordinating the overall direction of United States policy, resources, and operations with respect to the illegal drug problem.

(c)(1) There is established a Commission on Drug Interdiction and Enforcement (hereinafter referred to as the "Commission") which shall be composed of:

(A) Four members appointed by the President, one of whom shall be designated by the President as chairman;

(b) The Attorney General, the Secretary of the Treasury, the Secretary of Transportation, and the Secretary of State;

(c) Four members appointed by the Speaker of the House of Representatives

from the membership of the House Committee on the Judiciary; and

(d) Four members appointed by the President pro tempore of the Senate from the membership of the Senate Committee on the Judiciary.

(2) Of amounts appropriated under this account \$1,000,000 shall be available for the Commission established under this subsection.

(3) A majority of the Commission shall constitute a quorum for the transaction of its business, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than four members of the Commission.

(4) Each member of the Commission who is not otherwise in the service of the Government of the United States be compensated at a rate not to exceed the daily equivalent of the rate than payable for grade GS-18 in the General Schedule under section 5332 of title 5, United States Code, for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code. Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code.

(5) It shall be the duty of the Commission to study and evaluate, in accordance with, but not limited to, paragraph (6), existing laws, policies, and procedures governing drug interdiction, including existing authorities for domestic drug interdiction agencies, international drug eradication, crop substitution, and other cooperative programs in source and transshipment countries, and domestic and foreign intelligence-gathering programs for drug interdiction, and to make such administrative, legislative, and procedural recommendations to the President, the Director of the Office of National and International Drug Operations and Policy and to the Congress as are appropriate.

(6) In particular, the Commission shall—

(a) conduct a study and analysis of the effect of provisions in current law which affect possession or transfer of controlled substances and other laws whose purposes are to deter drug trafficking into the United States;

(b) conduct a study and analysis of current administrative and statutory obstacles to enhancing the gathering and tactical use of both domestic and foreign intelligence for use by Federal, state, and local drug interdiction agencies, including the appropriate role for the El Paso Intelligence Center (EPIC);

(c) conduct study and analysis of the *Posse Comitatus* doctrine, including modifications which would improve the use of military resources for drug interdiction and intelligence purposes;

(d) conduct a study and analysis of coordination between Federal, state, and local agencies involved in drug interdiction and intelligence gathering and how such coordination can be improved;

(e) conduct a study and analysis of the relationship between the different segments of enforcement of U.S. drug laws, particu-

larly intelligence gathering, interdiction, prosecution, and results of prosecution, and recommend appropriate legislation and administration actions;

(f) conduct a study and analysis of the allocation of Federal resources in the area of drug interdiction, and make appropriate recommendations regarding a comprehensive, coordinated overview of Federal drug interdiction and enforcement agencies' resource requirements rather than a piecemeal approach to drug interdiction and enforcement budgeting;

(g) recommend a coordinated approach to gathering and verifying drug interdiction seizure, arrest and prosecution statistics;

(h) make a semiannual report to the House and Senate Committees on the Judiciary during the period before publication if its final report (described in subparagraph (1)); and

(i) make a final report of its findings and recommendations to the President, to the Director of National and International Drug Operations and policy and each House of Congress, which report shall be published no later than January 20, 1985.

(j) develop a coordinated interagency federal strategy on narcotics control to be implemented by the Director of National and International Drug Operations and Policy beginning January 20, 1985.

(7)(a) The Commission is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(b) Staff members of the Committee on the Judiciary of the Senate or of the Committee on the Judiciary of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Staff members so detailed shall serve on the staff of the Commission without additional compensation except that they may receive such reimbursement of expenses incurred by them as the Commission may authorize.

(8) The Commission may call upon the head of any Federal department or agency to furnish information and assistance which the Commission deems necessary for the performance of its functions, and the heads of such departments and agencies shall furnish such assistance and information, unless prohibited under law, without reimbursement.

(9) The Commission is authorized to make grants and enter into contracts for the conduct of research and studies which will assist it in performing its duties under this subsection.

(10) The Commission is authorized to conduct hearings and prepare written transcripts of the same.

(11) The Commission shall cease to exist upon the filing of its final report, except that the Commission may continue to function for up to 60 days thereafter for the purpose of winding up its affairs.

(12) The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate then payable for grade GS-18 in the General Schedule under section 5332 of such title.

(13) There is authorized to be appropriated the sum of \$1,000,000 for necessary salaries and expenses of the Commission.

(d)(1) There is established in the executive branch of the Government an office to be known as the "Office of the Director of National and International Drug Operations and Policy" (hereinafter in this heading referred to as the "Office of the Director"). There shall be at the head of the Office of the Director a Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this.

(2) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and the Deputy Director shall each serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than four years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. The Director shall be entitled to the compensation provided for in section 5313, title 5, United States Code. The Deputy Director shall be entitled to the compensation provided for in section 5314, title 5, United States Code.

(3) The Director shall serve as the principal director and coordinator of United States operations and policy on illegal drugs.

(4) The Director shall have the responsibility, and is authorized to—

(a) implement the strategy recommended pursuant paragraph c(6);

(b) thereafter, revise any such strategy and develop, review, implement and enforce all United States government policy with respect to illegal drugs and narcotics;

(c) direct and coordinate all United States Government efforts to halt the flow into, and sale and use of illegal drugs within the United States;

(d) develop in concert with governmental entities budgetary priorities and budgetary allocations of entities of the United States Government with respect to illegal drugs; and

(e) coordinate the collection and dissemination of information necessary to implement United States policy with respect to illegal drugs.

(5) In carrying out his responsibilities under paragraph (4), the Director is authorized to—

(a) direct, with the concurrence of the head of the agency employing such personnel, the temporary reassignment of government personnel within the United States Government in order to implement United States policy with respect to illegal drugs;

(b) procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(c) accept and use donations of property from all government agencies; and

(d) use the mails in the same manner as any other department or agency of the executive branch.

(6) Notwithstanding any other provision of law, rule, or regulation to the contrary, the Director shall have the authority to direct each department or agency with responsibility for drug control to carry out the policies established by the Director consist-

ent with the general authority of each agency or department.

(7) The Administrator of the General Services Administration shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

(8) The Director shall submit to the Congress, by January 1, 1986, and annually thereafter, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

(9) For the purpose of carrying out the function of the Office there are authorized to be appropriated \$500,000 for fiscal year 1985, and such sums as may be necessary for each of the four succeeding fiscal years, to be available until expended.

(10) This subsection shall be effective January 20, 1985.

Mr. BIDEN. The reason the Senator from Arizona and I and others such as Senator PELL, Senator CHILES, and Senator MOYNIHAN who are cosponsors, and Senator NUNN are proposing this amendment is that this is a matter which has been debated in the past on the floor of the Senate and has passed overwhelmingly.

The distinction is we have made the amendment we believe even more palatable by tying together the original amendment with an amendment by the distinguished Senator from Arizona which calls for the setting up of a commission to study how best to attack the drug problem plaguing this country.

I will ask the Senator from Arizona to speak to that in the time we have. But suffice it to say that one of the criticisms of the bill the last time in the discussion with the administration and others was the fact that we were moving precipitantly in restoring the chain of drug matters in this administration.

The beauty of this amendment is in the wisdom of the Senator from Arizona which will be in place for 1 year and it would not be until the end of that Commission at which time a report would go to the so-called drug coordinator who would then be responsible for implementing the strategy and plan prepared by the Commission.

Mr. President, the drug coordinator amendment is familiar to all my colleagues as it is something that was passed by this body last year by a vote of 63 to 33. This measure was passed overwhelmingly by the House and forwarded to the President where it was pocket vetoed last January, along with other crime fighting initiatives.

The purpose of this amendment is two fold: First, it will establish a cabinet-level office to be called the Office of National and International Drug Operations and Policy. The Director and Deputy Director would be appointed by the President by and with the advice and consent of the Senate. The Director would have authority to: Develop, review, implement, and en-

force U.S. Government policy with respect to illegal drugs; direct and coordinate all U.S. Government efforts to halt the flow into, and sale and use of illegal drugs within, the United States; develop in concert with other Federal entities concerned with drug control the budgetary priorities and allocations of those entities with respect to illegal drugs; and coordinate the collection and dissemination of information necessary to implement U.S. policy with respect to illegal drugs.

Second, this amendment calls for the establishment of a National Commission which for the first time, will develop a comprehensive, coordinated strategy and plan to be implemented by the Office of the Drug Coordinator.

Mr. President, the 97th Congress concluded that Federal coordination and leadership of drug control is such a complex and diverse job that it requires the attention and responsibility of one person. Cabinet-level status for this individual is necessary so that it is clear that this individual reports directly to the President and has sufficient clout to impose a truce on inter-agency feuding, to insure maximum participation of all agencies and to allocate budgetary resources in a efficient and effective manner.

These comments were echoed by Senators DECONCINI, HATCH, and SPECTER during markup of this amendment in the Judiciary Committee.

Senator DECONCINI stated, "Anyone that looks at this problem will see that coordination is anything but good."

Senator HATCH said he hoped that the administration would not veto this bill because "It is a good idea and it is time we got on with the war on narcotics."

Senator SPECTER discussed with the committee members his efforts to persuade the President to support this bill last Congress and indicated that "the cause is not lost and I think we ought to persevere."

The Judiciary Committee acted on this legislation by voting it out of committee by a vote of 12 to 5.

Additional support for this amendment comes from the Senate drug enforcement caucus so ably cochaired by Senators HAWKINS and DECONCINI which includes 46 Senators; 34 Republicans and 12 Democrats. In a letter to the President dated December 29, 1982, encouraging him to sign into law an eight part crime bill, the caucus endorsed the provision that would "Establish a Drug Enforcement Coordinator."

Additional support for this concept comes from the General Accounting Office in their report dated June 13, 1983, entitled, "Federal Drug Interdiction Efforts Need Strong Central Oversight."

In this report GAO criticized the fragmentation of the Federal drug

interdiction effort which is split among three separate agencies in three executive departments, each having different program goals and priorities.

GAO recommended to the President:

That he direct the development of a more definitive Federal drug strategy that stipulates the roles of the various agencies with drug enforcement responsibilities.

That he make a clear delegation of responsibility to one individual to oversee Federal drug enforcement programs.

Mr. President, the Reagan administration has taken many promising initiatives in the area of drug law enforcement. The President is to be commended for committing the additional resources that resulted in the creation of the South Florida Task Force. The Reagan administration has also committed itself to funding two nationwide task force programs instituted within the past year, the organized crime drug enforcement program (OCDE) and the national narcotics border interdiction system (NNBIS).

Despite these actions, I believe the administration's antidrug effort falls short in one crucial respect: the lack of central direction.

At least 15 Federal agencies play a role in the regulation of commerce in dangerous drugs or in the enforcement of other restrictions designed to reduce the abuse of such drugs. These agencies are located in six different departments. Under such circumstances, it is inevitable that divergencies as to priorities will arise and that there will be conflicting interpretations of national policy.

Included in this amendment is an excellently drafted provision of Senator DECONCINI. Senator DECONCINI proposes the establishment of a commission to review and recommend changes in our drug enforcement and interdiction policy and to develop a comprehensive plan and strategy to be implemented under the direction of the drug coordinator. Senator DECONCINI has in the past so accurately stated that we need a comprehensive strategy for attacking the drug problem. We also need a single person of cabinet rank to carry out that strategy. We believe this amendment will resolve the problem of an ineffective strategy and lack of central direction.

FLEXIBLE TO APPOINT ATTORNEY GENERAL

Mr. President, the amendment I propose is written to provide flexibility in its implementation. It does not specify, for example, that the proposed office must be a part of the Executive Office of the President.

Under the provisions of the amendment, the President would be free to appoint an incumbent such as the Attorney General as Director of the central drug agency if, in his judgment,

that were the soundest course. The sole purpose of the proposed legislation is to provide sufficient authority to a single official, one who clearly has the President's attention, for the unified direction of Federal efforts to curb the traffic in illegal drugs.

COMPARISON WITH DIRECTOR OF CENTRAL INTELLIGENCE

What we are seeking in the amendment is to strengthen central direction of the antidrug effort. The Director created by this amendment is to the drug law enforcement community what the Director of Central Intelligence (DCI) is to the intelligence community. It is envisioned that both establish general policies and priorities, approve budget submissions, and prepare a governmentwide program by which the Chief Executive may discharge responsibilities the Constitution explicitly vests in him.

There are four major aspects of the drug problem: Foreign eradication or crop substitution in the source countries, interdiction of drugs before they reach the U.S. borders and streets of our cities, enforcement and investigation of those individuals involved in drug trafficking in this country, and collection of intelligence useful in interrupting the flow of drugs at each of these stages. The Director will oversee the development and implementation of a plan that addresses all of these aspects. He will have the authority, with consultation from the agencies and departments involved, to prioritize the Federal effort devoted to all aspects of the drug effort.

In seeing that the agencies and departments are coordinating and committing their resources in unison with the overall Federal antidrug program the Director will exercise authority similar to that which the Director of Central Intelligence has in coordinating Federal intelligence responsibilities. This does not mean the Director will involve himself with day-to-day command decisions or interfere with individual agency tasks.

Mr. President, we in the Congress have decided that the problem of drug abuse has reached such a dismal state that we must take immediate action. Only last week, we voted 96 to 0 in favor of an amendment to the State Department authorization bill offered by Senator HAWKINS that would cut off aid to nations not making legitimate progress in curtailing the cultivation and production of heroin, cocaine, and other illicit drugs that end up in the hands of young and middle aged Americans.

We voted unanimously last year to increase budgets for Federal agencies responsible for drug interdiction and enforcement. And, last year we voted in a bipartisan manner in favor of this very amendment. We have agreed that drug control is unique in both the danger it poses to the social fabric of

the Nation and in the necessary complexity of how our Government should respond.

Until there is one individual who can say to Congress and the American people, this is the plan and this is how we will implement the plan. It will continue to be business as usual with our drug control program: Completion, duplication, and inefficiency.

I ask all my colleagues again, for their support in adopting this amendment.

I now yield 2 minutes to the Senator from Rhode Island.

Mr. PELL. I thank my colleague from Delaware. Mr. President, I rise in strong support of the amendment offered by the Senator from Delaware and the Senator from Arizona. Last year, Senator BIDEN, Senator DECONCINI, and I offered a similar amendment to the Violent Crime and Drug Enforcement Improvements Act. Regrettably, the President vetoed this bill because of his opposition to the "Drug Czar" provision.

In the intervening year, our experience has been that the drug trafficking problem has grown substantially. As a result of the so-called Florida Task Force, we have seen trafficking activity shift to other regions of the country. In the Northeast, for instance, there has been a great increase in coastal drug smuggling over the past year. Figures made available to me this week by the Drug Enforcement Administration in Boston demonstrate how dramatic the change has been: in 1981, seizures of marihuana amounted to 28 tons, a figure which increased to 211 tons in 1982. Already this year, 170 tons of marihuana have been seized along the New England coastline.

I do not believe any Member of the Senate would dispute the need for a more aggressive national attack on the drug trafficking problem. Our underfunded Federal law enforcement agencies are fighting a war against a well-organized, well-financed, \$80-billion-a-year industry. What we are seeking to do with this amendment is to provide the high level authority that has been lacking from a program that involves more than a dozen agencies spread throughout the entire Government.

This amendment would provide for a 1-year study of our current drug enforcement capabilities, to be followed, in January of 1985 by the establishment of a Cabinet level office to have the lead authority over the various agencies involved in this effort. We are not seeking to create any new programs or bureaucracy; indeed our amendment explicitly states that someone serving in the Cabinet, such as the Attorney General, could serve in this coordinating capacity.

In the past several years, drug trafficking has become a problem that is national in scope. We cannot rely

upon the kind of short-term successes we have had with the Florida task force. What is needed is consistent attack on this problem at the highest levels of our Government, starting with a clearcut strategy for combating drug trafficking in every region of the country.

I urge my colleagues to join in supporting this amendment to provide the strong leadership we must have if we are to win the war against drug traffickers, and I yield the remainder of my time to the Senator from Delaware.

Mr. BIDEN. Mr. President, I yield to the Senator from Arizona.

Mr. DECONCINI. I thank the Senator from Delaware.

We have gone round and round on the subject of drug interdiction in this body for a number of years. We passed out what is known as the comprehensive drug coordinator, as the Senator from Delaware pointed out and as it was pointed out by others.

This, as the Senator from Delaware points out, is far more palatable I believe because it creates a commission which is very similar to the commission that was created for immigration and refugees. It is patterned after that.

I think we know the success of that commission which brought about the Comprehensive Immigration Reform Act that passed this body and is now stalled in the House of Representatives.

I think this combination gives us the best of both worlds, an opportunity to oversee through the commission and in the creation of the drug coordinator at the determination of that commission.

I want to thank the Senator from Delaware for his leadership.

Mr. President, in plain English, this amendment creates a new Drug Commission and establishes a so-called Drug Czar as the coordinator of our national drug effort. Let me briefly explain why I strongly believe that both are needed and why I believe they should be considered in tandem today.

COMMISSION ON DRUG INTERDICTION AND ENFORCEMENT

Mr. President, I am recommending the creation of a new Commission on Drug Interdiction and Enforcement. It is my hope that this Commission will attract the congressional, administration, and private sector experts in the field to develop for the first time a comprehensive, coordinated strategy for waging an all-out war on intercepting drugs as they come across our borders.

Mr. President, back in March of this year, the Vice President announced the creation of a national narcotics border interdiction system (NNBIS), a program designed to mobilize resources to attack the drug smuggling

problem around all of the U.S. borders. I have repeatedly applauded the Vice President's efforts to focus the power and resources of the Federal Government on this sinister drug problem and I will continue to support his program. However, despite the good intentions of the President, the Vice President, and our individual drug interdiction agencies, there is still the critical lack of a coordinated, comprehensive strategy for attacking the drug smuggling problem. The Government needs to prepare for a war on drugs in the same way it prepares for war against an enemy of the United States.

We need a national and international game plan for developing drug interdiction warfare, including bolstering our international intelligence-gathering systems; providing existing military aircraft, radar, and other equipment to our civilian law enforcement agencies for drug interdiction purposes; establishing tough, international drug eradication programs in source and transshipment countries; and developing a coordinated system for allocating Federal drug enforcement resources to the agencies and location where the drug smuggling threat is most acute.

We do not have such a war plan, but we desperately need one. The Vice President cannot do it alone. The individual law enforcement agencies cannot do it on their own. The military cannot do it alone. The Vice President and other key players in the Federal drug interdiction effort need a national strategy to put into effect. I am confident that the Commission on Drug Interdiction and Enforcement will give the administration and the Congress the blueprint for a successful "War on Drugs," a war that we can ultimately win.

Mr. President, this Commission would be a truly bipartisan mix of experts from the administration, the Congress, and the private sector. It would consist of 16 members, including four Cabinet members, four from the House Judiciary Committee, four from the Senate Judiciary Committee, and four members appointed by the President, including the Commission Chairman. The Commission will evaluate U.S. policies governing drug interdiction, international drug eradication, foreign and domestic intelligence-gathering strategies, and other important elements that must be developed to build a truly national strategy to combat drug smuggling. A final report from the Commission would be submitted concurrently to the Congress and the administration by no later than January 20, 1985.

OFFICE OF THE DIRECTOR OF NATIONAL AND INTERNATIONAL DRUG OPERATIONS AND POLICY

Mr. President, the idea of creating a centralized office for directing our national drug effort is certainly not a

new idea in this Chamber. The so-called drug czar was a key part of the crime bill that President Reagan vetoed last year, but more importantly, it is a concept that has been recognized as essential to our war against drugs in both Houses of Congress. Just as I believe a Commission on Drug Interdiction is needed to map out a comprehensive drug strategy, so, too, do I believe that a drug coordinator is needed to implement such a strategy in the Federal Government.

The Director of National and International Drug Operations and Policy would be a Presidential appointee, confirmed by the Senate, and would serve as the principal director and coordinator of U.S. operations and policy on illegal narcotics and drugs. Clearly, this amendment would not be establishing a large new bureaucracy to compete with existing Federal responsibilities in the drug area. To the contrary this small office would serve as a vehicle for cutting through the traditional "turf" battles among drug enforcement agencies and help to coordinate the Federal drug effort and mobilize all assets of the Federal Government against this devastating menace.

Mr. President, I will not burden my colleagues with the numerous reports and studies that show the seriousness of the drug problem in this country. Suffice it to say that the drug threat to this country is staggering and getting worse. The cost of drug abuse to the economy has been estimated at \$25.8 billion a year; the drug trafficking industry is an \$80 billion a year empire; and as much as 70 percent of all violent crime in the United States is directly related to drugs. To attack this violent problem in our country, we need tough new measures; we need someone in charge full time who can cut through the bureaucratic and turf snarls that have plagued our drug effort to date; and we need a commission to map out a national war plan for attacking the drug problem from all fronts. This amendment will get the ball rolling in this direction.

Mr. President, the Vice President has done a fine job in the drug interdiction area, but he needs help, full-time help that can devote every day of the week to coordinating our war on drugs and to implementing a national strategy. By creating a commission and a drug coordinator we will be helping the President, the Vice President, the Attorney General, and, most importantly, the country in launching full-scale, full-time warfare against drugs.

I urge the adoption of my amendment.

Mr. BIDEN. May we reserve the remainder of our time?

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield the floor.

The PRESIDING OFFICER. If neither side yields time, time will be charged equally against both sides.

Mr. BIDEN. Mr. President, I see the Senator from South Carolina is prepared to respond. Let me discuss some of the arguments the Senator from South Carolina may raise against this amendment.

Mr. President, one of the arguments against the amendment is that the authority of the Attorney General would be undermined.

I want to make it clear throughout the discussions with the administration, including our meeting with the President, that I had no objection to the Attorney General serving as the chief coordinator. I believe there is sufficient flexibility in the amendment to permit this.

The second argument the distinguished Senator from South Carolina may make is this bill would bring the White House into day-to-day law enforcement decisions.

I have made clear in the past it was never our intent that this office be located in the White House. Indeed, I am not certain where that idea came from in the first place. This bill would create an office in the executive branch of Government not in the Executive Office of the President. Besides unlike White House staff this individual would be appointed with the advice and consent of the Senate and therefore would be appearing before the Senate committee on a regular basis.

ARGUMENT AGAINST

The bill would take away the individual authority of other Cabinet members and Agency heads.

RESPONSE

Now I have always thought that it was clear that such direction would be subject to an appeal to the President and if clarifying language is necessary to make that clear I think that would be acceptable. As a practical matter that is how the DCI enforces tasking requirements upon the components of the intelligence community. For example, if the DCI orders the Secretary of the Treasury to place its highest priority on collecting intelligence on the international banking activities of the Amtorg Bank (an arm of the Soviet Government) and the Secretary of the Treasury feels it is more important to use the Department's resources to find out what Chase Manhattan has done in overextending itself to the Mexicans the Secretary can appeal to the President.

ARGUMENT AGAINST

The administration has not had a chance to explain their objections.

RESPONSE

The fact I am now listing arguments made by the administration indicates their position is widely known. Let me

list for the committee the times and places just in the last year in which the President or a member of the executive branch has commented on this proposal.

Department of Justice letter to the chairman dated September 30, 1982.

The President's memorandum of disapproval in vetoing the crime bill dated January 14, 1983.

Countless news articles about the veto of the crime bill during the week of January 15.

Testimony by the Attorney General and FBI Director Webster at an organized crime and drug trafficking hearing on January 27, 1983.

Testimony by Carlton Turner, Director of the Office of Drug Abuse Policy on February 17, 1983 before the House Judiciary Committee hearing entitled "coordination of drug enforcement efforts".

Senate Judiciary hearing on S. 829 the Comprehensive Crime Control Act of 1983 on May 4, 1983 when the Attorney General and Rudolph Giuliani, former associate attorney general testified.

ARGUMENT AGAINST

The bill would create an unnecessary and costly layer of bureaucracy.

RESPONSE

This is the argument that most troubles me. The whole purpose of this bill is to give one person authority to cut through existing bureaucratic barriers to coordination. Indeed this administration's answer, like those in the past, has been to create coordinating groups and councils. Indeed, we now have at least eight groups or councils or committees that purport to coordinate the activities of the nine Cabinet and 33 agencies involved in drug control and prevention. This is decision by consensus that leaves no one responsible and is not efficient. The public would like to know and Congress would like to know, who is in charge?

Let us be serious. We are not talking here about more government—the office in question need not be large. Indeed, its responsibilities could be performed by personnel borrowed from existing agencies. Also, we could do away with some of these layers of coordinating groups and councils that only further confuse the policy making process. We are talking about making the Government we have work right, and do the job it is supposed to do, not increasing its size.

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

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

I rise in opposition to this amendment and I do it for several reasons. The first is that it is not the appropriate legislation for this amendment. I want to say this: That on the calendar now we have a bill by the able and dis-

tinguished Senator from Delaware, S. 1787, which was reported from the Judiciary Committee and which can be considered in due time.

We have reported a crime package, a very fine package, which is ready to be taken up at any moment that those on the other side withdraw their objections.

We passed out several separate bills. We passed one out on capital punishment, we passed one out on the exclusionary rule, we passed one out with respect to habeas corpus, we passed one out with respect to the Federal Tort Claims Act, and we passed one out on the drug czar.

The reason they were not included in this package is they are all controversial, and if any one had been attached to this crime package, there would have been a tussle and a fight over that, and I am very pleased the committee agreed unanimously, all of the members of the committee, on the crime package.

But on these matters they are highly controversial, and that is the reason we sent them out separately.

The distinguished Senator from Delaware can bring this bill up, and I am sure will bring it up, in due time. So this is not the appropriate place for this legislation.

Mr. President, last year this was added to the crime package and the President vetoed the crime package. I am confident that if we add this particular amendment to this appropriation bill the President will veto it. As I say, he has already vetoed a similar one last year.

He is against the crime czar. He has a setup which he thinks is working nicely. He does not want it interfered with. So why run the risk of killing the supplemental bill, which has so many valuable things in it, just to put in this one little thing? I think it is a mistake. Therefore, for those reasons, I oppose the amendment and hope it will be tabled.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield myself such time as I may need.

Mr. President, this is not the crime bill. The Senator from South Carolina is absolutely correct. We agreed to not put this in the crime bill. But the agreement we had was and remains that all those so-called controversial amendments, this being one of those, could be moved in any way which the authors of those amendments felt appropriate, other than the crime bill. That is what we are doing there today.

Mr. President, unless the Senator from Georgia or the Senator from Arizona would like some time, I am prepared to yield back the time and vote on the amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. THURMOND. Mr. President, I will yield to the able Senator from Mississippi.

Mr. STENNIS. Mr. President, I am totally opposed to drug traffic of any kind or the illegal sales or anything else. We are bothered with it down in Mississippi. It seems as though Florida has been more successful in banning them and dealing with them. They changed and they come around our way now, come through south Mississippi. So I am totally opposed to it.

But the way to get at it is to get a bill that is really put together by the Judiciary Committee and by the Senator from Delaware. There is no more effective man in this party than he is, and experienced, too.

So let us put together a bill that will be effective and brought about in the right way, rather than the hurryscurry thing here, putting it in an appropriations bill.

We will just have to be firmer, I say to the chairman of the committee. He is very effective in this, but we will just have to be more firm with reference to so many of these amendments. They have a lot of worth in them, but it is the wrong place.

We do not want to have to put a sign up down in the Appropriations room that says: "This was once the Appropriations Committee room, but now it is legislation on any subject anybody wants. Bring it in."

So I think we will not delay the effectiveness of the bill one bit to defeat this, not on the merits, as I am insisting, but on procedure and get even a better bill with the sponsorships of the Senator from Delaware and those working with him, Senator DeCONCINI from Arizona, and others.

I yield the floor.

Mr. BIDEN. Mr. President, just one closing comment. I do not concede the notion that the President will necessarily veto this bill. I have been in discussions with the administration. They have been much more inclined to discuss the creation of such a position as I have proposed.

So although that might happen, and it did happen in the past, I do not think we can say that with absolute certainty, it will happen again.

Mr. President, I am prepared to vote.

Mr. STENNIS. Mr. President, if the Senator would yield, it is correct, is it not, that his bill is S. 1787, which is on the calendar?

Mr. BIDEN. That is correct.

Mr. President, I am prepared to vote.

Mr. THURMOND. Mr. President, I yield to the distinguished chairman of the Appropriations Committee.

Mr. HATFIELD. Mr. President, I would only say as a matter of record

that I have discussed this matter with not only the distinguished chairman of the Judiciary Committee but also with Senator LAXALT, who has a keen interest in this bill. Senator LAXALT has authorized me to indicate that this amendment, which would provide an automatic triggering mechanism, as I understand it, to put into place a coordinator for drug control at the end of a specified period of time, would be subject to veto by the President and, on that basis, he is opposing the amendment.

As I say, I am merely authorized to make that communication to the body of the Senate at this time.

I yield back my time.

Mr. MOYNIHAN. Mr. President, I rise in support of this amendment to create an Office of the Director of National and International Drug Operations. Such an office will provide needed coordination amongst the several Federal agencies that battle drug abuse and drug-related crime in this country.

By virtually any measure, this Nation is barely holding its own against illicit drug use and commercial activity. In the last 13 years, Congress has enacted a number of measures designed to reduce both the supply of and the demand for drugs. These include the Foreign Assistance Act of 1971, which authorized suspension of foreign aid to countries not cooperating in attempts to reduce the flow of illegal drug traffic to the United States, while financing eradication programs in cooperative supplier-nations; the Reorganization Plan No. 2 of 1973, to coordinate the efforts of many of the agencies related to the prevention of illicit drug traffic; and at least 55 other major and minor anti-drug measures.

Yet the supply and use of many dangerous drugs is rising and will continue to do so. The National Narcotics Intelligence Consumers Committee reported that in 1981, the supply of heroin in the United States rose to 4.0 metric tons; for cocaine, that figure was 34-45 metric tons; for hashish, 200 metric tons; and for marihuana, upward of an almost unbelievable 13,900 metric tons. This committee noted a worsening of heroin and cocaine abuse in 1981, and predicted that the situation would continue to deteriorate at least through 1985. The costs of illicit drugs are virtually incalculable, because of the enormous amounts of crime, health problems, and decreased productivity that accompany their use. Nevertheless, the General Accounting Office estimates that we are faced with an \$80 billion-a-year industry. My concern with the dangers of illicit drug activity is long standing. While serving as President Richard Nixon's Assistant for Urban Affairs, I investigated the close relationship between many of the problems facing our

cities, especially crime, and the proliferation of narcotics such as heroin. I traveled extensively to Calcutta, Istanbul, and Paris, in an effort to sever the "French Connection." With the cooperation of the French Government, we did manage to stem the flow of heroin entering the United States via France.

The beast is not easily put off. When Mexico became the new center of the heroin trade, we worked with the Mexican Government to coordinate a swift and decisive response. The exit of Mexico as the prime supplier of the U.S. market for heroin created a vacuum filled by poppy-growers in Southwest Asia, particularly Pakistan. Once again, I took to the road, securing commitments from General Mohammad Zia-ul-Haq of Pakistan to take hold of the heroin problem. To my knowledge, however, heroin continues to flow from Southwest Asia. The resources of our Nation's drug enforcement agencies are being taxed accordingly.

This history suggests the complexity of the task confronting those who would lead the fight against drug trafficking and abuse. From the time the poppies are cut in Pakistan or the cannabis is harvested in Colombia, to the time that a young man or woman purchases and consumes the drug on an inner-city street, at least seven Federal agencies have sought unsuccessfully to halt its flow. Consider the organizations that get involved at one time or another—the Internal Revenue Service, the Federal Bureau of Investigation, the U.S. Customs Service, the Coast Guard, the Drug Enforcement Administration, the Food and Drug Administration, and the U.S. Attorney's Office, to name but seven that come to mind immediately.

Each of these organizations does the very best job that it can. But I suggest we are in need of some coordination of these agencies. As early as 1963, President Kennedy's Advisory Commission on Narcotic and Drug Abuse, known as the Prettyman Commission, noted the several agencies involved and deplored the fragmentation. The Commission recommended the creation of a single new agency that would encompass the duties then divided between the bureaus, offices, and divisions of five different cabinet departments. As the drug problem has worsened in the ensuing 20 years, the coordination has also deteriorated—despite the rhetoric of every President since Kennedy.

The establishment of an Office of the Director of National and International Drug Operation and Policy would not, by any means, eliminate the problem of illicit drug activity. Indeed, many specific changes in laws, such as reform of bail and sentencing procedures as well as forfeiture regulations, are needed badly. Nevertheless, the prospects for coordination raised by this proposal represent one immedi-

ate and positive step that the Senate can take in the increasingly difficult struggle against drugs.

Mr. THURMOND. Mr. President, I will not take all of that time. I simply want to say that it has been a pleasure to work with the distinguished Senator from Delaware, who is the ranking member of the Judiciary Committee. In every way I could, I have tried to work with him and we got his bill out of the committee. It is now on the calendar. It can reach the Senate in due time.

This is not the place for it here. The President will, in my opinion, veto this whole bill, so why run the risk?

Furthermore, we think the bill that is being worked on now by the distinguished Senator from Delaware with the administration might be worked out, something might be worked out. Why go and pass this now, because later, if the administration is not pleased, they will certainly veto it.

It seems to me the logical thing to do is give the Senator from Delaware more time to work with the administration on this particular matter. It is objectionable on this piece of legislation. The chairman and the manager of the bill is against it. The ranking member on the Appropriations Committee is against it. The Judiciary Committee chairman is against it. We hope the Senate will table it.

Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Time on the amendment has not been yielded back.

Mr. THURMOND. Mr. President, I yield back my time.

Mr. BIDEN. I yield back our time.

Mr. THURMOND. Mr. President, I move to table the amendment.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina (Mr. THURMOND) to table the amendment of the Senator from Delaware (Mr. BIDEN). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. ANDREWS), the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

I also announce that the Senator from Michigan (Mr. RIEGLE) is absent because of illness in the family.

The PRESIDING OFFICER (Mr. JEPSEN). Is there any other Senator in the Chamber who desires to vote?

The result was announced—yeas 40, nays 53, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—40

Abdnor	Helms	Quayle
Armstrong	Jepsen	Rudman
Baker	Kassebaum	Stennis
Chafee	Kasten	Stevens
Cochran	Laxalt	Symms
Danforth	Long	Thurmond
Denton	Lugar	Tower
East	Mathias	Trible
Evans	McClure	Wallop
Garn	Murkowski	Warner
Gorton	Nickles	Weicker
Grassley	Packwood	Wilson
Hatfield	Percy	
Hecht	Pressler	

NAYS—53

Baucus	Eagleton	Mattingly
Bentsen	Exon	Melcher
Biden	Ford	Metzenbaum
Bingaman	Glenn	Mitchell
Boren	Hart	Moynihan
Boschwitz	Hatch	Nunn
Bradley	Hawkins	Pell
Bumpers	Heflin	Proxmire
Burdick	Heinz	Pryor
Byrd	Huddleston	Randolph
Chiles	Humphrey	Roth
Cohen	Inouye	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kennedy	Simpson
DeConcini	Lautenberg	Specter
Dixon	Leahy	Stafford
Dodd	Levin	Zorinsky
Domenici	Matsunaga	

NOT VOTING—7

Andrews	Goldwater	Tsongas
Dole	Hollings	
Durenberger	Riegle	

So the motion to lay on the table amendment No. 2443 was rejected.

The PRESIDING OFFICER. The question now is on agreeing to the amendment. The yeas and nays have been ordered.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

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

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, since that vote has been vitiated, I wish to announce there will be no more record votes tonight.

Mr. President, I yield the floor.

Mr. BIDEN. Mr. President, I move the amendment.

The PRESIDING OFFICER. If there is no more debate, the question is on agreeing to the amendment.

The amendment (No. 2443) was agreed to.

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

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

The motion to lay on the table was agreed to.

NETWORK FINANCIAL INTEREST RULES

Mr. KENNEDY. Mr. President, the Appropriations Committee has added a provision to the supplemental bill offered by the Senator from Alaska, which deals with the so-called network financial interest rules of the Federal Communications Commission. The Stevens committee amendment places a 6-month moratorium on any FCC revision of those rules.

I strongly support the Stevens provision in the committee bill and urge my colleagues to defeat efforts to repeal or to dilute it. All this provision does is to preserve the status quo, so that the Senate can review the important questions involved and can act on pending legislation on this issue, without the undue pressure of new rules already having been issued by the FCC.

I will comment on the merits of the matter briefly. However, I would first like to address a jurisdictional issue that has been raised as a basis for deleting the Stevens amendment. The Commerce Committee has scheduled hearings soon for legislation on this matter introduced by the Senator from California (Mr. WILSON), which I have cosponsored. Senators seeking to delete the Stevens provision suggest that it would defeat the Commerce Committee's jurisdiction by prejudging the issue. On the contrary, Mr. President, the provision insures not only that the committee can hold hearings on legislation, but also that both the committee and the full Senate will be able to decide whether to pass it, before they are faced with preemptive action by the FCC.

An alternative approach may be proposed as a substitute for the Stevens amendment. This approach would leave the FCC free to issue its new rules, but would prevent the implementation of rules for the same period as the Stevens amendment.

The argument is that by letting the FCC further revise its proposed new rules, we would be able to know what compromises the television networks might be willing to let the Commission make in its earlier proposals.

The answer to that suggestion is simple. It is in fact a clever effort to prevent the Congress from exercising its legislative prerogatives, unconstrained by an agency fait accompli. Once the FCC formally promulgates new rules we will doubtless hear arguments that the Senate should hesitate to overturn a formal ruling by the FCC and should let the process of judicial review of that ruling take its normal course without legislative interference. Moreover, those arguments will be made by some of the very same people who now suggest that letting the formal FCC rule go forward will

better preserve the status quo and leave the Senate free to block unwise FCC action.

Nor is this a case where the Senate would be acting without the benefit of the relevant agency expertise and record in this matter. There is a voluminous hearing record as well as equally extensive comments by both sides on the proposed rules. The FCC and other agencies have stated their analysis of the issues.

To be candid, at this point we are only talking about changes that the Commission might make as a matter of political compromise in order to temper congressional reaction. Of course, if the FCC has second thoughts about its proposed rule and wants to revise it, that can be communicated to the Senate without a formal final promulgation, for us to consider when we review the advisability of any change in the rules.

In short, for those Senators who have not yet made up their minds on the underlying issues and want to insure full, unfettered Senate review before their options are even partially foreclosed, retention of the Stevens amendment in the supplemental bill is clearly the appropriate position.

As for myself, however, after many months of careful consideration of the arguments offered by both sides, I believe that the repeal or dilution of the financial interest rules poses substantial dangers to the public interest and that the proponents of change have not met their burden of showing what public benefits justify risking the very dangers that the rule has protected us from for over a decade.

For the past 11 years, the financial interest and syndication rules have protected hundreds of independent television stations throughout the country. They have also offered some protection to numerous small- and medium-sized independent television program producers. The rules have protected both groups from the inherent dangers of the television networks exercising their marketpower and their ability to chill the competitive challenge posed by independent stations to network affiliates and network owned stations.

The effort to repeal these rules has marched under the popular banner of "deregulation." As my colleagues know, I have championed true deregulation, where that means a return to free market competition in that industry and palpable benefits to the general public.

In the case of television programming, the three networks have a unique power over access to commercial success. Removing the constraints on the undue exercise of that power cannot realistically be considered deregulation in any meaningful sense at this time. There may be future develop-

ments in the growth of alternative markets for television programs that will significantly dilute this unique network power; but that time has not yet arrived.

It should be remembered, too, that the networks enjoy their special power by virtue of their operation on Government controlled and granted broadcast frequencies.

Absent the present rules, I believe there is a substantial risk that the networks could extract unfair concessions from independent producers—specifically, that the producers give up more of their rights to syndication profits from their programs after network showing, than they would voluntarily choose to sell.

Similarly, there is a substantial risk that the networks could hinder the access of independent television stations to the syndication programing that has enabled them to thrive over the past decade. The new FCC-proposed syndication safeguard does not avert that danger.

The public interest would be threatened with decreased creative freedom and competition in new programing, on the one hand, and with increased advertising rates and consumer prices, on the other.

Given these clear risks, the burden is on those who seek to repeal or to dilute these safeguards to show what benefits would result for the American people. No credible showing of such benefits has been made in the entire FCC record.

In light of that failure, the Congress should insist that the present financial interest and syndication rules be maintained.

● Mr. D'AMATO. Mr. President, I rise today to extend my congratulations to the members of the Appropriations Committee, especially its distinguished chairman, on the fine job done in reporting this bill to the floor. In particular, I would like to comment upon the well reasoned language that the committee has added to the Senate report concerning the redeemable preference share program administered by the Federal Railroad Administration.

I share the committee's opposition to the other body's proposed reprogramming of funds from the East St. Louis Gateway project to the Erie-Lackawanna line project between Dover, N.J., and Scranton, Pa. I also compliment the committee for directing that the needs of the redeemable preference share program be reassessed and discussed in the context of next year's budget hearing. Like my colleagues on the committee, I have no desire to prejudice this project. I believe, however, that any reprogramming at this time is premature since the Federal Railroad Administration has not yet evaluated the East St. Louis Gateway project and has yet to receive

an application on behalf of the Dover to Scranton project.

I appreciate the committee's statement that it is inappropriate to reprogram these funds until the Federal Railroad Administration can give consideration to competition among rail carriers serving this region and to their ability to compete fairly for similar projects on lines previously abandoned or scheduled for abandonment. There is currently a private carrier, the Delaware Otsego System, serving the same region as the Dover to Scranton line. This system has done an admirable job of preserving service along lines that were to be abandoned by Conrail and other bankrupt carriers. Moreover, this has been done with private investment. It is important that we consider the impact that Federal funding of the Dover to Scranton project may have upon this private investment before reprogramming any funds.

In addition, it is my understanding that the Delaware Otsego System is completing an analysis in preparation for submission of its own application for redeemable preference share funding. This funding would be used for the rehabilitation and improvement of existing plant and for strengthening working capital, following a period of rapid acquisition of lines previously scheduled for abandonment. It is essential to the effective implementation of this program that the Federal Railroad Administration fully review any application submitted by the sponsors of the Dover to Scranton project, by the Delaware Otsego System, or by any other applicant before making a final determination on the merits of any project.

● Mr. GARN. Mr. President, chapter I of the supplemental contains nine items falling under the jurisdiction of the HUD-Independent Agencies Subcommittee. Five of these items—all relating to the VA—amend provisions contained in the House version of H.R. 3959. Four new Senate amendments are also contained in this chapter in order to accommodate specific issues involving housing for the elderly and handicapped, water resources centers, FEMA reception and representation allowance and the flight rate of the space shuttle.

The Senate version of chapter I contains \$228,739,000 in new budget authority. This compares to \$317,521,000 contained in the House version and a budget request of \$313,356,000.

A brief description of the actions taken by the committee follows:

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

The Committee has proposed an amendment to the Housing and Urban Development-Independent Agencies Appropriation Act of 1984 which would limit the interest rate charged to sponsors of section 202 projects to 9.25 percent on projects starting construction during fiscal year 1984. This

amendment, which is identical in intent to a similar proviso contained in the Continuing Appropriations for fiscal year 1983 (Public Law 97-377), is intended to insure that the feasibility of proposed section 202 projects is not impaired as a result of financing costs.

CEQ—STUDIES ON WATER RESOURCES

The Senate bill includes language providing \$600,000 to fund two studies to define a National Center for Water Resources Research and a National Clearinghouse for Water Resources Information. The Committee notes that there is a need to augment current research and information dissemination relative to national water resources goals and needs. The contractor(s) selected to perform these studies should represent an organization that does not have a vested interest in the nature, scope or eventual funding of the Centers. Consequently, a university or other research/informational organization rather than a trade or water association should perform the studies.

FEMA—RECEPTION AND REPRESENTATION

The Senate bill increases the limitation on FEMA's reception and representation allowance from \$500 to \$2,000 for fiscal year 1984. The Committee notes that this does not increase the FEMA appropriation for fiscal year 1984, but reallocates the additional \$1,500 from FEMA's salaries and expenses account.

NASA—CONSTRUCTION OF FACILITIES

The Senate bill includes language providing \$20,000,000 for partial funding of two Shuttle related facilities at the Kennedy Space Center. These facilities are the solid rocket booster assembly and refurbishment facility, and the warehousing facility to be used by the Shuttle processing contractor.

The Senate bill also contains language permitting NASA to amortize casting pit covers for the solid rocket boosters over a 12 year period of time.

VA—COMPENSATION AND PENSIONS

The House bill provides an additional \$66,000,000 to cover a fiscal year 1983 shortfall in compensation and pensions. The Senate bill provides no funds for this account.

The Committee further notes that on October 1, 1983, the fiscal year 1984 VA appropriations of \$13,842,000,000 for compensation and pensions became available for recurring payments as well as any retroactive compensation payments that may have been deferred during the last days of fiscal year 1983.

It is the intent of the Committee that if any supplemental appropriation is required for this account, that it be made toward the end of the 1984 fiscal year.

The Committee notes that it was not notified in a timely manner of the need for an additional compensation and benefits appropriation even though the VA was aware of the strong probability of a shortfall several months prior to the August Congressional recess. The Committee does not expect similar reporting delays to occur in fiscal year 1984.

VA—READJUSTMENT BENEFITS

The House bill provides an additional \$40,000,000 to cover a fiscal year 1983 shortfall in readjustment benefits. The Senate bill provides no funds for this account.

The Committee notes that it was not notified in a timely manner of the need for an additional readjustment benefit appropriation even though the VA was aware of the strong probability of a shortfall several

months prior to the August Congressional recess. The Committee does not expect similar problems in fiscal year 1984.

The Committee further notes that on October 1, 1983, the fiscal year 1984 VA appropriation of \$1,371,000,000 for readjustment benefits became available for recurring payments as well as any retroactive payments that might have been deferred during the last days of fiscal year 1983. It is the intent of the Committee that if any supplemental appropriation is required for this account, that it be made toward the end of the fiscal year 1984.

VA—MEDICAL AND PROSTHETIC RESEARCH

The House bill provides \$57,356,000 in fiscal year 1984 for an Agent Orange epidemiological research project. The Senate bill provides \$53,974,000 in fiscal year 1984 for the project.

The VA and the Center for Disease Control, under an interagency agreement, have identified that CDC will design and conduct studies to determine whether either Vietnam veterans exposed to the herbicide Agent Orange or Vietnam veterans in general, are at greater risk of suffering long term health effects than the veterans who did not serve in Vietnam.

The Committee notes that the Senate reduction of \$3,382,000 from the request in fiscal year 1984 does not effect the scientific integrity of the study. The Committee agrees with the House that a number of the costs appear to be overstated and notes that the estimated costs for administrative expenses, transport estimates, fees for the participants, and the travel arrangement fee are areas where it appears that cost reductions can be made without reducing the funding for medical and psychiatric examinations or laboratory testing.

VA—VETERANS JOB TRAINING

The House bill provides \$150,000,000 to fund the emergency job training program for eligible unemployed veterans during fiscal year 1984. The House bill contains the proviso that no more than \$20,000,000 of the amount shall be available for the transfer to the Readjustment Benefits account for vocational training. Any unused portion would be returned not later than December 31, 1984.

The Senate bill provides the same funding level as the House and the budget request, but earmarks no more than \$25,000,000 for use in vocational training. The bill further specifies that any unused portion of vocational training funds may be returned at any time, but not later than December 31, 1984.

VA—GENERAL OPERATING EXPENSES

The House bill provides a fiscal year 1984 supplemental appropriation of \$4,165,000 in the General Operating Expenses account to administer the Emergency Veterans Job Training Act of 1983.

The Senate bill provides \$4,165,000 for General Expenses, but earmarks \$1,000,000 for a contract to evaluate the effectiveness of the Emergency Veterans' Job Training Act of 1983.

The Committee notes that there has been no budget request for these funds.

TECHNICAL CORRECTION

Mr. President, I would just like to point out that there are several printing errors in the report in the tables immediately following the headings "Compensation and Pensions" and "Readjustment Benefits" on pages 4 and 5, respectively. The year "1984"

appearing twice in each of the tables should read "1983".

Mr. President, a final point. I would like to take this opportunity to express my appreciation to Mr. Martin Reiss, the newest member of the subcommittee staff, for his fine staff work on this bill. ●

● Mr. HEINZ. Mr. President, I want to take this opportunity to commend my colleague, the distinguished chairman of the HUD Appropriations Subcommittee, Senator GARN, for insuring that the HUD Appropriation Act of 1984 includes an amendment to limit to 9½ percent the interest rate charged to sponsors of section 202 elderly and handicapped housing projects. This amendment, which is identical in intent to a similar provision contained in the "Continuing Appropriations for Fiscal 1983," is intended to insure that the feasibility of current section 202 projects is not impaired as a result of financing costs.

Under current law, the HUD Secretary annually establishes the interest rate for section 202 loans. He has the discretion to establish a rate which may not exceed the average Treasury borrowing costs for the preceding fiscal year, plus a HUD administrative charge to cover its processing costs and expected losses. Rigid application of last year's Treasury borrowing costs would result in a 1¼ percent increase in the section 202 loan rate to a new rate of 10½ percent. This increase would make infeasible many section 202 projects currently being processed or proposed, unless there was a concomitant increase in rental subsidies or other project income to cover the substantial additional debt service requirements resulting from the higher loan rate. The alternative of increasing rental subsidies, given the limited section 8 funds would not be appropriate.

On behalf of the thousands of senior citizens helped, I am grateful to my colleagues, Senator GARN, that he has prevailed in retaining the 9½ percent interest rate. This will assure a continued and stable flow of loan funds to finance section 202 projects and assure a greater supply of affordable housing to our Nation's elderly.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past 6:35 p.m. in which Senators may speak.

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

INSPECTION AND ROYALTY ACCOUNTING OF FEDERAL AND INDIAN-OWNED PETROLEUM RESOURCES

Mr. MELCHER. Mr. President, when Congress passed the Federal Oil and Gas Royalty Management Act last year we thought that the problems with our system of managing the revenues due the United States, the States, and the Indian tribes were on the way to being solved. That system had some real problems that needed solution. The act provided new authority to address them.

The Department of the Interior has been busy with regulations to implement the legislation, and there is much in this activity of which the Secretary can be proud. However, he is making a big mistake in a very fundamental aspect of the program: the coordination of onsite inspection and royalty accounting.

This is the key to the whole problem. We got into trouble in this program in the first place because the people who were trying to account for the money being received had no idea what was going on out in the field where the oil and gas was being produced. The oil and gas industry was essentially on an honor system in making payments to the Federal Government, to the States, and to the tribes. Not surprisingly, there was widespread question in accounting for all of the royalties due on federally owned and Indian owned petroleum resources.

The act was intended to put all this right, to make a new beginning, to reform the system.

Unexpectedly, unfortunately, and inexplicably the Secretary in implementing the act has put the responsibility for onsite inspection of Federal and Indian leases onshore in an entirely different organization within the Department from the organization that will be handling the accounting. It is an organizational arrangement that simply confounds everyone who knows anything about the program and all the problems it has had.

I have protested to the Secretary about this arrangement, apparently, so far, to no avail. The States and Indians are also very concerned about this arrangement as a number of letters sent to me and to Secretary Watt show.

I ask unanimous consent that copies of these letters be inserted in the RECORD at the conclusion of my remarks.

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

Mr. MELCHER. I hope the Department can reconsider this very unfortunate organizational arrangement. I very much fear that it will not work as contrived. If my fears materialize, we will know who to blame, but I urge the

Department of the Interior to heed the complaints of myself and others and implement inspection and accounting of royalties from Federal and Indian oil and gas leases as contemplated and urged by Congress, the Linowes Commission, the States, and Indian tribes.

EXHIBIT 1

WYOMING EXECUTIVE DEPARTMENT,
Cheyenne, Wyo., September 6, 1983.

Hon. JOHN MELCHER,
U.S. Senator, Hart Senate Office Building,
Washington, D.C.

DEAR SENATOR MELCHER: Thank you for your letter of August 23, 1983, alerting me to the problems associated with the Department of Interior's actions in dividing the responsibility for inspection and accounting in the oil and gas royalty management program. Wyoming shares your concern that such action seems illogical from a royalty management perspective. In fact, we have voiced these concerns twice to the Department, with no satisfactory response.

By this letter I am transmitting a copy of another letter to Secretary Watt requesting clarification on how the Department will maximize coordination and exchange of information between the inspection and accounting functions for royalty management purposes.

Wyoming appreciates the direct interest and action you are taking on this issue. Please feel free to contact me if any additional information or assistance is desired. With warm regards, I am

Yours sincerely,

ED HERSCHLER,
Governor.

WYOMING EXECUTIVE DEPARTMENT,
Cheyenne, Wyo., September 6, 1983.

Hon. JAMES G. WATT,
Secretary of the Interior, Department of Interior,
Washington, D.C.

DEAR SECRETARY WATT: On two occasions I have submitted comments and requests for clarification regarding Secretarial Order No. 3087, which restructured onshore minerals management functions, and its effect on our joint royalty inspection program for producing federal oil and gas leases. In December, Wyoming submitted the following comment on a draft report entitled "Minerals Accountability in the Department of the Interior":

"Past history indicates little, if any, communication between inspection and royalty management. The attempt by MMS to bring these two aspects of royalty management together seemed more feasible when site inspection was under the control of MMS. With the recent move of site inspection to the BLM, we see little incentive to coordinate inspection and royalty accounting functions, and have doubts that this will ever be an effective internal control for the MMS. From our point of view, inspection is a natural extension of audit, and these two functions should be under one organization."

Again in February, I requested your responses on the same subject, which was contained in an issue paper prepared by the eight states participating in the joint federal/state royalty audit program:

"The states are concerned about the effect of Secretarial Order No. 3087 (organizational restructuring) on joint auditing and site inspection activities.

"The states generally view this action as a return to the old division of responsibilities

with the Bureau of Land Management now replacing the MMS.

"The states see site inspection and production verification as a natural extension of the audit process, and are concerned that synergism of these two vital functions will not be accomplished between the Bureau of Land Management and the MMS. The joint audit states have seen the effects of so many reorganizations of the Department of Interior, that we question whether this much-needed internal control element will ever be viable.

"Several joint audit states have entered into cooperative agreements with the MMS to jointly perform site inspections and production verification review in the field. We are unclear as to the status of these programs given the reassignment of responsibilities.

"The states view the MMS as a business organization, and are concerned that this apparent stripping of such responsibilities as fair market value determination, establishing operating orders and NTLS, and NGPA determinations from the MMS will hamper its effectiveness in dealing with other business organizations, specifically the oil and gas producing companies. Also, our audits almost always take us back to enforcement of federal lease terms, and we are concerned that the MMS will be left out of interpretive issues under the new reorganization.

"We request that the D.O.I. provide the states with a statement addressing these concerns. We would like to be assured that this reorganization will not hamper our joint efforts, and are interested in knowing of any perceived benefits to the joint audits resulting from it in the view point of the D.O.I.

"Specifically, will we be able to fully resolve audit findings involving product valuation and lease provisions interpretation with the MMS structure, and what is the status of existing cooperative agreements to perform joint site inspections?"

I am not yet satisfied that these concerns have been adequately addressed from the perspective of royalty management. While the new division of functions might make sense from a multiple land use management perspective, I am very concerned that this approach is at the expense of a sound, comprehensible royalty management system.

I would appreciate your attention and response to these concerns. Please understand that this letter is not a criticism of the good efforts by the State Office of the Bureau of Land Management to coordinate with our State audit and inspection personnel. Rather, my interest is to convey the importance I place in designing a process which maximizes coordination and exchange of information between the inspection and accounting functions for royalty management purposes.

This interest is embodied in our agreement establishing a strong State/Federal cooperative program to improve the federal inspection and accounting effort. I am now concerned that Interior may lack a strong BLM/MMS cooperative program in the same area. Without a clear and strong link between the inspection and royalty accounting efforts, neither the States nor the Federal government will be assured that we are receiving the revenues to which we are lawfully entitled.

Thank you again for your attention to this matter. With best wishes, I am

Yours sincerely,

ED HERSCHLER,
Governor.

WYOMING EXECUTIVE DEPARTMENT,
Cheyenne, Wyo., September 6, 1983.

Hon. MARK ANDREWS,
Chairman, Select Committee on Indian Affairs,
Hart Senate Office Building,
Washington, D.C.

DEAR SENATOR ANDREWS: As you may know, Secretarial Order No. 3087 restructured onshore minerals management functions and divided the responsibility for inspection and accounting in the oil and gas royalty management program between the Bureau of Land Management and the Minerals Management Service. While such action may further multiple-use land management goals, I am concerned that this benefit is at the expense of a sound, comprehensible royalty management system. These concerns are raised in the enclosed letter to Secretary Watt, requesting clarification on how the Department will maximize coordination and exchange of information between the inspection and accounting functions for royalty management purposes.

I would appreciate your attention to this issue. Please feel free to contact my office if you have any questions, or if any information or assistance is desired.

With warm regards, I am

Yours sincerely,

ED HERSCHLER,
Governor.

INTERSTATE OIL COMPACT COMMISSION,
Oklahoma City, Okla., September 26, 1983.

Hon. JAMES G. WATT,
Secretary of the Interior, Department of Interior,
Washington, D.C.

DEAR MR. SECRETARY: During 1983 I have the privilege of serving as chairman of the Interstate Oil Compact Commission. Earlier this month the Executive Committee of the IOCC held an extensive discussion on the present status of royalty management and the problems of minerals accountability. The committee recognized that significant progress has been made in this area in the last two and one-half years. However, the committee unanimously instructed me to write you and express its concern over the division of responsibilities which is the outgrowth of Secretarial Order No. 3087.

I am confident that you recognize the contributions which the IOCC has made in this area during your term as secretary. On several occasions it has arranged meetings between federal and state officials for open and candid discussions of mutual problems. Staff members testified before the Linowes Commission on more than one occasion and coordinated the testimony of other states. As you know, the Executive Director serves on your Advisory Committee on Mineral Accountability. We believe our track record reflects a positive effort to cooperate with the department while representing the states' interests. It is in this spirit that we question the effect of Secretarial Order No. 3087 on the ultimate solution of royalty accounting problems. One of the major obstacles which the creation of the Minerals Management Services was expected to solve was the lack of communication between the field inspectors and royalty management together appeared to be more achievable when site inspection was under the control of MMS. When site inspection is the responsibility of the Bureau of Land Management we see

little incentive to coordinate inspection in royalty accounting functions.

This problem would appear to be compounded by the fact that MMS is under the supervision of the Assistant Secretary for Energy and Minerals while the BLM is directed by the Assistant Secretary for Land and Water Resources.

There is sound and urgent reason why a close working relationship is needed between the royalty auditing and collection personnel, the field inspectors and the state auditing personnel. I urge you to review the division of authority between MMS and BLM and to restore the site inspection jurisdiction to the MMS.

In closing, let me repeat that excellent progress has been made in the area of royalty management in the last two and one-half years and the department is to be commended for this. This letter is written because the IOCC and the oil and gas producing states fear that Secretarial Order No. 3087 will deter further improvements in the system. Your early and considerate attention of the views of the compacting states will be appreciated.

Sincerely,

ED HERSCHLER,
Governor of Wyoming,
Chairman.

STATE OF UTAH,
OFFICE OF THE GOVERNOR,

Salt Lake City, September 22, 1983.

HON. JOHN MELCHER,
U.S. Senate, Hart Senate Office Building,
Washington, D.C.

DEAR SENATOR MELCHER: This is in response to your August 23 letter concerning the division of the responsibilities in the Department of the Interior for inspection and accounting in the Oil and Gas Royalty Management Program. I have reviewed your letter and have consulted with key personnel within the state of Utah concerning this matter.

The division of responsibilities undertaken by the Department of the Interior will lead to increased administrative costs within the Department for management of this program, making less revenue available to the United States and the states as well as greatly enhancing the possibility of jurisdictional disputes between and among the various parties involved. These items, as well as the necessity to combine the expertise in the Department consistent with recommendations of the Linowes Commission, provide sufficient reason to urge combining the inspection responsibilities of the Bureau of Land Management and the accounting and auditing responsibilities of the Minerals Management Service in one organization within the Department of the Interior. Such management direction is clearly necessary given the critical nature in the development stage of the Federal Oil and Gas Reporting System.

The state of Utah believes that such a combination is in the best interest of the United States and the states.

Sincerely,

SCOTT M. MATHESON,
Governor.

THE NAVAJO NATION,

Window Rock, Ariz. September 2, 1983.

HON. JOHN MELCHER,
U.S. Senate, Select Committee on Indian Affairs,
Hart Senate Office Building, Washington,
D.C.

DEAR SENATOR MELCHER: I have received your letter of August 4, 1983 and appreciate your concern on the restructuring of the Minerals Management Service. It is apparent that we are both equally frustrated by the irresponsible action taken by the Department of Interior (DOI). On June 9, 1983 I wrote to Secretary of the Interior, James Watt, expressing my concerns on the subject. In response, I received a communication from the Assistant Secretary, Land and Water Resources. Copies of my letter and DOI's response are enclosed. As you will note the Navajo Nation has registered its protest with the Secretary of Interior and would very much like to have further discussion with your office on this matter.

Per your suggestion of establishing better coordination, I am sending copies of all correspondence referred to herein to Senator James McClure, Chairman of the committee on Energy and Natural Resources, and Senator Mark Andrews, Chairman of the Senate Select Committee on Indian Affairs.

Once again, I appreciate your persistent efforts in support of the cause of Native Americans.

Sincerely,

PETERSON ZAH,
Chairman, Navajo Tribal Council.

THE NAVAJO NATION,

Window Rock, Ariz., June 9, 1983.

Subject: Restructuring of the Department of Interior Minerals Management Functions, Order No. 3087 and Amendment No. 1.

HON. JAMES G. WATT,
U.S. Department of the Interior,
Washington, D.C.

DEAR MR. WATT: It has been brought to my attention that effective December 3, 1982, the minerals management functions on Indian lands were transferred to the Bureau of Land Management (BLM) and the royalty management functions are being retained within the Minerals Management Service (MMS). The Navajo Nation is deeply concerned about the restructuring of MMS and the role of the federal government in effectively carrying out its responsibilities as the Indian trustee. Although the restructuring of MMS and BLM may have been well-intended, the transferring of the minerals management functions on Indian lands to the BLM is not, in my opinion, an improvement. Since the Navajo Tribe was neither consulted nor provided with prior notice of your action, I would like to draw your attention to the following issues:

(1) MMS was previously charged with the responsibility of lease compliance and royalty collection. In spite of this, we faced many problems while all the functions were under the auspices of one department. I am concerned that the diffusion of the minerals management responsibilities may exacerbate this situation.

(2) If the federal government is seriously considering providing Indian Tribes with greater control over the use and development of their mineral resources, it should strengthen the mineral resources expertise within the various Indian Tribes rather than requiring them to rely solely on BLM, an agency without experience in providing services to the Indian Tribes. Mismanage-

ment of Indian mineral resources by the Department of the Interior (DOI) is an established fact. *Jicarilla Apache Tribe v. Supron Energy Corporation*, 479 F. Supp. 536 (D.N.M., 1979). The New structure shows no reason to believe there will be improvement in the situation.

(3) It would be worthwhile for DOI to evaluate each individual Indian Tribe's ability to handle their mineral resources to determine whether the Tribe has the capability of undertaking such functions. If a Tribe has the capability, then transfer of these functions to the individual Tribe with the provision of adequate funding and assistance is the most desirable approach for the Tribe. DOI can monitor and review the Tribal control over the development and management of its mineral resources and will encourage Tribal self-determination.

(4) The bifurcation of Indian lease and royalty management functions between BLM and MMS could cause the additional loss of royalty revenues to the Tribes. If lease and royalty management functions are retained within one agency, it is at least possible to reconcile production vs. royalty payment reports. Under the new arrangement, Indian Tribes will locate their royalty revenue data in the giant federal royalty collection pool in Lakewood, Colorado. Currently, some Indian Tribes are already collecting and processing their mineral-derived revenues at the Bureau of Indian Affairs (BIA) Area Office level without MMS involvement. I believe that the same arrangement would work well for the Navajo Nation and other Tribes. This arrangement would provide them with easy and quick accessibility to their revenues.

(5) It is not clear which office would play the lead role in lease compliance enforcement. It appears that DOI is splitting these functions between MMS and BLM. This will cause more uncertainty for oil and gas developers and producers as well as for the land owners.

(6) DOI's actions in consolidating all on-shore leasing activities seems to focus more on mineral development than on management and monitoring of existing operating leases. MMS's role in monitoring of existing leases seems to have been overlooked when the restructuring was ordered.

In summary, if DOI sincerely wants to have an effective management program for Indian resources, it can best be achieved by transferring these functions to individual Tribes. Simultaneously, DOI must strengthen Tribal mineral resource expertise by providing appropriate federal assistance instead of transferring these responsibilities and functions to BLM.

Sincerely,

PETERSON ZAH,
Chairman, Navajo Tribal Council.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., August 3, 1983.

MR. PETERSON ZAH,
Chairman, Navajo Tribal Council,
The Navajo Nation, Window Rock, Ariz.

DEAR MR. ZAH: Thank you for your letter of June 9, 1983, to Secretary James G. Watt, concerning the restructuring of the Minerals Management Service and the role of the Federal Government in effectively carrying out its responsibilities as the Indian trustee.

We are committed to having an effective management program for Indian resources. However, because of the number of Indian tribes involved and the importance of this task, it will take a considerable amount of time and effort to develop and implement

correctly. Over the years, the lack of full accountability for Indian revenues has been a serious deficiency pointed out on numerous occasions by the General Accounting Office and most recently by the Commission on Fiscal Accountability of the Nation's Energy Resources. We feel that the new fiscal and production accounting systems will remedy these deficiencies and provide full accountability in the future for all Indian mineral revenues.

The Bureau of Land Management (BLM), the Minerals Management Service (MMS), and the Bureau of Indian Affairs (BIA) will be addressing these efforts and the concerned Indian Tribes will be involved.

Mr. William C. Luscher, BLM State Director, New Mexico, is currently assigned fluid minerals responsibilities in the States of New Mexico, Utah, and Arizona for the Navajo Nation. Please feel free to contact him on Area Code 505 988-6030 if you have any questions concerning the fluid minerals program.

Thank you again for making us aware of your concerns on this important issue. If we may be of any further assistance to you, please let us know.

Sincerely,

GARREY E. CARRUTHERS,
Assistant Secretary,
(Land and Water Resources).

THE RESOURCES AGENCY OF CALIFORNIA,
Sacramento, Calif., September 22, 1983.

HON. JOHN MELCHER,
U.S. Senate, Select Committee on Indian Affairs,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR MELCHER: Governor Deukmejian has asked me to reply to your recent letter in which you express concern regarding the division of responsibility for inspection and accounting in the Federal oil and gas royalty-management program.

We share your feelings that placing lease inspection responsibility with one Federal agency and the responsibility for accounting and auditing with another may not be in the best interests of the states, primarily because of the possibility of poor coordination and communication between the two agencies. However, without knowing the specific details of the Federal inspection program and the working arrangement between the Bureau of Land Management and the Minerals Management Service, it is difficult to support or oppose either concept.

Overall, we tend to favor the single-agency concept because in California verification of actual production from state-owned leases and accounting are performed by a single agency, the State Lands Commission, which is the State equivalent to the Bureau of Land Management. The State equivalent to the Minerals Management Service, the Division of Oil and Gas, besides ensuring that operations are carried out in a safe and proper manner, collects production data, but it is essentially for the purpose of evaluating reservoir performance.

If I can be of further assistance, please let me know.

Sincerely,

GORDON K. VAN VLECK,
Secretary for Resources.

THE BLACKFEET TRIBE
OF THE BLACKFEET INDIAN NATION,
Browning, Mont., August 17, 1983.

JOHN MELCHER,
Senator of Montana, U.S. Senate, Hart
Senate Office Building, Washington,
D.C.

DEAR HONORABLE MELCHER: The Department of the Interior is in the process of dividing the responsibility for inspection and accounting in the Oil and Gas Royalty Management program between two different organizations reporting to two different Assistant Secretaries.

The primary purpose of the Federal Oil and Gas Royalty Management Act of 1982 was to correct the deplorable and very costly mismanagement of the Department's inspection of on-shore oil and gas wells and to collect the royalties owed on the production of oil and gas from Federal and Indian lands in a timely fashion. A common theme documented by Congressional investigations and by the Linowes Commission in all of the accounts and analysis was the inability of the Federal Royalty Managers to relate what happens on the lease to the royalty payment amounts owed to the United States, to Indian Tribes and the states.

During the recent visit between the Secretary of Interior and the Blackfeet Tribal Business Council, one of the concerns presented was the Mineral Management Service absorbing the responsibility for accounting and auditing on the Blackfeet Oil and Gas Royalty Management Program. One specific area discussed in length was the Mineral Management Service enormous expenditure to put together a unified system. The Blackfeet Tribe has developed its own oil and gas accounting system to reinforce any loop holes that the Federal Government might once again allow to happen. Therefore, the Blackfeet Tribe can find absolutely no logic in the Department of Interior placing the responsibility for inspection within the Bureau of Land Management and the responsibility for accounting and auditing in the Mineral Management Service.

On behalf of the Blackfeet Tribal Business Council and its more than 12,000 members, it is recommended that one department, such as the Minerals Management Service, handle inspection and accounting responsibilities for the Department of Interior Federal and Indian oil and gas leases. The Mineral Management Service could then have its own inspectors to provide the maximum coordination between the inspection and accounting responsibilities for oil and gas leases on Indian lands. Your assistance in this matter is greatly appreciated.

Sincerely yours,

LEE WILSON,
Secretary, Blackfeet Tribal
Business Council.

ROBERT "SMOKEY" DOORE,
Chairman, Tribal Natural Resource
Committee, Blackfeet Tribal Business
Council.

EMMETT DEDMON

Mr. PERCY. Mr. President, Chicago recently lost a great newspaperman, historian, author and civic leader, Emmett Dedmon, and I would like today to pay tribute to this fine man. I first knew Emmett Dedmon well during our days together at the University of Chicago, and I continued to follow his career as a journalist and

central figure in many Chicago civic and charitable activities. He has always been remarkable—dedicated, caring, thoughtful, a leader in good work—and his loss will be sorely felt. My heart goes out to his family, as well as his many friends, colleagues and the city of Chicago. Mr. President, I pay tribute and send deepest sympathy to his beloved wife, Claire, and son, Jonathan, and his entire family. In tribute to this special Chicagoan I ask unanimous consent that a September 19, 1983 Chicago Tribune article be inserted in the RECORD.

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

E. DEDMON, FORMER EDITOR OF SUN-TIMES
(By Edward Baumann)

Emmett Dedmon, former editor of the Sun-Times, Chicago historian author and civic leader, died Sunday night in Billings Hospital after a lengthy illness. He was 65.

Born April 16, 1918, in Auburn, Neb., Mr. Dedmon came to Chicago in 1940. Except for five years of military service during and after World War II, he worked on the Sun-Times editorial staff from 1940 until he resigned as vice president and editorial director of the Sun-Times and Chicago Daily News in 1978.

Last fall Mr. Dedmon was elected to the Chicago Journalism Hall of Fame.

"With energy and imagination Emmett Dedmon gave editorial leadership to the Sun-Times during one of its periods of significant growth," Sun-Times publisher James Hoge said Sunday. "He contributed mightily to Chicago as editor, author and caring civic leader."

Sun-Times Editor Ralph Otwell said, "Although an adopted son of the city, Emmett had a love affair with Chicago and proudly wore his heart on his sleeve, not only in his civic and charitable activities but also as a journalist with a strong commitment to Chicago and its people."

"He was very good at everything he did," said veteran Chicago journalist Herman Kogan, who worked with Dedmon at the Sun-Times. "He was a very tough editor, a perfectionist. He demanded work."

Mr. Dedmon most recently worked as a senior consultant for Hill & Knowlton Inc., the world's largest public relations firm, with offices at 111 E. Wacker Dr.

He underwent surgery for cancer at Rush-Presbyterian-St. Luke's Medical Center in the spring of 1982 and returned to work in April.

Mr. Dedmon enlisted in the old Army Air Corps as a private at the outbreak of World War II and rose to the rank of captain. He was a squadron navigator in the first B-17 bomber group to fly nonstop across the Atlantic, and he was the first navigation staff officer at 8th Bomber Command in Europe.

While flying a mission over Hanover in 1943, his plane was shot down by enemy fighters. Mr. Dedmon parachuted out, was captured by the Germans and was held prisoner for two years. During his captivity he wrote a war novel, "Duty to Live," on scraps of paper, taught a course in writing, edited the prison camp newspaper and learned to speak German and Russian.

He returned to the Sun-Times after the war and served variously as assistant foreign editor, book and drama critic, assistant Sunday editor, assistant managing editor,

managing editor and executive editor before being appointed editor in 1965. He was elected vice president and editorial director of the newspaper division of Field Enterprises Inc. in 1968 and held that position until resigning from the newspaper 10 years later.

Mr. Dedmon was the author of seven books: his war novel published in 1946; "Fabulous Chicago," a history of Chicago, its tastes and its morals that became a national best seller in 1953 and was reissued in 1981; "Great Enterprises," the centennial history of the YMCA of Metropolitan Chicago, 1957; "A History of the Chicago Club," 1960; "China Journal," which he wrote in 1972 after visiting China as a delegate of the American Society of Newspaper Editors; and "A History of the Tavern Club," 1978. He also wrote a history of the Standard Oil Co. (Indiana), published in the fall of 1982.

Mr. Dedmon was a trustee of the University of Chicago, national chairman of the university's Alumni Fund and a member and former chairman of the university's Visiting Committee on the College.

He also was a trustee of the Chicago Historical Society and the Illinois Humane Society; past president and a board member of the YMCA of Metropolitan Chicago; director of the Pullman Educational Foundation; a former director of the Chicago Chapter of the American Red Cross and of the United Way of Chicago; a vice president of the Council on Comprehensive Community Services; and a member of the Northwestern University Associates, the National Academic Council of Valparaiso University and the Business Advisory Council of the Chicago Urban League.

He was a founding member of, and North American commissioner for, the Trilateral Commission; a director of the Japan-America Society of Chicago, the Chicago Milwaukee Corp. and the Economic Club of Chicago; a board member of the American Society of Historians and the American Institute of Public Service; and a former president of the Society of Midland Authors.

A longtime resident of the South Shore neighborhood, he most recently lived on North Lake Shore Drive.

He is survived by his wife, Claire; a son, Jonathan; two brothers; and a sister. Funeral arrangements were incomplete.

JOSIF BEGUN'S HARSH SENTENCE

Mr. PERCY. Mr. President, I rise to express my profound concern over the news that Dr. Josif Begun, a Hebrew teacher from Moscow, has received a sentence of 7 years in a labor camp and 5 years in internal exile in the Soviet Union. This was the maximum sentence he could have received and it is so harsh as to cause deep dismay.

Dr. Begun's only crimes were to seek to emigrate and to study and teach Hebrew, the language of his religion. His terrible sentence brings into question the ability of the Soviet Union to abide by its international commitments, since it has pledged in a number of solemn agreements to respect the right to emigrate and to practice one's religion freely.

Why must a person struggle so hard to emigrate to Israel when his government has made it clear that he is unwelcome and will be mistreated in his

own country? This is my question, and I am sure that my colleagues share my concern.

Sentences like that received by Dr. Begun can only contribute to a worsening of relations between our two countries. We can only hope that the Soviet Union will reduce the severe sentence it has given Dr. Begun. I urge my colleagues to persist in their efforts for Josif Begun and for all Soviet Jews and other minorities who are oppressed in the Soviet Union.

THE NATIONAL PUERTO RICAN FORUM

Mr. PERCY. Mr. President, today, I urge my colleague from New York, Senator D'AMATO, in commending the employment service record of the National Puerto Rican Forum (NPRF). The NPRF has over 25 years of invaluable experience in delivering employment services to the Hispanic community and other minorities. The development of the basic occupational language training (BOLT) program in the early 1970's was an immediate success due to the professional quality of services provided and the great need for such services. Even in the first year that BOLT was implemented, NPRF went beyond its placement objectives.

The NPRF continues to be a vital service provider today. This organization currently services 3,200 unemployed and underemployed minorities. The NPRF has an excellent track record in the State of Illinois, as well. Through job training and development and language development programs, the NPRF has exceeded its goals of placing Hispanic and other minorities by a large margin. This achievement is especially noteworthy and necessary during the current period of high unemployment. The present rate of unemployment in Illinois is 11.5 percent, the sixth highest rate in the United States. I applaud the successful efforts of the NPRF for helping to alleviate this problem.

The NPRF has also helped to meet the goals of our Nation's efforts to reduce unemployment by establishing working relationships with the business community. I would like to draw my colleagues' attention to the significant activity report of the Department of Labor (DOL), addressed to the Assistant Secretary of Labor, Mr. Albert Angrisani, which cites the NPRF programs as "cost-effective and productive". Such efforts to procure employment for the most needy should be encouraged, and I urge that there be no delay in providing these services to the Hispanic community and other groups in need.

AMERICAN ENERGY AWARENESS WEEK

Mr. PERCY. Mr. President, Monday was the beginning of American Energy Awareness Week. Throughout the Nation, hundreds of localities will be commemorating the 10th anniversary of the OPEC oil embargo. In Chicago, the Greater Chicago Committee to Use Energy Wisely and the Federal Executive Board are conducting an energy awards program at Argonne National Laboratory, as well as a 1-day workshop on energy efficient buildings. I should like to share with my colleagues a letter from the executive vice president of American Energy Week which outlines the many other activities being carried out this week across the country. The local groups conducting these activities should be commended for their efforts to promote energy efficiency and energy awareness across the country.

I ask unanimous consent to have the letter on American Energy Week printed in the RECORD.

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

AMERICAN ENERGY WEEK,
Washington, D.C., October 20, 1983.

HON. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: During this week (October 23-29) American Energy Awareness Week will be held across the country for the third year. Events here in Washington and in hundreds of localities throughout the nation from New England to Hawaii are marking the 10th anniversary of the OPEC oil embargo, our progress since then and the need for continued development of all American resources to assure a stable and secure energy future into the 21st century. The slogan for the week is "Energy for a Powerful America."

Organizations of many kinds are sponsoring discussions on the urgency of continued conservation and efficient energy use, on the close tie between our own future stability and that of our free world allies whose well-being is even more dependent than ours on oil imports.

They recognize that the potential resources and technologies of this nation can continue to reduce dependence on oil to a point where it is no longer the primary factor in our energy future.

In Chicago, the Greater Chicago Committee to Use Energy Wisely and the Federal Executive Board are sponsoring an energy awards program at Argonne National Laboratories attended by Undersecretary of Energy Pat Collins, as well as a two-day workshop on energy efficient buildings.

In Massachusetts, an entire week has been devoted to a series of events, including tours of a solar house, an international energy day conjunction with a community in Nova Scotia, and an energy conservation contest for the Commonwealth's School children.

In Hawaii, the week is being observed with an emergency preparedness seminar, energy expos on malls, tours of power plants and other events.

In Albuquerque, New Mexico, a three day, five-state dialogue is planned on major

energy issues, involving the states of Arizona, Colorado, New Mexico, Texas and Utah.

In Portland, Oregon, 30 co-sponsoring organizations have planned an energy expo at the Museum of Science and Industry, neighborhood coalition activities extension service classes and school programs on energy.

In Florida, the State Federation of Women's Clubs and the Homemakers Clubs are holding mall exhibits, an Energy Day Fair, a tabloid sponsored by local vendors, speakers programs at the Naval Training Center and demonstrations for energy advisors. The Discovery Center at Fort Lauderdale is featuring energy in action and a history of American energy usage.

Governors, mayors, and county commissioners and boards of supervisors in many areas have proclaimed this American Energy Awareness Week.

Here in Washington, an energy exhibit has been installed at the Smithsonian's Museum of Natural History in the Constitution Avenue lobby. Walker Memorial Baptist Church has held a special meeting stressing the need for more spiritual energy during the next 20 years, and on October 26 in the Natural History Museum of History a presentation will be made by leaders from government and the private sector on the urgency of continued energy development and its vital impact on our future security.

Government speakers on October 26 will include Dr. George A. Keyworth, the President's Science Advisor, Deputy Secretary of Defense, Paul Thayer, Deputy Postmaster General, Jim Finch, and Deputy Secretary Designee for the Department of Energy, Danny J. Boggs. From the private sector, the speakers will be A. B. Trowbridge, president of the National Association of Manufacturers, Juanita Bryant, international president of the General Federation of Women's Clubs, Dr. Ben Hooks, executive director of the NAACP.

There is positive evidence throughout the country that our citizens are still concerned about our nation's energy situation, and the need for continued development of solutions to this threat to our future security.

Sincerely,

DONALD B. McCAMMOND,
Executive Vice President.

MESSAGES FROM THE HOUSE

At 2:11 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 2915) to authorize appropriations for fiscal years 1984 and 1985 for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, the Inter-American Foundation, and the Asia Foundation, to establish the National Endowment for Democracy, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ZABLOCKI, Mr. FASCELL, Mr. YATRON, Mr. SOLARZ, Mr. MICA, Mr. CROCKETT, Mr. KOST-MAYER, Mr. SMITH of Florida, Mr. BROOMFIELD, Mr. GILMAN, Mr. PRITCHARD, and Mr. SILJANDER as managers of the conference on the part of the House; and as additional conferees solely for consideration of title VIII of

the Senate amendment modifications thereof committed to conference: Mr. PERKINS, Mr. FORD of Michigan, Mr. ANDREWS of North Carolina, Mr. SIMON, Mr. ERLBORN, and Mr. COLEMAN of Missouri.

At 4:23, a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House had passed the following bill, without amendment:

S. 1944. An act to allow the obsolete submarine U.S.S. *Albacore* to be transferred to the Portsmouth Submarine Memorial Association, Inc., before the expiration of the otherwise applicable 60-day congressional review period.

The message also announced that the House had passed the following bill in which it requests the concurrence of the Senate:

H.R. 4091. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve the operation of programs authorized under such acts, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 187. Concurrent resolution deploring the assassination of Benigno Aquino, calling for the conduct of a thorough, independent, and impartial investigation of that assassination, and calling for free and fair elections in the Philippines.

The message further announced that the House disagreed to the amendments of the Senate to the bill (H.R. 3223) entitled "An Act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1984, and for other purposes"; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints: Mr. WHITTEN, Mr. TRAXLER, Mr. McHUGH, Mr. NATCHER, Mr. AKAKA, Mr. WATKINS, Mr. HIGHTOWER, Mr. SMITH of Iowa, Mr. ALEXANDER, Mrs. SMITH of Nebraska, Mr. ROBINSON, Mr. MYERS, Mr. ROGERS, and Mr. CONTE to be the managers of the conference on the part of the House.

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-1903. A communication from the President of the United States transmitting, pursuant to law, a report on recent U.S. military activities in Grenada; to the Committee on Foreign Relations.

REPORT OF THE COMMITTEE ON FINANCE RECEIVED DURING RECESS

Under the authority of the order of the Senate of October 25, 1983, the following report of the Committee on Finance was submitted on October 25, 1983, during the recess of the Senate:

By Mr. DOLE, from the Committee on Finance, without amendment:

H.J. Res. 308. Joint resolution increasing the statutory limit on the public debt (with additional views) (Rept. No. 98-279).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute.

S. 1102. A bill to provide authorization of appropriations for title III of the Marine Protection, Research, and Sanctuaries Act of 1972. (Rept. No. 98-280.)

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments. Without recommendation.

S. 49. A bill to redesignate public land in Alaska to allow hunting. (Additional and minority views filed). (Rept. No. 98-281.)

By Mr. STAFFORD, from the Committee on Environment and Public Works, without amendment.

S. 2006. An original bill to amend the Clean Water Act to provide for a program for reduction of nonpoint sources of pollution. (Rept. No. 98-282.)

● Mr. STAFFORD. Mr. President, today I am filing a report on the Nonpoint Source Pollution Management Act of 1983, a bill that originated in the Committee on Environment and Public Works. It is the committee's intention that this legislation, which would amend the Clean Water Act, be considered by the Senate at the same time as S. 431, the Clean Water Act Amendments of 1983, which was reported from the committee on September 21. When S. 431 is considered, we will move to substitute the test of the Nonpoint Source Pollution Management Act of 1983 for the present provisions of section 12 of S. 431.

The Nonpoint Source Pollution Management Act of 1983 is the product of two hearings and extensive work by the committee. On September 21, 1983, the committee voted unanimously to report this bill. The committee recognized that additional efforts must be made under the Clean Water Act to reduce and control widespread pollution of our Nation's waters by nonpoint sources.

The Clean Water Act's current structure requires limitations on discharges from point sources, primarily industrial and sewage treatment plant discharges. The structure of the Clean Water Act is fundamentally sound, and it has led to substantial progress in cleaning up pollution from these point sources.

It is now clear, however, that controlling point source discharges alone will not insure that the act's clean water goals will be met, because extensive uncontrolled pollution of the Nation's waters emanates from nonpoint sources.

Nonpoint sources of pollution are basically different forms of runoff pollution. This runoff comes from farmlands, forests, surface mines, grazing lands, urban areas, and lands being developed for residential or commercial purposes. The tremendous volumes of water that run off these lands and into the Nation's waters carry a broad array of pollutants resulting in siltation, eutrophication, and toxic contamination of our rivers, streams, estuaries, and lakes.

This legislation establishes a much needed program to insure that resources and concerns of the Federal, State, and local governments, as well as private citizens, begin to be directed toward reducing pollution from nonpoint sources. The legislation acknowledges the important role the States must exercise in developing effective nonpoint source controls and requires the States to implement the necessary nonpoint source pollution control programs.

The bill specifies the elements which the State management programs must include. In addition to identifying waters with major nonpoint source pollution problems and the sources creating those problems, the States are required to identify best management practices which will be undertaken by land owners or land managers to reduce nonpoint sources of pollution.

The legislation gives the States the flexibility to select those best management practices they consider appropriate and to identify the programs, either regulatory or nonregulatory, they will establish to insure the necessary implementation of best management practices. It also requires the States to commit themselves to specific milestones for implementation of the program and of best management practices.

Another important element of the management program is the authority for State identification of Federal financial assistance programs and development projects that the States will review for consistency with the State management programs. The bill provides this authority, which is modeled very closely on the existing provisions of Executive Order 12372, in order to help the States prevent their programs from being undercut by Federal activities. When a State identifies a program or project in this way, the affected Federal agencies and departments must insure that individual assistance applications and projects are submitted to the State for review. The Federal agencies and departments are required to accommodate any State

concerns regarding the consistency of the financial assistance applications or projects with the State nonpoint source pollution management program.

The legislation directs that the States submit their proposed management programs to the Administrator of the Environmental Protection Agency for his review and approval. Approved programs are eligible for Federal program implementation grants. The Federal grants are not to exceed 75 percent of the costs of implementing the State program, with non-Federal funds accounting for at least 25 percent of the costs. The bill authorizes \$70 million, \$100 million, and \$130 million in fiscal years 1985, 1986, and 1987, respectively.

Two-thirds of the funds appropriated for grants under this legislation will be allotted to the States based on a table, included in the bill, computed on factors of population and acreage in production in each State.

One-third of the funds appropriated for grants will be made available to the administrator who is authorized to provide additional financial assistance to States seeking to control particularly difficult or serious nonpoint source pollution problems, to implement innovative control measures, and to control interstate nonpoint pollution problems. These funds also may be used to provide grants to Indian tribes.

States are allowed considerable flexibility in how they use these funds. However, none of these funds may be used for sharing with persons the costs of implementing best management practices. The single exception is demonstration projects, which can be subject to cost sharing.

Finally, the legislation would amend section 304(k)(1) of the Clean Water Act to incorporate a reference to this new section. Section 304(k) would then require the administrator, Interior, Army, and other appropriate agencies to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of State programs developed pursuant to this legislation.

Mr. President, this bill is the product of extensive consultation with all affected interest groups. It represents a meaningful and important attack on a major water pollution problem that otherwise is not dealt with adequately by the Clean Water Act. It allows States to build upon the results of earlier planning efforts, such as those required by section 208 of the Clean Water Act, by carrying these efforts through to implementation. The committee has been assured by State and local governments, as well as by representatives of persons whose activities are causing nonpoint source pollution, that they take the problem seriously

and are committed to reducing it. This program provides a mechanism for doing so.

Mr. President, I believe this legislation will be an important component of the Clean Water Act, advancing our commitment to cleaning up the waters of this Nation. I look forward to Senate passage of this important legislation, as part of the Clean Water Act Amendments in 1983.●

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Jack E. Ravan, of Georgia, to be an Assistant Administrator of the Environmental Protection Agency; and

Courtney M. Price, of the District of Columbia, to be an Assistant Administrator of the Environmental Protection Agency.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN (for himself, Mr. SASSER, and Mr. PRYOR):

S. 2002. A bill to amend title II of the Social Security Act to provide for reform in the disability determination process; to the Committee on Finance.

By Mr. DOMENICI:

S. 2003. A bill to amend the Tariff Schedules of the United States to impose duties on subsidized hydraulic cement, cement clinker, and concrete block and brick; to the Committee on Finance.

By Mr. JEPSEN (for himself, Mr. LEAHY, and Mr. DIXON):

S. 2004. A bill to amend the Farmland Protection Act to improve the administration of such Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HELMS:

S. 2005. A bill to expand markets for United States agricultural products through increased targeting of Commodity Credit Corporation export funds, expanded exports of Commodity Credit Corporation dairy products, and expanded authority for the use of Commodity Credit Corporation stocks to facilitate export sales, to emphasize the need for increased exports of processed and protein fortified agricultural products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STAFFORD:

S. 2006. A bill to amend the Clean Water Act to provide for a program for reduction of nonpoint sources of pollution; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. SIMPSON:

S. 2007. A bill to amend title 38, United States Code, to provide for limited confidential treatment of medical and prosthetic research information; to the Committee on Veterans' Affairs.

By Mr. SIMPSON:

S. 2008. A bill to amend title 38, United States Code, to provide for the exclusion of residents and interns from coverage under the Federal Labor-Management Relations Statute; to the Committee on Veterans Affairs.

By Mr. EAST:

S. 2009. A bill to amend the Fair Labor Standards Act of 1938 to exempt tire dealers and rereaders under section 13(b)(10) of that Act in the same manner as certain automobile service and automobile selling establishments; to the Committee on Labor and Human Resources.

By Mr. TSONGAS:

S. 2010. A bill to amend subpart E of part 3 of schedule 6 of the Tariff Schedules of the United States; to the Committee on Finance.

By Mr. DeCONCINI (for himself and Mr. HUMPHREY):

S. 2011. A bill to require high-buoyancy life vests aboard commercial aircraft; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2012. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Environment and Public Works.

By Mr. BUMPERS (for himself, Mr. BENTSEN, Mr. HEINZ, Mr. MATSUNAGA, Mr. MOYNIHAN, and Mr. CRANSTON):

S. 2013. A bill to amend the level of funding authorized for the Maternal and Child Health Services Block Grant for the purpose of ensuring no less than the current level of services for fiscal year 1984; to the Committee on Finance.

By Mr. HART:

S.J. Res. 186. A joint resolution entitled "The War Powers in Grenada Act"; to the Committee on Foreign Relations.

By Mr. MELCHER (for himself and Mr. PRYOR):

S.J. Res. 187. A joint resolution to repeal the Multilateral Force in Lebanon Resolution; to the Committee on Foreign Relations.

By Mr. BYRD (for himself, Mr. BAKER, Mr. THURMOND, and Mr. BIDEN):

S.J. Res. 188. A joint resolution to designate the month of November 1983 as "National Christmas Seal Month".

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PACKWOOD:

S. Res. 250. A resolution waiving section 402 (a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1102; from the Committee on Commerce, Science, and Transportation; to the Committee on the Budget.

By Mr. TSONGAS (for himself, Mr. PELL, and Mr. SYMS):

S. Res. 251. A resolution to condemn the sale for profit of human organs for transplantation; to the Committee on Labor and Human Resources.

By Mr. BAKER (for himself and Mr. BYRD):

S. Res. 252. A resolution to authorize representation by the Senate Legal Counsel of Senator Paula Hawkins and employees in the case of *United States v. William M. Conover, et al.*; considered and agreed to.

By Mr. BYRD (for himself, Mr. PELL, Mr. MITCHELL, Mr. BAUCUS, Mr. METZENBAUM, Mr. BINGAMAN, Mr. JOHNSTON, Mr. KENNEDY, Mr. TSONGAS, Mr. EAGLETON, Mr. LAUTENBERG, Mr. EXON, Mr. PROXMIER, Mr. INOUE, Mr. DIXON, Mr. RIEGLE, Mr. BIDEN, Mr. BENTSEN, Mr. DODD, Mr. SARBANES, Mr. MATSUNAGA, Mr. FORD, Mr. BUMPERS, Mr. PRYOR, Mr. LEVIN, Mr. HART, Mr. MELCHER, Mr. RANDOLPH, Mr. ZORINSKY, Mr. CHILES, Mr. CRANSTON, Mr. LEAHY, Mr. MOYNIHAN, Mr. NUNN, and Mr. SASSER):

S. Res. 253. A resolution expressing the sense of the Senate regarding the replacement of the Multinational Peacekeeping Force in Lebanon with a United Nations presence or other forces from neutral countries; to the Committee on Foreign Relations.

By Mr. HEINZ (for himself, Mr. FORD, Mr. RANDOLPH, Mr. WARNER, Mr. SPECTER, Mr. GARN, Mr. HUDDLESTON, Mr. HEFLIN, Mr. SARBANES, Mr. MATTHIAS, Mr. METZENBAUM, Mr. SASSER, and Mr. MELCHER):

S. Con. Res. 79. A concurrent resolution to request the President to urge the Government of Japan to import United States coal; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN (for himself, Mr. SASSER and Mr. PRYOR):

S. 2002. A bill to amend title II of the Social Security Act to provide for reform in the disability determination process; to the Committee on Finance.

DISABILITY DETERMINATION PROCESS REFORM

● Mr. MOYNIHAN. Mr. President, I rise today to offer legislation to help protect the rights of disabled Americans. This bill offers revised standards and criteria for the Social Security Administration to apply before terminating a citizen's disability benefits and revised standards and criteria for the appeals process from termination decisions. This legislation has been approved by the Ways and Means Committee of the House of Representatives. It is time for the Senate to do so as well.

Since March of 1981, the Social Security Administration has reviewed the eligibility of 900,000 recipients of disability benefits; the benefits of more than 400,000 have been terminated. Based on current projections, we can expect 250,000 more terminations in the current fiscal year.

Over 20 months ago, on February 9, 1983, I addressed the problem of wrongful terminations on the floor of the Senate. At that time I noted:

It is our . . . responsibility to insure that the truly disabled receive the DI benefits to which they are entitled. It was not Congress's intent to eliminate both the healthy and the disabled from the disability insurance program.

Against the multitude of sorry tales told of wrongful terminations in the

past 2 years, these words ring ever more true.

In hearings held before the Aging Committee on April 7, Peter J. McGough, associate director of the General Accounting Office, reported that a recent study of mentally disabled beneficiaries had found:

Many individuals who had their benefits terminated despite having severe impairments, and in our opinion, having little or no capability to function in a competitive work environment.

Congress mandated periodic review of social security disability beneficiaries in the Social Security Act Amendments of 1980, a proper response to the rapid growth in the social security disability rolls during the 1970's. Between 1970 and 1976 the number of disabled workers in the social security program nearly doubled—from 1.5 to 2.7 million beneficiaries—while covered work force providing funds for the beneficiaries increased by only 25 percent.

It was never the intent of Congress to mandate reviews that would be described by a Federal Judge in Minnesota as "arbitrary, capricious, irrational and an abuse of discretion." I repeat my statement of February 9, 1982—it was not the intent of Congress to eliminate both the healthy and the disabled from the disability insurance program. The administration's implementation of the 1980 amendments can only be described as such.

At the time of the 1980 amendments, Congress projected a net savings of some \$10 million; in 1981, the President's budget projected a savings of \$3.5 billion—325 times the original estimate. To achieve this, rather than weeding out of the system those whose medical conditions have improved, hundreds of thousands of truly disabled Americans lost their benefits and were thrown off the rolls.

This body repented to these sorry circumstances last December, by revising the process and insuring continued disability insurance benefits and medicare coverage for individuals in the process of appealing a decision to terminate. At that time, I supported provisions to require the Social Security Administration and State agencies carrying out case reviews to adopt procedural safeguards, to protect those entitled to DI benefits.

Today, I remain deeply troubled by the current system of review, under which over 40 percent of those reviewed are told they will no longer qualify for benefits. I am disturbed by the financial and emotional burdens of appeal, under current procedures—especially for mentally ill beneficiaries, who comprise nearly 25 percent of all reviews. I am also concerned about the cost of these reviews—an estimated \$200 million for New York State alone by the end of 1983. And I am dis-

tressed that many States throughout the country have believed it necessary to defy Federal rules governing the review of disability benefits, refusing to drop anyone from the disability rolls until Federal regulations are eased.

Never in the 27-year history of this program has it so deviated from its primary concern, to provide benefits to persons who cannot work due to disabilities. When the 84th Congress enacted the original provisions of disability insurance in 1956, the committee noted:

We recommend the closing of this serious gap in the old age and survivor insurance system by providing for the payment of retirement benefits . . . to those workers who are forced into premature retirement because of disability.

We now risk reopening this gap, should we choose not to revise the procedures now being used to deny benefits to tens of thousands of deserving disabled persons.

Despite the emergency legislation approved by Congress last December, protect the benefits of individuals appealing termination decisions, the disability review system still needs comprehensive reform.

The legislation I propose today, a companion measure to Representative J. J. PICKLE's bill, H.R. 3577, will reform these shameful inequities in the administration of the disability determination process. The legislation requires proof of medical improvement in a recipient's condition before disability benefits are stopped, supplanting the 1956 rule stipulating that a person must be dropped, regardless of his or her disability, if he or she can perform "substantial gainful activity." It would also establish standards of review that reflect medical and technological advances, to more precisely determine medical improvement. In order to monitor medical advances which could have bearing on the evaluation of recipients and their possible medical improvement, the legislation establishes an Advisory Council on Medical Aspects of Disability. This Council, composed of independent medical and vocational experts, will provide advice and recommendations to the Secretary of Health and Human Services on disability standards, policies and procedures. This legislation will reform the appeals process, permanently insuring the continuation of benefits during appeal. It will establish uniform, public policies for all disability decisions and require personal face-to-face hearings during reviews of disability cases.

My colleagues need only recall the wrenching tales of thousands of disabled Americans denied benefits, to appreciate the need for extensive reform of this system. It is, indeed, a shame that we have waited so long to do so. ●

● Mr. SASSER. Mr. President, the bill that the distinguished Senator from New York, Mr. MOYNIHAN, and I are offering today represents the culmination of nearly 2 years of work on behalf of many colleagues on the issue of social security disability insurance.

The bill represents a comprehensive approach to a problem which has plagued both the administration of the disability program in the various States and the consequent injustices suffered by thousands of disabled Americans beginning with the hasty acceleration of continuing disability investigations in March 1981. To those of us who have been involved with the SSDI problem, recitation of the compelling evidence used to substantiate the need for major reform at this point becomes redundant and I believe unnecessary.

The injustices and inequities of the system are clearly documented. There are none of us in this body who have not been subjected to heartrending stories of legitimately disabled individuals being indiscriminately removed from disability rolls and thus being deprived of rightfully entitled benefits. While these stories tear at the soul, there are others which boggle the mind. Those instances where erroneous termination has resulted in either actual or attempted suicide begs for a serious and immediate reevaluation of the concepts and processes through which these reviews are conducted.

It was such a reevaluation which eventually led to the passage of H.R. 7093 on the last day of the lameduck session last December. This bill incorporated necessary and important provisions which were meant merely as stopgap or temporary solutions to the disability problems. It was fully acknowledged by those involved that a comprehensive approach incorporating permanent reforms would be necessary this year.

The bill which we are offering today embodies this comprehensive remedy. The bill has undergone extensive scrutiny in both the House Social Security Subcommittee and the Ways and Means Committee and it now appears likely that it will pass the House with little difficulty.

The bill contains important administrative reforms such as a medical improvement standard and the permanent payment of benefits to disabled beneficiaries through the administrative law judge level of appeal. The bill also calls for a moratorium on mental impairment cases.

We think that it is absolutely imperative that the Senate consider this legislation before the end of the current session. The recent need to extend the payment of benefits provision is proof positive that time is of the essence. Far more important, however, is the need to alleviate once and for all the

callous mistreatment of thousands of disabled Americans.

Many States have found the necessity for action so great that they have taken matters into their own hands. To date, 28 States have either stopped or modified review of disability cases despite legal contractual obligations between the Social Security Administration and the State disability determination agencies.

I urge my colleagues to join us in supporting this measure and sincerely hope that prompt consideration of the bill will work to further insure its passage in the Senate. We have waited far too long to act on this important issue, let us hope that the ultimate product of our collective energies proves to be a fruitful and effective one. In our estimation, this bill represents a fruitful and effective remedy. ●

● Mr. PRYOR. Mr. President, today, I am proud to join with Senator MOYNIHAN in introducing legislation which would make comprehensive and very necessary changes in the social security disability program.

Mr. President, since March of 1981, I have, along with many of my distinguished colleagues, come to this Chamber to express my deep concern over the manner in which the continuing disability investigations are being handled. Story after story, each one more unbelievable than the last, of physical, mental, and financial hardships which have resulted from the reviews of the nonpermanently social security and supplemental security income disabled beneficiaries, have come to us through newspaper accounts, constituent letters and calls, and the like. At this point I believe further illustrations unnecessary to convince my colleagues of the necessity to enact full-fledged reform to right the abuses so prevalent in this most important Government program, and to do it with all possible speed.

At present there is absolute chaos within the disability system. States, as a result of the accelerated review of the nonpermanently disabled, have been faced with overwhelming case-loads, many without the benefit of increased staff to achieve expected review goals. Cases are developed poorly, and in many cases inappropriate consultative physicians are used to document specific disabilities. And inconsistent guidelines for determining disability are used throughout the decisionmaking process.

These and many other factors have contributed to making a fair disability determination close to an impossibility. The States, in their frustration at being placed in the position of the middle man—between the Social Security Administration, the administrative law judges, the Federal courts, and State residents—have responded in varying degrees. Several States have

placed moratoriums on disability reviews altogether, others have imposed restrictions on the manner in which the reviews are conducted. In the absence of legislative action, there is no longer a national program based on a single set of standards and administered in an efficient, consistent manner; rather, a patchwork of different disability programs varying from State to State has emerged.

The legislation we are introducing today is identical to the disability reform package which was reported out by the House Committee on Ways and Means last week. Congressman PICKLE, chairman of the Social Security Subcommittee, is to be commended for the long hours he has devoted to developing a very comprehensive disability package, which is clearly very sensitive to many of the program's problems. The Ways and Means Committee has been successful in formulating legislation which seeks to restore the integrity of the disability program. The time has now come for the Senate to respond to the very great need for program reform, as well.

The major provisions of this legislation make the following changes:

Require the continuation of benefits for those individuals whose conditions have not medically improved to the point of ability to perform substantial gainful activity, with the following exceptions: benefits may be terminated if beneficiary has benefited from advances in medical or vocational therapy or technology to the point where he can perform substantial gainful activity; benefits may be terminated if new evidence shows impairment(s) less severe than originally thought; benefits may be terminated if the individual is performing substantial gainful activity, or if initial disability determination was erroneous, or if benefits were fraudulently obtained.

Require the Secretary to conduct a study—in conjunction with the National Academy of Sciences—regarding the use of subjective evidence of pain in determining disability. The report is due January 1, 1985.

Require the Secretary to consider the combined effect of all of an individual's impairments whether or not each or any qualify individually for disability.

Impose a temporary moratorium on reviews of mental impairments until listings are revised by the Secretary in consultation with an advisory council on medical aspects of disability and published in final form as regulations. This legislation also requires that, in cases of mental impairment, a State-employed psychiatrist or psychologist must complete the medical portion of the review.

Provide a face-to-face evidentiary hearing at the State level for medical termination cases. The claimant must

be given a preliminary notice of an unfavorable decision, and given 30 days to request a face-to-face evidentiary hearing before a formal determination is made. The State reconsideration level would be abolished after January 1, 1985. In addition, this legislation instructs the Secretary to initiate demonstrations on establishing the same procedure for initial disability applications.

Give permanent status to current law allowing benefits on appeal through the administrative law judge level.

Require the Secretary to promulgate, in regulation form, specific standards for consultative examinations.

Require that any changes in policy which affect the determination of disability be published in regulation form and subject to public comment.

Require the Social Security Administration to either apply the decisions of circuit courts to at least all beneficiaries within the circuit, or appeal the decision to the Supreme Court for a final ruling.

Mr. President, these are the major provisions of the Ways and Means-passed disability legislation. I know that many of my colleagues are as eager as I am to see the resolution of the many problems which have developed within the disability program. I am hopeful that, with the added encouragement of House action, which is expected in the very near future, that we will see reforms in this important program signed into law before the close of this session of the Congress. There may be additional changes which may be necessary to further improve this legislation, and I would welcome all suggestions. I urge my colleagues to join with me in working toward the goal of comprehensive disability reform this year. ●

By Mr. DOMENICI:

S. 2003. A bill to amend the tariff schedules of the United States to impose duties on subsidized hydraulic cement, cement clinker, and concrete block and brick; to the Committee on Finance.

CEMENT, CEMENT CLINKER, AND CONCRETE BLOCK AND BRICK FAIR TRADE ACT OF 1983

Mr. DOMENICI. Mr. President, the House Trade Subcommittee has been holding hearings on a series of proposals to improve the Nation's statutory trade remedies. Last Thursday, Mr. GIBBONS' subcommittee spent the entire morning taking testimony on two-tier pricing systems, upstream subsidies, and export targeting.

I share many of Congressman's GIBBONS' concerns. I have been approached by constituents complaining that Mexico is extensively and unfairly subsidizing the production of cement and exporting it into our market. The effect is that we are losing our own market because of the

unfair practices of others. In the first 5 months in 1983, cement and cement clinker imported from Mexico are 449 percent greater than their total imports during all of 1982.

My constituents may not call it upstream energy subsidies or realize that they are being victimized by what is technically referred to as a two-tier pricing scheme, but they know it is costing jobs and preventing plant modernization and expansion here in the United States.

Because I believe this is a very important topic, I am introducing a bill which is another possible approach to the cement industry's problem. My intention is to begin to focus the discussion here in the Senate on the situation. I am considering other possible solutions to the broader problem of energy subsidies, some of which are discussed briefly in the testimony I am including in the RECORD today. I would like to encourage the Senate Subcommittee on International Trade to look at this cement specific bill, as well as other proposed solutions to the problem of two-tier pricing systems and upstream energy subsidies as soon as possible.

The bill is cement specific, and is designed to restore fair competition and to insure that the purposes of the countervailing duty law are not frustrated. The bill would amend the tariff schedule to impose duties on cement receiving an energy subsidy provided by a government or State-owned or controlled enterprise at a price that is less than the true value of such fuel or energy.

The bill accomplishes this by creating a new tariff classification for subsidized hydraulic cement and cement clinker. It would permit interested parties to petition the Commerce Department under procedures similar to those used in countervailing duty proceedings. The Commerce Department would determine whether the imported cement was being manufactured with subsidized energy, and the amount of the subsidy.

The duty imposed would be based on the difference between the cost or price of the subsidized fuel or energy made available to the cement producer by its government controlled, energy producer, and the true value of the energy.

True value is defined as the first of the following that can be determined: Either the price offered to unrelated purchasers for export; or an arm's length price consisting of the amount that was charged or would have been charged in independent transactions with or between unrelated parties in a relevant and uncontrolled market.

The same kind of tariff classification and procedure would be established for subsidized concrete block and brick.

Mr. President, I ask unanimous consent that my statement before the Trade Subcommittee of the Ways and Means Committee be printed in the RECORD.

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

STATEMENT OF SENATOR PETE V. DOMENICI
BEFORE TRADE SUBCOMMITTEE OF WAYS AND
MEANS COMMITTEE, OCTOBER 20, 1983

I very much appreciate the opportunity to testify before your Subcommittee today, Mr. Chairman, and I congratulate you and the other members of this subcommittee for taking the initiative on the countervailing duty law designed to address the problem of two-tiered financing schemes established by foreign governments on natural resources.

The upstream energy subsidies that you are discussing today have been a menace for years. The domestic nitrogen producers and more recently the carbon black and domestic cement industry have been harmed unfairly by these subsidies. However, the potential is there to become a problem for the entire petrochemical industry and every energy-intensive industry competing with a government-owned monopoly using artificially low-priced energy to promote exports.

I am most familiar with the cement industry so I will focus my remarks on their situation.

In recent years, a disturbing development has emerged in the cement industry. Increasingly, foreign producers located in countries with large reserves of natural gas and oil have been aggressively entering the energy intensive industries such as cement production. These same countries have nationalized their natural resources and have created state-owned monopolies to produce and distribute energy. They have made it a national priority to increase capacity of their energy-intensive manufactures like cement, ammonia, and steel. They have made it a national priority to promote the export of such commodities. They can virtually guarantee whatever share of our U.S. market they want by selling arbitrarily low-priced energy produced by their government-owned and controlled producers to their cement, ammonia and steel producers.

Let me use Mexico as an example because Mexican cement is a particularly troublesome competitor in New Mexico as well as the rest of the Southwest and Florida. Moreover, this is potentially a problem for any energy intensive industry faced with competing with a government-owned monopoly which provides the competition with basic raw materials on a virtually cost-free basis.

Cement manufacturing is a highly energy-intensive process. Energy constitutes about one-half of the direct cost of manufacturing cement. Cement has one of the highest ratios of energy costs to total material costs of all manufactured products. Natural gas and oil are the principal components used in the production of cement. Unfortunately for the international trading system—and especially the U.S. markets—in Mexico, PEMEX is the special government entity which owns and controls production and sale of natural gas and oil. PEMEX sells Mexican cement companies "combustoleo Pesado", a heavy fuel oil at \$1.23 per barrel—assuming as \$150/1 dollar exchange rate. An unsubsidized cost of fuel needed to produce a ton of cement is \$14.96/ton; the subsidized cost for Mexican cement is \$.68. Even using the most modern tech-

nology, U.S. cement producers cannot hope to compete effectively against Mexican cement which benefits from a subsidy estimated by some of my constituents to be \$20.36/ton. \$1.23/barrel, that's the arbitrary price the Mexican government has decided to sell heavy fuel oil to its cement producers. That's an artificially low price and that's the unfairness.

This is a classic example of unfair foreign government subsidization of a domestic industry with direct and substantial impact on the United States. It involves precisely the kind of practice that our countervailing duty laws should address, but apparently they do not.

The cement industry tried to use our trade laws to correct this meddlesome and market disrupting practice. Their lawyers established a compelling case before the Commerce Department. The Final Affirmative determination did not take into account the energy subsidy in spite of the uncontroverted facts. The cement industry did win a countervailing duty equal to about 6 percent industry-wide. This 6 percent was allowed because of several other Mexican Government programs, mostly tax credits, immediate depreciation and below market rate financing. That 6 percent countervailing duty looks puny when compared with a 50 percent energy subsidy. It looks to me like a slight inconvenience or just another insignificant cost of doing business. It certainly isn't fairness.

The Commerce Department representatives tell me that to recognize and to impose countervailing duties against such upstream energy subsidies the law needs to be changed. I understand that you are considering three possible approaches to measure the subsidy level for the purpose of imposing countervailing duties.

I would think that either of the first two approaches would correct the problem. The first approach would calculate the countervailing duty based on the difference between the controlled domestic price and the export price.

The second approach uses the difference between the controlled domestic price and the lower of either the export price or the price generally available to U.S. producers. I understand that this approach has been proposed to guard against such situations as the bad bargain/change of circumstances possibility. This is the situation we have with some Mexican natural gas right now. Several years ago we agreed to buy natural gas from Mexico at \$4.60 per MCF. This price was agreed upon based on our belief that the price of oil and natural gas would continue to increase. Because this has not happened we are buying gas at \$4.60 per MCF, but the price generally available to U.S. producers is \$2.80 to \$3.00.

I would caution against the type of approach suggested in the third alternative. This formula for determining the appropriate countervailing duty takes the difference between the controlled domestic price and the "fair market value", which would be determined by an assessment of the following four factors: the generally available world price; the average price to U.S. producers; production costs and the extent to which they bear a reasonable relationship to the world price; and the degree of price suppression in the domestic market caused by government regulation.

I don't find either of these two criteria troublesome. However, I do have some concerns about the third and fourth criteria.

I have spent years on the Senate Energy and Natural Resources Committee and the

third criteria, production cost and the extent to which it bears a reasonable relationship to the world price. I feel is of questionable value in setting a standard for countervailing duty relief. I can tell you, as will any producer in the natural resource field, that the cost of production does not always logically compare to the value of the product or the world price.

I am also concerned about the feasibility of the fourth criteria. The degree of price suppression in the domestic market caused by government regulation, may be difficult, if not impossible to determine with any certainty or reliability.

These are a few of my thoughts on these three possible formulas. I am sure that the hearing today will give us all a better idea regarding the appropriate measure. I am sure that the subcommittee will arrive at a workable formula.

I can't stress how important this issue is. I think we are seeing just the beginning of what I consider to be a desperate effort on the part of other governments to capture U.S. markets and to earn foreign currency to service their external debt.

Only a year ago Mexico was in the headlines because of the state of its economy, the devaluations of its currency, its unemployment and the specter of default on its loans. Those problems have not disappeared. A recent 1981 study on Mexican energy policies makes it clear that the explicit policy of undervaluing oil and gas and other energy resources, has artificially reduced PEMEX revenues and has forced PEMEX and Mexico to borrow excessively, creating inflation and devaluation of the peso.

These are those who may say that it is none of our business how Mexico chooses to use its natural resources. However, Mexico's energy pricing practices are disrupting U.S. markets and I believe that the ramifications are potentially far reaching. Right now we are hearing about our U.S. producers seeing their customers lured away. I think that the imprudent pricing of these valuable natural resources will result in continued economic ills for Mexico. At the same time the U.S. will lose reliable and efficient domestic industries.

I have already seen the symptoms of this in my own state. New Mexico presently has only one cement plant near Albuquerque. Another plant, in El Paso has provided a substantial amount of cement to my state's market. That plant was built in 1910 and was scheduled to be replaced by another modern plant near Las Cruces. The project is on hold. The President of the company has told me that the unfair competition for subsidized Mexican cement is shrinking the Southwest's market and is severely and adversely affecting the prospects for that plant.

This plant would mean employment for 400 people during the three year construction phase of the project. Additional jobs would be generated because of the need to construct railroad spurs, service roads and electrical facilities. Approximately 150 hourly and salaried personnel would be required to operate the plant with a total annual payroll exceeding \$4.5 million. In addition, the plant would consume a number of products and utilize significant services that would be provided from within the state including: approximately 100,000 tons of New Mexican coal at an annual cost of approximately \$5 million; approximately 120,000 megawatt hours of electricity at an estimated annual cost of \$6 million; Rail-

road and truck freight at an estimated annual cost of \$10 million; and Gypsum, iron ore, aluminum materials, operating and maintenance supplies at an estimated annual cost of \$1.9 million.

Because of the enormous capital cost involved with the construction of such a plant, it is essential that the producer be assured that it can operate consistently at a fairly high level of capacity before the project is approved. Expanding exportation of Mexican cement not only debases the price of cement in the market, but more importantly, reduces the potential market that the new plant can service.

I have talked about cement and energy today, but this is only one element of a larger problem of how to conduct international trade when other governments insist on upstream energy subsidies and other types of market disrupting practices which are inconsistent with free and fair trade and which undercut our domestic producers.

Unless Congress does something to restore competitiveness and fairness to this sector of the economy the needed revitalization of our industries may not take place.

I have given you one example. There are many, and for this reason I hope you will act quickly to report out a trade remedy bill that has a strong and effective provision addressing the problem of upstream energy subsidies.

Thank you, Mr. Chairman.

By Mr. JEPSEN (for himself, Mr. LEAHY, and Mr. DIXON):

S. 2004. A bill to amend the Farmland Protection Policy Act to improve the administration of such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARMLAND PROTECTION POLICY ACT AMENDMENTS OF 1983

Mr. JEPSEN. Mr. President, this bill is introduced as the Farmland Protection Policy Act Amendments of 1983.

It amends the Farmland Protection Policy Act (FPPA) 7 U.S.C. 4201 et seq., as passed in the Agriculture and Food Act of 1981. My distinguished colleagues, Senator LEAHY of Vermont and Senator DIXON of Illinois, join me in this effort.

American agriculture today has achieved a commanding position in the economies of the United States and many world nations. Much of our success comes not only from the diligent efforts of this Nation's farmers, but also from the fertile, productive cropland with which they have to work.

Currently, the United States has an ample supply of good cropland from which our farmers can produce for profit and from which our consumers will have an affordable and varied food supply.

My concern today, however, lies not with our present domestic and worldwide food and fiber demands and needs, but with those demands and needs of future generations. It is to those people that our actions or lack of action now will speak.

In 1981, Congress passed the Farmland Protection Policy Act in response to growing pressures at the local and

State levels on the agricultural land base. My distinguished colleague from Vermont was the principal motivator of that legislation.

During the 1970's population swells and shifts in rural areas, changes in farming technology, changing opportunities for commercial and industrial development, and changes and alternatives in the American lifestyle led to large-scale development on agricultural land.

On the national level, the rate of this development was measured but consistent over roughly a 10- to 15-year time period.

But on the State level, this development was more abrupt and affected all aspects of economic, political, social, environmental life.

On the local level, this change was not only abrupt, but in many cases devastating to the area, destroying whole farm communities.

In 1979, the U.S. Department of Agriculture and the Council on Environmental Quality initiated a joint project to study the rate and effect of continued farmland conversions to developed uses. The result of this project, the national agricultural lands study (NALS), indicated that continued conversions at the documented 1970 rate could, in fact, affect our future ability to produce a varied and affordable food supply, for both domestic and world needs.

The crisis would not be as great at the national level. Yet, many local areas could become excessively or totally dependent on outside food sources, which in many cases was considered unacceptable, at that level.

To the greatest extent, decisions on the rate and direction of development are the sole responsibility and concern of the State and local governments.

The NALS study and findings indicated, however, that many State and local development policies, were impeded, or altered because of actions taken at the Federal level, by the various Federal agencies and independent commissions, as directed by their internal goals and objectives.

The Farmland Protection Policy Act of 1981, responded to the conflicting goals and objectives of the Federal, State, and local governments. It requires that all Federal agencies engaged in actions that could contribute to or cause the conversion of agricultural land to developed uses, shall take steps to avoid or lessen adverse effects on those State and local areas.

These steps were to be based on established criteria, with rules and procedures, promulgated by the USDA and applicable to all Federal agencies.

A review of actions taken by the USDA and other Federal agencies indicates that none of the agencies has seriously considered their impacts on farmland conversions.

The USDA has been slow in promulgating the rules and regulations by which this act should have been put into full effect. And many local communities, in all regions of the country remain concerned and perplexed by the Federal Government's inability to correct what to them is a serious natural resource problem.

The legislation proposed today requires the Secretary of Agriculture, within a more specific time period, to address this issue, and carry out the full intent of the original law.

In addition, the amendments require the Secretary to coordinate the efforts of other Federal agencies in meeting these requirements and to report to the Congress as these efforts progress.

Furthermore, the amendments create an avenue for the expression of public opinion and comment on actions taken by the Federal Government in this regard.

Most importantly because of the Department's expertise in this area, these actions will be coordinated centrally through the office of the Secretary at the Department of Agriculture.

These amendments address what many view as deficiencies in the current law.

Along with the bill, I'm submitting the comments of the Natural Resources Defense Council, Consumers Union, National Audubon Society, National Farmers Union, National Grange, and the National Wildlife Federation prepared in response to USDA's public comment period on the proposed rules and regulations to the act. I ask unanimous consent that they be inserted in the RECORD following my remarks.

I urge my colleagues to review the issue so that we may act expeditiously on this matter.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

COMMENTS OF THE NATURAL RESOURCES DEFENSE COUNCIL, CONSUMERS UNION, NATIONAL AUDUBON SOCIETY, NATIONAL FARMERS UNION, NATIONAL GRANGE AND NATIONAL WILDLIFE FEDERATION

(By F. Kaid Benfield and Justin Ward)

I. INTRODUCTION

In the Federal Register of July 12, 1983, the Assistant Secretary of Agriculture published a notice (48 Fed. Reg. 31863) of proposed rulemaking which would establish criteria for implementation of the Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201 et seq. Submitted herewith are the comments on the proposed rule of the Natural Resources Defense Council (NRDC), Consumers Union, National Audubon Society, National Farmers Union, National Grange, and the National Wildlife Federation.¹ For the reasons set forth below, we believe the

¹Footnotes at end of article.

proposed rule must be substantially revised if it is to satisfy the requirements and purpose of the FPPA.

II. THE IMPORTANCE OF FARMLAND PROTECTION

The FPPA was a logical and badly needed response to the problems identified in the 1981 National Agricultural Lands Study (NALS) and further articulated in the Act's findings at § 1540, 7 U.S.C. 4201.² The latter includes formal recognition by Congress that America's shrinking farmland is a "unique natural resource" essential for providing the country with a sustainable food and fiber supply. The FPPA's stated purpose is to minimize the significant contribution of federal programs to the unnecessary and irreversible conversion of the best of the nation's farmland to non-agricultural purposes.³

As Congressman George E. Brown, Jr., a principal sponsor of the FPPA, stated recently:

"In passing this act, the Congress recognized the vital importance of protecting farmland for farming, and asserted that tax dollars should not subsidize projects which needlessly lead to the loss of productive cropland".⁴

The statute is designed to require federal agencies to "stop, look, and listen" before taking actions that can lead to the destruction of prime, unique or other important parcels of farmland.

Given its simplicity and its worthy objectives, it is not surprising that the Act retains strong bipartisan support and that its critics are few in number. Nevertheless, some dissenters persist in attacking the statute with a number of arguments. For instance, it is claimed to be a restrictive measure designed to circumscribe the property rights of individuals. In light of this contention, it bears reiterating that while the FPPA pertains to federal agency actions and to federally-subsidized actions of other government or private entities, it does nothing to restrict any landowner who wishes to convert prime farmland to nonagricultural uses without federal assistance.

Some opponents even dispute the existence of a national cropland conversion problem, challenging a fundamental premise of the FPPA. A few have charged, for example, that the NALS findings were based on faulty statistical information. This argument misses the point. While there is bound to be disagreement on precise numbers, it is inarguable that there is an overall trend of formerly rural areas yielding to industrial, suburban and other development at a rapid pace, particularly around highways and metropolitan areas. We concur with Congressman Brown's views on this subject:

"Even though available statistics are flawed in many respects, the Congress and most citizens recognize that protecting agricultural land from conversion, soil erosion, and other natural hazards is essential and prudent in order to sustain the Nation's agricultural productivity. Most people fortunately recognize there is little to gain from a preoccupation with statistical anomalies and uncertainties when the basic facts are relatively clear".⁵

Others have argued that the existence of commodity surpluses, price supports, and crop and acreage reduction programs indicate that the United States has a surplus, not a scarcity, of farmland. This argument, too, is unpersuasive. First, the FPPA is concerned only with the loss of the most valuable of our agricultural lands, not all of them.⁶ The undersigned would be among the first to contend that much land current-

ly being farmed could and in fact must be taken out of production, especially marginal cropland which presents environmental problems such as soil erosion and water pollution. This in no way, however, argues against the notion that the very best, most productive land for farming should remain available for that purpose.

Second, to fail to protect the best farmland on the basis of current surpluses is extremely short-sighted. Demand for agricultural products is steadily rising as the population grows. Moreover, the degree to which there is a surplus is dependent on factors such as weather and export policy, which are difficult to predict and can vary widely.⁷ Regardless of need, 21st century farmers and consumers will never be able to reclaim the prime farmland that was paved over with 20th century concrete. We believe that in this context it simply makes good sense for federal agencies to consider carefully the impact of their programs on our most valuable cropland, and to consider alternatives and take steps which would minimize adverse effects.

In short, the FPPA is sound legislation which the undersigned groups and their members have consistently supported. After a long delay,⁸ we now commend USDA and the Soil Conservation Service (SCS) for issuing a proposal related to the impact of federal programs on U.S. farmland. However, we consider the July 12, 1983 proposal to be deficient in several important respects. Our comments will first address the weaknesses of the proposal and then recommend modifications. Through this, we hope to contribute to the formation of a workable and effective rule which is consistent with the FPPA.

III. THE PROPOSED RULE FAILS TO ESTABLISH MEANINGFUL CRITERIA

The Act clearly requires that USDA establish criteria for identification of the adverse effects of agency programs on farmland conversion so that agencies may take those effects into account and consider less adverse alternatives. 7 U.S.C. 4202(b). The proposed rule attempts to satisfy this mandate simply by establishing a system for evaluating and assigning numerical ratings to the sites of proposed federal projects. See § 658.4. Under the land evaluation and site assessment (LESA) system proposed, the higher the rating for a site on a given "criterion," e.g., distance from an urban center, the more worthy the parcel of protection as farmland. The rule is explicit in that it establishes no other criteria for federal agencies to use in identifying and considering the effects of their programs. § 658.5(c).

While we believe there can be a place in farmland protection for a more properly designed LESA system (see discussion below), the rule as proposed is clearly inadequate to satisfy the letter and spirit of the statutory call for criteria. In particular, it gives unfettered discretion to agency decisionmakers as to how evaluations are to be made and used, it fails to facilitate identification of many of the most basic impacts of agency programs and it almost completely fails to address the critical question of consideration of program alternatives which are less adverse to farmland.

A. Agency discretion

First, the purported "criteria" in the proposal are far from being actual criteria in any reasonable sense of the word. This is because the breadth of discretion given federal agencies, even those with no expertise or institutional interest in farmland protec-

tion, is such that it precludes uniformity in either policy or procedure. This, in effect, defeats the purpose of having a rule.

In some ways, the proposal is quite explicit on this point. Section 658.5(b) allows, for instance, an agency to assign "any relative weighting" to the information it obtains from asking various site assessment questions under § 658.4(b). Under this provision an agency proposing to convert prime farmland would explicitly be free to consider heavily, say, the fact that a federally assisted developer had significantly invested in architectural studies (§ 658.4(b)(10)) while paying little heed to the fact that the project would render remaining farmland nonfarmable (§ 658.4(b)(2)). This result would be highly inconsistent with the purposes of the FPPA.

The proposed rule gives even more discretion implicitly than it does explicitly. It does not indicate at what point in the decisionmaking process the farmland assessment should be made. It totally fails to explain or even suggest to decisionmakers what they should do with the results of their farmland analysis. Instead, the rule simply tracks statutory language requiring the identification of adverse effects and consideration of alternatives. This does not constitute very useful guidance. Should, for instance, an indication of particularly severe impacts trigger a particularly rigorous consideration of alternatives? Should such an indication trigger a requirement that a project be reviewed by USDA and/or higher levels within the initiating agency? If less adverse alternative sites are available but rejected, should there be explicit documentation as to why they were rejected?

There are no clues as to the answers to these and other relevant questions. The rule seems to abdicate even any semblance of the uniformity and direction called for in the statute. It thus fails to provide even meaningful procedural safeguards against unnecessary conversion of prime farmland, to say nothing of its failure to suggest substantive agency policies.

B. Failure to adequately examine program impacts

Moreover, an examination of the "criteria" in § 658.4 reveals that they do not come close to fulfilling their statutory function of assisting agencies in identifying the impacts of programs on farmland conversion. First, the "land evaluation criteria" in the proposed rule (§ 658.4(a)) are designed only to assist appraisals of individual farmland parcels' "value as farmland relative to other parcels in the area," and the "site assessment criteria" (§ 658.4(b)) are designed only to assist the evaluation of "the suitability of each proposed (development) site for protection as farmland." Their focus is primarily on the site, not on the proposed development and alternative to it.

Second, LEAS scores are simply abstract numbers which are inherently relative. They have no meaning except in comparison to other LESA scores. To be sure, a properly designed LESA system could provide assistance in determining the relative value for farmland of various alternative development sites. In fact, such a comparison could be one quite useful component among criteria for deciding which alternative had the least adverse impacts.⁹

But, an abstract LESA rating cannot substitute for the direct, careful analysis of those impacts contemplated by the statute. Among some of the more basic questions which such an analysis should provide an-

swers to are: How many farms would be affected by the proposal? How much acreage? What is the productive yield? What farm income would be lost? What indirect effects on farmland conversion could the proposal have? How long would they take to materialize? Could adverse effects be mitigated without relocation? How? We do not purport to be experts in designing an exhaustive list of relevant considerations, but the rule as proposed fails to present any.¹⁰

C. Failure to examine alternatives

Given the proposed rule's choice to use an inherently relative scoring system, it is especially surprising that it fails in any sense to give guidance as to how agencies should consider program alternatives which could lessen adverse effects on farmland. Clearly the statute requires the consideration of alternatives; clearly the statute requires that the USDA-developed criteria be designed with the consideration of alternatives in mind. It is therefore a complete mystery why the proposed rule fails to even suggest, much less require, that its criteria be applied to a reasonable range of project alternatives.

We grant that a generous construction of the proposal reveals that some consideration of alternatives is implicit in the proposed LESA system. For instance, site assessment question #6 inquires as to the availability (without additional cost) of other sites less valuable for agriculture. But this is hardly adequate. If the LESA questions are to be used, the rule should be explicit in assuring that they will be used in evaluating alternative sites as well as the proposed development. Moreover, the Act specifically calls for consideration of alternative actions, not merely alternative development locations. What modifications in the design of the project, other than relocation, could be made to limit farmland conversion? The proposed rule does not contemplate such options in any way.

A related deficiency is that by failing to provide a mechanism for comparative evaluation of alternatives, the rule fails to require that agencies examine the desirability of abandoning altogether a project proposal with little value relative to its severe impacts on farmland. Such a requirement would be similar to that imposed by the National Environmental Policy Act (NEPA) under which agencies must compare the relative impacts of a proposed action with those of a "no action" alternative.¹¹ See 40 C.F.R. 1502.14(d). Here, the limited "criteria" proposed seem to assume, rather than facilitate the evaluation of, the necessity for the underlying action regardless of its impacts. This is plainly inconsistent with the statutory purpose.

It bears mentioning that on August 2, 1982 draft of the proposed rule is far preferable in its approach to establishing a framework for agency decision-making, including the consideration of alternatives.¹² It includes at least a concise "general guidance" section to accompany the criteria which outlines to some degree what an agency's examination of alternatives to farmland conversion should entail. It also explains the circumstances under which officials could determine that there are no feasible alternatives to conversion. This section should be restored.

IV. THE PROPOSED RULE LACKS BASIC FEATURES NECESSARY FOR AGENCY ACCOUNTABILITY

A. Documentation of agency actions

The proposed rule contains no requirement or even encouragement for any sort of

record-keeping, reporting or documentation of agency compliance with the FPPA. These rather simple requirements which are basic to open, democratic government, would provide a mechanism for confirmation that federal agencies have, in fact, "used the criteria" in their program evaluations as mandated under Section 1541(b) of the Act. Open decisionmaking is particularly important under the FPPA, which largely forbids judicial oversight of its implementation (see 7 U.S.C. 4209) and leaves the recourse of dissatisfied interested parties to political processes.

USDA's decision to delete a documentation provision from its earlier draft proposal is evidently based on a reluctance to place increased paperwork requirements and administrative burdens on federal agencies.¹³ We believe these concerns are unwarranted because they assume a rigid, burdensome reporting process then, in reality, the requirement could easily be structured to provide flexibility in form and content. For instance, the August 2, 1982 draft suggests that documentation of program impacts could be "contained in an environmental assessment or statement or some other review mechanism." No intrinsic feature of this provision would demand lengthy analyses or enormous investments of staff time or other resources by the affected agencies. USDA's concerns notwithstanding, documentation of agency activities is a modest proposition.¹⁴

B. Lead agency review

In connection with documentation, some mechanism for intra-governmental review of agency implementation is needed to assure compliance with the Act. This review could be made similar to that of CEQ, already required for EISs under NEPA. In his March 25, 1981 letter to the Congress, Secretary Block addressed the "need for the monitoring of [national farmland protection policies related to federal agencies] and their implementation."¹⁵ We concur with this appraisal and contend that USDA, statutorily recognized as "the agency primarily responsible" for the implementation of farmland policy (7 U.S.C. 4201(a)(6)), would be the logical agency to be responsible for such monitoring.

The proposed rule does provide "assistance" (§ 658.3(a)) and "encouragement" (§ 658.6(d)) roles for USDA. It assigns to SCS responsibility for the lesser part (§ 658.4(a)) of LESA evaluations. However, as noted above, it also gives complete decisional authority to federal agency program administrators regardless of whether they have any expertise or interest in the FPPA was enacted partly in response to federal officials' lack of knowledge about agricultural land preservation concerns. The director of the National Agricultural Lands Study, which prompted the legislation, told a Congressional subcommittee recently that "federal program managers often feel that the loss of agricultural land is not a problem or that it is the responsibility of another agency."¹⁶

The expertise issue carries quite practical ramifications. This can be illustrated by reference to question No. 11 in the site assessment criteria: "Does the farm containing the site [under consideration for conversion to a nonagricultural use] have sufficient land to be expected to continue as a farm?" Aside from the problems with the LESA system described above, providing an accurate answer to this question would require a basic understanding of farming types, agricultural economics, and various land use

planning issues. Only a few agencies in government, notably including USDA, are likely to have such expertise.¹⁷

We suggest that, at a minimum, agency documentation of FPPA implementation be routinely submitted to USDA for a 45-day review period, with comment at USDA's option. This is not very different from the provision outlined in the August 2, 1982 draft of the proposal which calls for USDA to make comments and recommendations in response to reports prepared by other federal agencies. There is nothing substantively binding or obtrusive about such a requirement. The situation arguably would be very different if USDA were granted some sort of decision-making authority or veto power over the programs administered by other agencies, but no such power need be granted to establish at least a basic level of oversight. On balance, we would expect a net savings of time and effort to accrue to federal agencies as a direct consequence of eliminating much of the guesswork on how to apply the criteria.

C. Public review

An obvious corollary to the need for intra-government review of agency farmland actions is the need for some sort of public review. It is astounding that the proposal provides absolutely no mechanism for affected farmers, consumers, or other interested parties to voice their views about a proposed project or suggest alternatives. It must be stressed again that such mechanisms are absolutely critical for FPPA implementation since, once a final decision has been made to go forward with a project, affected parties have no judicial recourse to assure that its purposes have been heeded. In a democracy, there can be no merit in a rule designed to prevent citizen participation in government.

V. EVEN FOR THE PURPOSE FOR WHICH A LESA SYSTEM CAN BE USEFUL, THE PROPOSAL IS NOT SUFFICIENTLY RIGOROUS

A. Vagueness

As noted above, we believe a well-designed LESA system can be one useful tool for comparing alternative sites. However, for this or any other purpose, the system proposed in § 658.4 is excessively vague and subjective and allows for inordinate variations among scoring decisions. For example, question No. 6 in the site assessment system assigns ten points (the maximum in a system where high numbers favor protection) to a prospective project site where "a large number of other sites less valuable for agriculture exist." Five points are assigned when "a few other" such sites exist; zero points are assigned when "no other" such sites exist. The proposed rule gives absolutely no indication of what constitutes a "large number" or a "few" alternative sites.

Other questions use such similarly undefined terms as "significant" amounts of farmland (#12) and "significant" developer investment (#10). Without defining such terms, the rule cannot possibly ensure consistency in the application of the scoring system. To the contrary, the strong likelihood is that several rational individuals attempting to apply the criteria to a given site would each arrive at different numbers on the 0-10 scale. The lack of precision which characterizes the examples is, unfortunately, typical of most of the questions set forth in the proposed system.

B. The potential to inhibit sound decisions

In addition, certain of the questions could even subvert desirable agency decisions. For

instance, under site assessment question #8, prospective development sites are scored on the basis of their proximity to urban centers. Sites distant from cities receive the most points; those adjacent to cities receive the fewest. In most cases, this would be logical. However, in some circumstances an agricultural site may be more valuable for production of farm products precisely because of its proximity to an urban center or, for that matter, because of relative scarcity of other farmland in the area (see question #'s 1 and 2). As currently drafted, the proposed criteria do not allow for these possibilities, and in such situations the sites would receive illogical low scores under § 658.4.

Some language in the proposed site assessment system is troublesome because it seems by its very terms to run counter to the goal of preserving the best agricultural land. For example, site assessment question #6 limits favorable scores to situations where project sites less valuable for agriculture are available without "significant additional cost." This tends to make farmland preservation a desirable goal only if it can be had for free, which is hardly the intention of the FPPA. An equally troubling problem with question #6 is that it makes sites more worthy of preservation if a larger number of low-cost alternative sites exist. This seems completely illogical: how many desirable alternative sites are needed for a project to be relocatable?

Site assessment question #10 is also fundamentally objectionable in that it allows the amount of planning (as opposed to actual construction) investment a prospective converter of farmland has made to affect the agency's evaluation of the site. At best this amply illustrates the "mixing" problem described immediately below—developer planning investment has nothing whatsoever to do with site characteristics. But we also believe the question would be subject to great abuse, and we doubt that it should be included among FPPA criteria at all, particularly in a numerical rating system. While we would not assert that in all cases developer planning investment is irrelevant to the suitability of a site for protection, in some cases it may be. Evaluation of it seems best left to a judgement on objective information, not on an abstract rating system.

C. Mixing different kinds of information

A third problem with the LESA system as proposed is that, by creating a single score for all relevant parameters, it prevents the separate determination and examination of quite different kinds of important decisional information. To discharge agency duties under the FPPA with regard to a particular project, a responsible official would need to know, at a minimum: (1) what the impacts of the project on farmland would be; (2) whether relocation to another site would be preferable from a farmland protection perspective; (3) whether other project modifications would be preferable from a farmland protection perspective; and (4) if relocation or modification is preferable for farmland protection, what effects it would have on agency goals. There is a certain logical sequence to this scheme in that questions (2) and (3) need not be reached if question (1) reveals that farmland impacts are nil or minimal; question (4) need be reached only if the answer to either question (2) or question (3) is affirmative.

Section 658.4 prevents the gathering and display of this essential information in its most logical form by combining all notions about sites, development projects, and alter-

native actions into a single site assessment scale. As indicated above, LESA is most useful when used in the comparative evaluation of alternative sites for agricultural use. It is not nearly so useful in examining program impacts or agency priorities. All LESA questions which do not directly relate to site characteristics (i.e., site assessment Nos. 5, 6, 7, 10, 12, 15, and 16) should be appropriately modified or, in most cases, removed from the scale and incorporated in separate criteria.

VI. NONCOMPLIANCE WITH NEPA

Finally, the proposed rule is deficient in that USDA has failed to examine the environmental impacts of the rule itself and of reasonable alternatives to it, as required by NEPA. 42 U.S.C. 4332(2)(c). There would seem to be little question but that a rule which purports to define federal criteria for consideration of the impacts of agency programs on farmland conversion constitutes a "major federal action significantly affecting the quality of the human environment," for which an environmental impact analysis is required. Moreover, it is clear that reasonable and arguably more protective alternative rules, including the August 2, 1982, draft, could have been proposed in place of this one. Rules and regulations, as well as individual actions thereunder, are subject to the NEPA process, so that an agency can examine "the big picture" as it adopts a particular program. *Jones v. Lynn*, 477 F.2d 885 (1st Cir. 1973). 40 C.F.R. 1502.4(b) 1508.18(b)(1)(3); see also S. Rep. No. 91-296, 91st Cong., 1st Sess. 210 (1969).¹⁸

VII. RECOMMENDATIONS

A. Establish meaningful criteria

The rule should adopt specific criteria which follow the statutory mandate for examination of program impacts on farmland preservation. Many examples of the kinds of criteria that would satisfy this test can be derived from the "effects on farmlands" section of the August 2, 1982 draft. For the proposed action and each reasonable alternative, agencies should assess:

The number of acres of land that would be affected.

Whether prime or unique farmland would be affected.

The existing uses of land on the site.

The extent to which the proposed program action would be compatible with state, local and private farmland preservation programs.

The number of farms that would be affected.

The production history of the site.

The prospective impacts on farmers' income.

The prospective indirect or secondary effects on farmland and when such effects could manifest themselves.

These examples do not purport to constitute a complete list of what USDA should include in the FPPA rule. Nevertheless, they are representative of the kinds of criteria that bear directly on the issue of program impacts on farmland preservation. Furthermore, they are non-technical, objective and structured for ease of comprehension and application. A workable set of criteria including those suggested above would provide a benchmark for comparisons among alternative agency actions and a starting point for choosing those alternatives that minimize the federal contribution to unnecessary and irreversible conversion of important agricultural land.

B. Incorporate direction

The final rule should make it clear that the criteria are to be applied early in the decisionmaking process, before many aspects of the project design are fixed. They should be applied to reasonable alternatives as well as to the proposed action, and less adverse alternatives should be selected where appropriate. Again, unlike the proposed rule which lacks virtually any direction to agency program managers in terms of what they should do with their analytical results, the August 2, 1982 draft provides some useful instruction. For example, the rule should include the 1982 draft's requirement that "federal agencies must first search for alternatives that do not convert farmland." (See August 2, 1982 draft, p. 7). Moreover, the rule should adopt the draft's admonition that alternatives to converting farmland shall not be rejected for study "solely on the basis of moderately increased costs associated with an undertaking." Such guidance, besides serving as a legitimate extension of the statutory mandate for consideration of alternatives, is simply good public policy.

Some language in the 1982 draft guidance needs to be strengthened to ensure consistency in the application of the FPPA rule. Specifically, the section should state: "Program actions that are supported by federal agencies shall (rather than 'ought to') help achieve national goals expressed in legislation." Furthermore, the rule must make clear that "reasonable exploration of alternative sites shall (rather than 'should') seek a location that meets development needs with the least negative impact on farmland resources."

C. Incorporate documentation and review requirements

The August 2, 1982 draft of the FPPA rule outlines a reasonable set of requirements for what agency reports should contain, how they should be distributed to other agencies and how they should be reviewed by USDA. Specifically, the initial draft suggests that agency documentation of compliance with the Act should include project definition and, for each practicable alternative action, an analysis of farmland effects. In addition, the draft recommends that the documents prepared by the agencies to fill this requirement be made available to state USDA Agricultural Lands Protection Committees. The draft establishes a 45-day period during which the USDA committees respond with the comments and recommendations to the agencies' submissions. This approach would provide an acceptable mechanism for USDA review, although there may be others.

Governmental review requirements should be supplemented by a public review mechanism. Interested individuals should have access to the federal agency FPPA documentation and opportunity to submit comments to USDA and other relevant agencies. Public access could be accomplished through appropriate local Publicity and "notice of availability" announcements in the Federal Register. Citizen comments should be included in the public record and considered in decision-making.

In addition to documentation of agency actions, we would favor a requirement for annual or other periodic reporting of agencies' overall FPPA implementation. Such reports could be addressed to USDA as the lead agency and made available for public and Congressional review.¹⁹

D. Utilize a LESA system in the limited role

As noted, we believe a LESA system can be helpful in estimating the comparative value for farmland of proposed and alternative development sites, particularly where diverse parcels (see n. 9 above) are not involved. Certainly many rural counties and municipalities have made effective use of LESA in this regard—often with beneficial farmland protection results. Therefore, an improved LESA system should be retained in the FPPA rule as one tool for agency program managers. LESA's role should, however, be restricted to comparisons among alternative sites, and it should supplement, not replace, direct analysis of the impacts of project alternatives.

We recommend that the "National Agricultural Land Evaluation and Site Assessment Handbook" be listed in the FPPA rule as the principal reference for agency LESA evaluation.²⁰ As compared to the proposed rule, the handbook affords a far more detailed treatment of site suitability along with greater precision in the definition of terms in the scoring criteria. For example, whereas the proposal's site assessment question #1 bases scoring for the amount of land in agricultural use on a highly subjective "very little-some-most" continuum,²¹ the handbook's "amount of area in agriculture" criterion assigns scores depending on actual percentages of farmland.²² This more exact quantification is desirable insofar as it would limit the amount of variation among scoring decisions. In addition, the LESA handbook's method for criteria weighting improves greatly upon the proposed rule's provision that agencies may use "any relative weighting among the criteria" desired.²³

The LESA handbook, like the proposed rule does suffer from a "mixing different kinds of information" problem (see p. 19) in that impact factors in the site assessment system are somewhat combined with site suitability components in a single analysis. For instance, a sample tabulation in the handbook (p. 602-11) includes "environmental impacts" and "impact on historical/cultural features" as two factors out of a total of sixteen considered in the site assessment. Besides failing to place impact issues on equal footing with site suitability factors, this formulation, as noted above, prevents the logical examination of very different categories of information. The LESA handbook should be amended to remedy this problem by specifying the need to keep impact and suitability parameters separate.

We feel strongly that, although LESA scores are useful for making rough suitability comparisons among different sites, such scores are not sufficiently descriptive to constitute bases for decisions in and of themselves. In other words, a low scoring site should never be judged suitable for non-agricultural conversion on the basis of the LESA analysis alone. LESA scores may be most useful in ruling out the worst conversion choices—for example, by calling attention to farmland parcels of exceptional relative value which clearly deserve preservation.²⁴

E. Issue final rule promptly

Finally, we note that although our recommendations—and, for that matter, statutory compliance—would require substantial revisions in the proposed rule, they would not require the same degree of departure from the August 2, 1982 first draft of the rule which was developed by USDA and reviewed by interested parties. We therefore do not believe that the revisions we seek should require an inordinately long time to incorpo-

rate and implement. Indeed, any further substantial delay in issuance of final criteria would be both irresponsible and illegal, since the FPPA by its explicit terms was to become fully operative on June 22, 1982, six months after enactment but now over fifteen months ago. The undersigned will be glad to provide whatever assistance we can to USDA to ensure that the final rule is issued promptly.

VIII. CONCLUSION

The proposed rule, although over a year and a half in the making, fails to satisfy the spirit or the letter of the Farmland Protection Policy Act in many respects. We therefore urge USDA to promptly issue a modified rule, as indicated above.

Respectfully submitted,

NATURAL RESOURCES
DEFENSE COUNCIL
CONSUMERS UNION
NATIONAL AUDUBON
SOCIETY
NATIONAL FARMERS UNION
NATIONAL GRANGE
NATIONAL WILDLIFE
FEDERATION

FOOTNOTES

¹ Collectively these organizations represent more than 8 million concerned citizens:

NRDC is a non-profit membership corporation with more than 43,000 members and contributors, dedicated to the preservation, enhancement, and defense of the natural resources of the United States. Through the efforts of its agriculture project, NRDC supports the maintenance and improvement of the productive capacity and soils of our nation's valuable agricultural lands.

Consumers Union is a non-profit membership organization, chartered in 1936 under the laws of the State of New York, with approximately 2.5 million members and subscribers. It provides information, education and counsel about consumer goods and services and the management of the family income, and publishes "Consumer Reports," which regularly carries articles on food, health, product safety, marketplace economics, and legislative, judicial and regulatory actions that affect consumer welfare.

With a membership of 450,000, the National Audubon Society is one of the nation's oldest and largest conservation organizations. The Society's activities include research, education and action programs to preserve wildlife and important natural areas and to protect the natural systems on which life depends.

The National Farmers Union is a national organization representing approximately 300,000 farm families dedicated to the use and conservation of our natural resources in a manner which passes these resources on undiminished to future generations.

The National Grange, representing over 425,000 individuals in 41 states, is the oldest existing farm and rural advocacy organization in America.

The National Wildlife Federation is a private, non-profit conservation-education organization with over 4 million members and supporters.

² U.S. Department of Agriculture and Council on Environmental Quality, National Agricultural Lands Study: Final report, 1981.

³ With regard to farmland conversion by federal activities, the NALS cited over 90 programs administered by 13 federal agencies.

⁴ 129 Cong. Rec. H2148 (daily ed. May 10, 1983) (remarks of Representative Brown).

⁵ Id.

⁶ The statute is limited in that it protects only "prime" or "unique" farmland or other farmland designated by local governments and USDA as of particular importance. 42 U.S.C. 4201(e). The proposed rule is similarly limited. See § 658.2(a).

⁷ For example, the expansion of export markets in the 1970's brought increased demand which, in turn, encouraged the "fencerow to fencerow" cultivation of marginal lands that had been removed from production in previous years. By early 1983, however, demand for exports had fallen and bumper harvests led to large surpluses. USDA responded with a payment-in-kind crop diversion program which idled many acres. But by late 1983, the tables were turning again as a large grain sale to

the Soviet Union, coupled with low yields due to drought, promised to bring much of the idled land back into production in 1984.

⁸ On May 11, 1983, NRDC wrote to Secretary of Agriculture John R. Block and Office of Management and Budget Director David Stockman, citing excessive regulatory delay and urging progress.

⁹ Even for this purpose, LESA may not be useful when sites for large projects having multifarm impacts, such as highways and energy corridors, are evaluated. In these cases it may be impractical to devise a single rating applicable simultaneously to many parcels of land. See, e.g., site assessment questions 3, 8, 9, 11, 13 and 14.

¹⁰ Land evaluation question (5) and site evaluation questions (12), (15) and (16) do address in a general way the impact-related notion of how much farmland would be harmed by a development proposal. These questions, however, suffer from the common LESA deficiencies: They result in ratings for the site, not for the project; they are inherently relative; and they do not call for the production of essential information about program impacts.

¹¹ National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq. (1969).

¹² This draft was circulated by USDA for review by twelve other federal agencies.

¹³ John R. Block, Secretary, U.S. Department of Agriculture to JESSE A. HELMS, Chairman, U.S. Senate Committee on Agriculture June 24, 1983, (Progress Report on Implementation of the Farmland Protection Policy Act).

¹⁴ To a large extent, such a requirement would not place any greater burden on agencies than does NEPA, which already requires that agencies document the environmental impacts of major federal actions significantly affecting the environment. It would simply require that, where farmland, as defined by the EPPA, was affected, some sort of documentation would be required regardless of whether a "major federal action" was being proposed.

¹⁵ 127 Cong. Rec. H7656 (daily ed. Oct. 22, 1981) (remarks of Representative JEFFORDS).

¹⁶ Proposed National Topsoil Preservation Act of 1983: Hearings on H.R. 19 Before the House Subcommittee on Energy and The Environment of the House Committee on Interior and Insular Affairs, 98th Cong., 1st Sess. (July 19, 1983) (statement of Robert J. Gray).

¹⁷ Where applicable, NEPA already calls for agencies to "consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved." § 102(2)(c)(v).

¹⁸

¹⁹ We also recommend periodic reporting by USDA to Congress on the implementation of the FPPA. This is especially important in light of weaknesses in the agency's June 23, 1983 statutory report, which included a failure to summarize the effects of federal programs on farmland protection as required under the statute. 7 U.S.C. 4207(l).

²⁰ U.S., Soil Conservation Service, Department of Agriculture, "National Agricultural Land Evaluation and Site Assessment Handbook," 310-VI-NLESAH, January, 1983 [hereinafter cited as "LESA Handbook"].

²¹ Proposed § 658.5(b).

²² LESA Handbook at 602-F.

²³ LESA Handbook, at 602-10-602-13.

²⁴ The LESA handbook offers some sample guidelines for decisions based upon the application of the LESA system. (LESA Handbook, p. 603). While such guidelines may be important at the local level for development siting and other planning matters, federal agencies using LESA must remember that, for FPPA purposes, the system is merely intended to supplement their required impact analyses and not to provide the principal basis for decision involving choices among program alternatives.

S. 2004

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 "Farmland Protection Policy Act Amendments of 1983".

FARMLAND PROTECTION

SEC. 2. (a) Section 1540(a) of the Farmland Protection Policy Act (7 U.S.C. 4201(a)) is amended—

(1) by inserting "and" after the semicolon at the end of clause (5); and

(2) by striking out "and" at the end of clause (6) and all that follows through the period at the end of the subsection and inserting in lieu thereof a period.

(b) Section 1541 of such Act (7 U.S.C. 4202) is amended by adding at the end thereof the following new subsections:

"(d) The Department of Agriculture and other Federal agencies shall take steps to assure that the actions of the Federal Government do not cause United States farmland to be irreversibly converted to nonagricultural uses in cases in which other national interests do not override the importance of the protection of farmland nor otherwise outweigh the benefits of maintaining farmland resources.

"(e)(1) Before taking any action, or providing any assistance, that would result in the conversion of farmland to nonagricultural uses, a department, agency, independent commission, or other unit of the Federal Government shall—

"(A) conduct public hearings, and consult with the Secretary, on such proposed action or assistance in order to ensure compliance with subsection (b); and

"(B) submit to the Secretary a statement which describes the manner in which such unit of the Federal Government complied with subsection (b) with respect to such action or assistance.

"(2) Such unit of the Federal Government shall make such statement available to the public in accordance with section 552 of title 5, United States Code, and shall use such statement in conducting any review of such action or assistance.

"(f) The Department of Agriculture shall issue such rules, conduct such reviews, and collect such information as may be necessary to carry out the purpose and policy of this subtitle."

REPORT

SEC. 3. The first sentence of section 1546 of the Farmland Protection Policy Act (7 U.S.C. 4207) is amended by inserting "and each year thereafter," after "enactment of this subtitle".

PROHIBITION

SEC. 4. Section 1548 of the Farmland Protection Policy Act (7 U.S.C. 4209) is repealed.

● Mr. LEAHY. Mr. President, I am pleased to join today with Senators JEPSEN and DIXON to introduce the Farmland Protection Policy Act Amendments of 1983.

These amendments are designed to improve and strengthen the provisions of the Farmland Protection Policy Act, which was enacted as a part of the Food and Agriculture Act of 1981.

Mr. President, the intent of the farmland protection provisions is clear—to prevent the unnecessary conversion of prime agricultural lands to nonfarm uses due to actions of the Federal Government.

The Department of Agriculture was required to implement this law 6 months after the date of its enactment or June 22, 1981.

Unfortunately, the Department of Agriculture chose to wait 2 years before finally proposing rules to enforce the law.

Mr. President, these proposed rules—even after all of this time—are deficient in two major areas.

First, Federal agencies would be allowed to comply with the act as each saw fit. The Department of Agriculture would play almost no coordinating role.

This was not the intent of the law.

Sections 1541 and 1542 of the Food and Agriculture Act of 1981 clearly indicate that the Department of Agriculture should lead the Federal effort to protect prime farmlands.

Mr. President, the legislation the distinguished Senators from Iowa and Illinois (Mr. JEPSEN and Mr. DIXON) and I are introducing today would correct this problem.

The Department would be required, through rules, reviews, and the collection of information from Federal agencies, to monitor compliance with the terms of the law.

Mr. President, the second problem with the proposed rules is that they do not create any kind of a mechanism for the Department to report to Congress on this.

Section 1546 of the Food and Agriculture Act of 1981 is quite explicit on this point.

I find it quite incredible, after re-reading this section, that the Department could determine that a reporting requirement was unnecessary.

Mr. President, our legislation would require the Department of Agriculture to produce yearly reports on their progress on implementing the Farmland Protection Policy Act.

Finally, Mr. President, our legislation adds a section to the act that will greatly improve its overall effectiveness.

The legislation would allow public participation in agency decisions affecting prime farmland. The public's views are vital to the Federal decision-making process. Their active participation in matters affecting prime farmland will be most beneficial to all concerned.

Mr. President, the American agricultural industry is one of the most productive and efficient in the world. Our farmers reap harvests which are used to feed the people of our country and needy people of other nations throughout the world.

Our prime agricultural lands form the lifeblood of this great industry. Yet once an acre of this land is lost to nonfarm uses, it is only very rarely ever returned to the farm.

The landmark national agricultural lands study estimated that the United States loses 3 million acres of prime agricultural lands per year.

Local and State governments have worked for years to reduce this loss. In fact, the town of Vernon in my home State of Vermont recently approved a spending measure to enable them to buy the development rights to prime farmland within their borders.

The town of Brattleboro, Vt., has recently completed an exhaustive study

of prime farmland in their area and is now at work on methods to protect this land.

Mr. President, it is time for the Federal Government to join this effort. During hearings of the Senate Agriculture Subcommittee on Soil and Water Conservation June 24 in Brattleboro, witnesses from Vermont, the other New England States, and New York all testified in support of such an effort. I want to again thank the distinguished chairman of that subcommittee, Mr. JEPSEN, for listening to the views of the Northeast that day.

The American Farmland Trust and other organizations have estimated that the Federal Government is responsible for between one-third and one-half of the loss of prime farmland each year.

The legislation we are introducing today will enable the Federal Government to work more effectively to reduce this loss.

I want to commend Senators JEPSEN and DIXON for the efforts they have made on this issue over the years and urge my colleagues to support this legislation.

● Mr. DIXON. Mr. President, it is estimated that we are losing our farmland at the alarming rate of 12 square miles every day. In my own State of Illinois, 100,000 acres of farmland per year are lost to nonagricultural uses. Shopping centers, subdivisions, airports, and highways contribute to this loss. Construction and other activities of the Federal Government are partly responsible.

Congress, by enacting the Farmland Protection Policy Act in 1981, recognized as a priority the need to avoid losses of prime farmland caused by actions of the Federal Government. The act requires the Department of Agriculture, in cooperation with other Federal agencies, to develop criteria for identifying the effects of Federal programs on the conversion of farmland to nonagricultural uses. The criteria will then be used to identify Federal programs that could be modified to stem the loss of prime farmland. These efforts will complement those already ongoing on the State and local government level.

This act was to be implemented by June 22, 1982, but the Department of Agriculture did not submit proposed rules for comment until this year.

The rules proposed by the Department do not reflect the intent of the law.

The legislation that my distinguished colleagues, Senator JEPSEN and Senator LEAHY, and I are introducing today will correct this situation.

The legislation would require the Secretary of Agriculture to carry out the original intent of the law.

The Secretary of Agriculture would be required to coordinate the efforts of other Federal agencies and to report to Congress annually on the progress of implementing the Farmland Protection Policy Act.

Finally, this legislation would allow the public to express its opinion and comment on the proposed actions of the Federal Government in carrying out this act.

The State of Illinois recognized the importance of agriculture to its economy when Gov. James Thompson issued Executive Order No. 4 on July 22, 1980. This order required that the State's nine capital development agencies prepare policy statements on how they would consider farmland in their development projects and how they would mitigate adverse impacts of proposed projects on farmland. The Governor designated the Illinois Department of Agriculture as the agency responsible for implementing the policy contained in the executive order. On August 19, 1982, the Governor signed Public Act 82-945, "Farmland Preservation Act," into law. The act codified the terms of the executive order in the Illinois Revised Statutes.

Mr. President, the Federal Government should support States such as Illinois in their effort to protect farmland. This effort requires cooperation at all levels of government. It is important that Federal agencies regulate their activities to insure that local and State programs to protect farmland are not negated by actions of the Federal Government.

The legislation that Senator JEPSSEN, Senator LEAHY, and I are introducing provides for the Federal Government to become a full partner with State and local efforts in protecting America's most valued resource.●

By Mr. HELMS:

S. 2005. A bill to expand markets for U.S. agricultural products through increased targeting of Commodity Credit Corporation export funds, expand exports of Commodity Credit Corporation dairy products, and expanded authority for the use of Commodity Credit Corporation stocks to facilitate export sales, to emphasize the need for increased exports of processed and protein fortified agricultural products, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL EXPORT TRADE EQUITY ACT OF 1983

● Mr. HELMS. Mr. President, today I am introducing legislation which will strengthen the hand of the United States in dealing with the foreign export subsidies that are taking markets away from American farmers. This legislation is supported by a broad range of agricultural trade organizations, and I urge my colleagues to adopt it.

Specifically, the bill has four parts. First, it would target the existing Helms amendment funds to export assistance for those commodities and products that have been adversely affected by foreign export subsidies. It would provide for the shipment of 100,000 tons of dairy products in fiscal years 1984 and 1985. It would specifically authorize an export payment-in-kind program, and it would encourage the use of processed, value-added products in Public Law 480.

These actions will use existing funds and surplus dairy products to counter unfair foreign export subsidies. This is a cost-effective way of helping our farmers by expanding exports and restoring a free and fair world market.

USDA analysts estimate that subsidies of the European Economic Community alone have cost the United States \$5 to \$6 billion a year in exports since 1980. If conditions do not change, the loss could be up to \$8 billion by 1987. Such losses are unfair and unjustified, and American farmers should not have to bear this burden.

This new bill is a slimmed down version of S. 822, the Agricultural Export Equity and Market Expansion Act of 1983, which was adopted by the Agricultural Committee with strong bipartisan support this spring. S. 822 contains several controversial provisions and due to the press of Senate business, it has not been possible for the full Senate to consider the measure. In an effort to expedite consideration, this version deletes or modifies the most controversial provisions while retaining several important features of S. 822. I believe it is a compromise which the full Senate should support.

Farm export programs simply must be cost effective, in my judgment, and this legislation clearly meets that test. There are no costs to the Federal Government resulting from this bill—in fact, it should produce savings to the taxpayer. Dairy sales and export PIK dairy exports which result from this provision will cut storage costs and bring in revenues to help reduce the Federal deficit.

I am pleased by the broad support this legislation has received from farm, agribusiness, and trade organizations. The following organizations have expressed support for this amendment:

Corn Refiners Association.
Dairymen, Inc.
Millers National Federation.
National Association of Wheat Growers.
National Broiler Council.
National Council of Farmer Cooperatives.
National Grange.
National Milk Producers Federation.
National Pasta Association.
Rice Millers Federation.
The Fertilizer Institute.
United Egg Producers.

The members of the Agriculture Committee should be commended for their bipartisan effort in developing S.

822. That legislation—and this new version which is derived from it—are designed to strengthen our economy through expanded trade and respond to the unfair practices of other countries.

This legislation will provide for the specific targeting of funds for export assistance provided in current law. I will discuss this in more detail in just a moment, but it is important to note that this provision will use existing funds. It will not require new expenditures.

In addition, the dairy export provision has been modified from S. 822 in an effort to compromise. The total amount of required shipments has been reduced to 100,000 tons from 150,000 tons. Beyond that, the legislation is drafted so that USDA will have additional flexibility in determining how the export shipments are made, either as direct sales or in an export PIK.

Special credit should go to Senator HUDDLESTON and Senator COCHRAN for being the first Senators to propose export PIK legislation last fall. Specific authority for an export PIK was unanimously adopted by the Agriculture Committee this spring, and a slightly modified version is included in this legislation.

Under this bill, the Secretary of Agriculture would be specifically authorized to provide commodities or products acquired by the Commodity Credit Corporation to U.S. exporters and users and foreign purchasers to encourage the development, maintenance, and expansion of markets for U.S. agricultural commodities and products. The commodities that could be made available include wheat, feed grains, upland cotton, rice, milk and their products, and any other agricultural commodities or products acquired by the Commodity Credit Corporation. These commodities or products would be provided at no cost.

Providing CCC agricultural commodities could serve to reduce the overall cost of U.S. commodities to foreign purchasers and thereby increase the competitiveness of U.S. products. An example of such use would be to provide commodities to offset the use of export subsidies by competing exporting nations.

While the bill calls for the Secretary to take positive steps to improve exports of U.S. commodities, it also includes certain safeguards. The bill provides that the program is to be carried out in a manner that gives equal treatment to domestic users of the U.S. agricultural commodity. The example, in the case of cotton, this would be the processor, manufacturer, or other user who opens the bale of raw cotton. With domestic users now adversely affected by imports of cotton products, any action taken by the Secretary

under this provision with respect to exports is to be accompanied by comparable action for domestic users. Nothing in the bill would return us to a two-price cotton system.

Other safeguards include the requirement that Commodity Credit Corporation stocks of agricultural commodities and products that are provided under this authority must be used in such a manner as to encourage increased use either in the United States or in a foreign country and to avoid displacing usual marketings of U.S. agricultural commodities or products.

In addition, the Secretary is required to take reasonable care to prevent the resale or transshipment to other nations of the agricultural commodities and products provided under this program and to prevent the use for other than domestic use in the destination country of such commodities and products.

If a program is carried out, the Secretary is directed to provide all interested foreign purchasers an opportunity to participate. However, priority is to be given to those foreign purchasers who have been traditional buyers of U.S. agricultural commodities and products, and who continue to purchase such commodities and products on an annual basis in quantities larger than the level of purchases over a previous representative period.

In order to encourage increased consumption and storage of U.S. agricultural commodities and products in foreign nations, the bill authorizes the Secretary to provide supplemental amounts of CCC commodities and products to foreign purchasers who use the proceeds from the sale of such commodities or products for the construction or rehabilitation of facilities in the importing country to improve the importing country's capability to handle, market, process, store, or distribute U.S. agricultural commodities or products. This provision will assist in improving long-term markets for U.S. commodities and products. The development of an improved infrastructure of ports, roads, and other facilities should encourage more efficient and increased utilization of U.S. products in importing countries.

The version of export PIK which I am proposing will specifically name milk products as one of the surplus commodities which could be used. For example, through this authority, surplus dairy products can be offered to countries which purchase U.S. poultry and eggs. Such action would cut back our costly and burdensome dairy surplus, and at the same time benefit our hard-pressed poultry industry. For that matter, I encourage the Department of Agriculture to implement such a program through existing authority as soon as possible.

This legislation also makes special emphasis on the export of value-added, high value products. There are many benefits to the American economy resulting from the export of such products. Each \$1 billion in sales of these products generates from 35,000 to 45,000 private sector jobs in related industries.

The bill will encourage the use of processed, value-added products in the Public Law 480 program. Processed milk and products fortified with plant protein are named as specific examples.

The Economic Research Service at USDA recently published a report entitled "High-Value Agricultural Exports: U.S. Opportunities in the 1980's." This excellent report emphasizes the importance of such exports. It also makes the point that the European Community has dominated trade in high-value products due to their aggressive export promotion and export subsidies.

Freedom and fairness in trade have been the hallmarks of U.S. trade policy. While it is not likely that there will ever be a completely free trading system in the world, it is realistic to expect free trade to be a guiding principle for all nations.

Today, U.S. agriculture is organized to operate in this kind of environment, and U.S. farmers have met the challenge to produce for the world marketplace. The consensus in U.S. agricultural policy is that this is not only best for those who benefit from plentiful quantities of high quality food at competitive prices, it is also best for the American people.

In recent years this free and market-oriented trading system has come under assault by those who would destroy it through the use of predatory agricultural export subsidies.

The policy initiatives provided for in this legislation will bring a measure of equity to the world agricultural trading system for U.S. farmers. It is designed to enhance U.S. agricultural exports within the framework of the international agreements our country has entered into, and it is designed to induce those nations which employ predatory subsidies to stop using them.

Our Government has taken every other action at its disposal without effective results. Utilization of some of the same kinds of measures—now being used by many competitor nations—by the United States is the only hope we now have for bringing such nations to the bargaining table so that comity and fairness might be restored to the world trading system.

U.S. AGRICULTURAL EXPORTS DECLINE

Over the past decade, the United States has been the world's largest exporter of agricultural products and commodities, now supplying 80 percent of the soybeans, 60 percent of the

feed grains, 40 percent of the wheat and cotton, and 20 percent of the tobacco and rice moving in world trade.

The value of these exports increased from approximately \$7 billion in 1970 to \$43.8 billion in fiscal year 1981, and the volume has more than doubled in that same period. These exports create more than half a million domestic jobs in related industries, and take the production of 2 out of every 5 acres of cropland. They generate about one-fourth of all farmer's cash receipts, and contribute about \$20 billion to our favorable balance of trade.

Despite the many benefits of international trade in farm products to the United States, agricultural exports in fiscal year 1982 was \$39.1 billion, a decline of almost \$5 billion from the 1981 level. This represents the first year-to-year decline in the value of farm exports in more than a decade. The Department of Agriculture is projecting a further decline in the current year to \$34.5 billion—down 12 percent from 1982 and 21 percent below 1981.

There are a number of reasons for the decline of U.S. agricultural exports. The world recession, weak foreign currencies and massive debt of many potential importers, the residual effect of the grain embargo imposed by President Carter in 1980, and very favorable weather conditions worldwide are all causal factors. These are exacerbated by record production and large surpluses, which combine to provide less than normal incentive for importing nations to secure reserves of foodstuffs.

However, in addition to these geopolitical and economic factors, the use of export subsidies by a growing number of competitor nations has become one of the principal causal elements in this decline in U.S. agricultural exports.

The continued application of massive export subsidies by our trading partners and competitors will severely dislocate U.S. agriculture. If these activities continue unchecked, the principal result could be a permanent reduction in the agricultural production base of the United States. Such a situation is unacceptable, and negotiations should proceed forthwith to eliminate the use of such massive, direct agricultural export subsidies as are employed by the European Economic Community and some other nations.

In short, the United States is losing vital agricultural trade, not only because of slack demand, but because of unfair competition from massive foreign export subsidies.

FOREIGN EXPORT SUBSIDIES

Much of the erosion of U.S. agricultural markets overseas is the result of predatory export policies employed by competitor nations. These nations, such as the members of the European Economic Community (EEC) and Brazil, are using massive export subsi-

dies to move their surpluses into world markets, which displace sales from the United States and other competitive export nations.

EUROPEAN ECONOMIC COMMUNITY EXPORT SUBSIDIES

Under the EEC's Common Agricultural Policy (CAP), the EEC pays an exporter the difference between the high internal price and the lower world market price for agricultural commodities and products. Expenditures for the CAP have risen 15 to 20 percent annually from 1977 to 1982.

The EEC's aggressive use of export programs to dispose of surplus stocks generated by their high internal support prices has made the Community a major contender for world markets.

European farm spokesmen relate that their intent is merely to be self-sufficient in the production of basic commodities. However, the facts demonstrate that their policy has gone significantly beyond that. EEC soft wheat prices, for example, are not only significantly above world prices, they have stimulated production as much as 20 percent above self-sufficiency.

The combined budget for domestic and export subsidies for the EEC was \$30 billion in 1982. Of course, the amount of subsidy fluctuates from year to year, depending on world economic conditions. But, the fact is that the existence of subsidies at all makes a vital difference as to which nation makes a sale.

EEC farm exports must be subsidized to be sold outside the Community. Recently, EEC butter prices were 53-percent higher than the world market, wheat prices were 38 percent higher.

EEC exports to countries outside the Community have more than doubled in the past 5 years.

The EEC's 1982 exports of over \$80 billion in farm products to all sources will continue two decades of uninterrupted gains in their farm exports.

EEC exports of close to \$30 billion to non-EEC member countries in 1982 will be approximately three-fourths of the entire U.S. export level.

This dramatic growth is closely correlated with increases in export subsidies. In 1976, the EEC exported \$12 billion of agricultural commodities to non-EEC members, using approximately \$2 billion in direct export subsidies. In 1982, the EEC exported nearly \$30 billion of agricultural commodities to non-EEC members using nearly \$8 billion in direct export subsidies.

Of course, there will be times when any commodity such as wheat is in surplus. The United States has acted responsibly in such times by initiating policies to reduce production and by massive storage programs. The EEC, however, has been unwilling to share the burden of supply management.

Indeed, their response to surpluses has been to encourage still more production by raising domestic prices and increasing the export subsidy interventions.

The consequences of all this is that the United States has carried the world's wheat inventory, while the EEC has not made a substantial effort to hold their large surpluses. This means that the cost of carrying these world stocks—and consequently much of the costs of the EEC common agricultural policy as it is now being operated—is borne by U.S. farmers and U.S. taxpayers.

The European policies of artificially high internal prices and export subsidies—rather than the storage of surpluses and supply management programs such as those employed by the United States—has produced a world market situation that is damaging to the world trading system and to the U.S. economy.

BRAZILIAN SOYBEAN EXPORTS

Brazilian soybean exports are another case in point. Brazil has used a complex combination of tax incentives, subsidized financing, price controls, quotas, export rebates, and credits, restitutions to crushers and processors, and income tax exemptions to build an industry that now dominates the world soybean oil market.

During the period 1973-81, the U.S. soybean industry lost a significant world share of the crush volume and exports of meal and oil with the following results:

U.S. share of world soybean meal exports declined from 78 percent to 39 percent.

U.S. share of soybean oil exports declined from 64 percent to 24 percent.

U.S. crushing margins, as indicated by USDA's weekly calculation of central Illinois spot margins, declined from 72 cents to 23 cents per bushel.

Utilization of U.S. plant capacity declined from 83 to 71 percent.

U.S. stocks of soybean oil rose to 700,087 metric tons, equal to 106 percent of total exports for the year.

These disastrous trends, are the product of extensive subsidies, particularly in Brazil, compounded by U.S. export embargoes in 1973, 1974, 1975, and 1980.

In 1973-74, the world soybean meal market was 6.4 billion tons. The United States supplied 78 percent, or 5 million metric tons, and Brazil supplied the remaining 22 percent, or 1.4 million metric tons.

By 1980-81, the world market had grown to 15.5 million metric tons. U.S. volume increased to 6.1 million metric tons, but our market share dropped to 39 percent. Over this same period, Brazil increased its market share to 55 percent, exporting 8.6 million metric tons.

In soybean oil, Brazil was not a supplier in 1973-74. The United States

had 64 percent of the world market, the EEC had 27 percent, and all others had 9 percent. But by 1980-81, Brazil had jumped to 45 percent of the world soybean oil market. The U.S. share had declined to 24 percent, while the EEC's share had fallen to 14 percent.

The Brazilian soybean industry enjoys the full support of its Government's treasury and is rapidly forcing all other suppliers out of the world market. For example, earnings from soybean oil exports are exempt from income tax in Brazil.

POULTRY

The situation facing the U.S. poultry industry is another case in point. U.S. poultry exports declined in 1982 by one-third in value compared to the previous year.

Exports of whole broilers dropped 75 percent in 1982, from \$163 million to just \$41.5 million. Export sales of all poultry and poultry products for the period amounted to \$478 million, down from \$710 million during the same period in 1981.

Most observers attribute the rapidly expanding use of export subsidies by the European Economic Community and Brazil as the major reason for this precipitous decline.

Sale of U.S. broilers are not being displaced because of quality considerations, and they are not being displaced on the basis of production costs. Both these factors tend to work in favor of the United States. Rather, these markets are lost for this product because of the Government financed subsidies employed by competitor nations.

In the EEC, poultry subsidies equal about \$195 per metric ton for broilers, which is about 9 cents per pound. Direct subsidy payments to EEC broiler exporters in 1981 totaled nearly \$41 million, while whole chicken exports from the EEC to non-EEC nations totaled \$371 million. EEC egg exporters received an increase in their export subsidy—to 11 cents per dozen.

The subsidy paid to Brazilian poultry exporters for 1981 is estimated at \$37 million, while poultry exports reached a value of \$354 million.

The Middle East nations of Egypt and Iraq have historically trailed only Japan as the principal importers of U.S. poultry. But, as a result of these Brazilian and EEC subsidies, the U.S. share of the \$650 million Middle Eastern broiler market plunged to less than 1 percent in 1982, while the EEC and Brazilian shares have climbed to 49 percent and 39 percent, respectively.

Competition from EEC and Brazilian poultry exports is likely to increase in the months ahead. French production of broilers is expected to grow by 10 percent a year while domestic consumption is expected to increase by only 3 percent. In 1981,

broiler consumption in Brazil rose by 12 percent, while consumption increased just 2 percent.

In fact the Brazilian poultry industry has expanded so rapidly that it now trails only the United States in total broiler output. Production has risen more than sixfold since 1971 to 1.5 million metric tons in 1982. Broiler exports have quadrupled from 81,000 tons in 1979 to 330,000 tons in 1982. Brazilian broiler exports have gone from 3 percent of domestic production in 1976 to 20 percent in 1982.

Foreign export subsidies work against U.S. exporters in two ways. EEC and Brazilian exports receive a significant competitive advantage in the price-sensitive Middle East market.

At the same time, these subsidies encourage excess production in the EEC and Brazilian export sectors. This surplus output has saturated the Middle Eastern market with whole broilers and eggs, thus lowering prices to levels which U.S. producers cannot meet.

The present decline in U.S. poultry exports is a cause for concern from several points of view. On the basis of pure economic competition, it would appear that U.S. poultry exporters should be dominant and that exports should be increasing.

Certainly, no other country has better production efficiency or technology. Furthermore, the EEC—the largest U.S. competitor—is heavily dependent on feed imports, while the United States is self-sufficient.

Also, the U.S. poultry industry has made strenuous efforts to service export markets. Many U.S. companies have become export-oriented, meeting special requirements such as Arabic labeling and Islamic slaughter specifications.

Moreover, the American poultry industry has come to depend on exports. In 1981, U.S. poultry export brought in \$770 million, with the volume of broiler exports accounting for 6 percent of U.S. production.

But U.S. poultry producers have been preempted from gaining a significant share of the Middle Eastern market and now have virtually lost those few customers they had in the area.

In the future, other U.S. export markets—such as those that import primarily chicken and turkey parts—may be significantly eroded. And this situation has developed, not primarily from economic advantage and free competition, but because of the subsidy policies of foreign governments.

RESPONSE OF THE UNITED STATES

Policymakers in the United States have not sat idly by in the face of the problems confronting agricultural trade and exports.

First, Congress and the Secretary of Agriculture have adjusted U.S. domestic farm policies and programs to oper-

ate within market forces of supply and demand—even when it has been costly in terms of Treasury outlays and reduced farm income. This has been done in the face of exactly the opposite policy adjustments by those nations utilizing agricultural export subsidies.

Second, Members of Congress and the administration have been active in multilateral negotiations in an effort to bring an end to predatory trading practices by those nations employing them.

POLICY ADJUSTMENTS

U.S. farmers have demonstrated their willingness to take responsible, strong, and effective steps to resolve the problem of oversupply. They have rejected the notion that we can solve our problems by dumping our surpluses on the world market. They have been willing to participate in acreage reduction programs instead.

In 1982, 48 percent of the wheat acres and 29 percent of the corn acres in the United States were in compliance with the Government's acreage reduction program. More than 77 percent of the rice and cotton base acreage was in compliance. However, in spite of the reduction in acreage in 1982, very favorable weather conditions caused actual wheat and coarse grain production to increase by 1 percent.

Because of this unanticipated oversupply, an effort to induce even greater participation in the crop reduction programs for the 1983 crops was undertaken by Congress—this time even to include advance payments for participation. These acreage diversions and prepaid deficiency payments will cost the taxpayers \$2.4 billion in 1983.

In addition, Congress has provided for massive storage programs to hold the surpluses. The farmer-owned grain reserve, for example, holds millions of tons of wheat and corn in the United States. For fiscal years 1982 and 1983, the cost of the reserve programs is estimated to be \$10 billion.

The Secretary of Agriculture has made use of a host of authorities at his disposal to employ every available means to stop the piling up of these kinds of surpluses and to begin reducing the stocks we now have.

The supply control programs in the United States for 1983 crops provide an example of a massive effort by the United States to control surplus production. For 1983, farmers signed up to idle 82 million acres—a record amount—through the acreage reduction, payment-in-kind, and land diversion programs offered by USDA.

In short, the United States has taken a large number of responsible and costly steps to address the surplus problem.

There is an increasing consensus in the United States, however, that competitor nations have not acted respon-

sibly in the face of the worldwide glut of these crops. Harvested acreage for wheat and feed grains is estimated to have increased 3 percent in Canada and 8 percent in Argentina in 1982. Although the harvested area in the EEC is estimated to have increased by only one-half of 1 percent, the fact that there was any increase at all indicates an unwillingness to restrain production.

The United States has demonstrated that it is possible for farm policies to operate in a way that does not mitigate against the world trading system and against free and fair trade.

However, it is unacceptable for the United States to continue to reduce its agricultural production base because of the application of growing and unrelenting export subsidies by competitor nations. That would mean the elimination of thousands of U.S. farms and a tremendous reduction of our gross national product and the elimination of many thousands of jobs in related industries.

U.S. INITIATIVES TO RESTORE EQUITY TO THE WORLD AGRICULTURAL TRADE STRUCTURE

The United States and other nations have been seeking to end the predatory trade practices being employed by competitor nations trading in world markets. Negotiations and discussions have been underway for several years on these trade matters.

Members of the Committee on Agriculture, Nutrition, and Forestry have held numerous discussions with representatives of the EEC and hearings on various related topics.

In 1982, during committee consideration of agricultural programs in the budget reconciliation process, I offered an amendment directing that \$175 to \$190 million of Commodity Credit Corporation funds be used to counter the price and credit subsidies of other countries. That amendment was adopted by the committee and approved by the full Senate.

In conference with the House of Representatives, this language was revised to provide the \$175 to \$190 million for export activities of the CCC in general. President Reagan signed the Omnibus Budget Reconciliation Act of 1982 on September 8, 1982.

On October 20, 1982, Secretary of Agriculture John Block announced a "blended credit" program for financing U.S. agricultural exports. The program used \$100 million of the Helms amendment funds as interest-free direct credits, which were blended with \$400 million of CCC credit guarantees of private lender financing at market interest rates. The total package provides interest rates at levels competitive with subsidizing countries, so as to encourage potential purchasers to buy U.S. products.

The blended credit program has proven highly successful. By the end

of 1982, all of the funds had been allocated to eight countries to finance the purchase of 2.5 million tons of U.S. corn, wheat, soybean meal, vegetable oil, and cotton.

As part of the agricultural appropriations bill for fiscal year 1983, Congress appropriated not more than \$500 million to be used for CCC direct export credits.

On January 11, 1983, President Reagan announced the use of an additional \$250 million in interest-free direct credits to be blended with credit guarantees to finance at least \$1.25 billion in blended credit export sales. In total, blended credit has financed the sale of more than 7 million tons of U.S. commodities.

In addition, on January 17, 1983, Egypt signed an agreement with the United States to buy 1 million metric tons of U.S. wheat flour over the next 12 to 14 months. USDA is providing enough CCC-owned wheat to enable U.S. suppliers to sell and deliver wheat flour at the agreed-upon price of \$155 per metric ton. Credit guarantees will also be used. This action will utilize surplus U.S. wheat and replace subsidized French wheat flour sales to Egypt.

Beyond that, USDA announced in early August a sale of 28,000 tons of surplus dairy products to Egypt.

Apart from these targeted actions, the United States has continually sought to end unfair foreign trade practices through the prescribed procedures of international law, and specifically through the processes provided for under the General Agreement on Tariffs and Trade.

The General Agreement of Tariffs and Trade (GATT), a multilateral treaty with 88 signatory nations, including the United States and the 10 member nations of the EEC, establishes recognized guidelines for fair trade and disputes settlement procedures among nations engaged in international trade. The GATT first went into effect in 1948. In addition to the signatory nations, the GATT is presently applied on a de facto basis to 30 other countries.

Periodically under the GATT mechanism, the trade ministers of the signatory nations convene in multilateral sessions. The most recent ministerial meeting occurred in Geneva in November 1982. This was the first such meeting in almost 10 years, and unfortunately, it did not produce the much-needed progress sought by the United States as necessary to end predatory export practices.

I and other Members of Congress participating in the ministerial conference expressed in great detail to other nations participating, the concerns of U.S. agriculture and the need to begin a work program designed to end predatory export subsidies. These U.S. efforts to negotiate solutions to serious

trade problems were publicly rebuffed by the members of the EEC. This occurred despite the fact that the EEC policies are very costly to several of the EEC member states. Instead of agreeing to a work program, a very general communique was adopted at the conclusion of the meeting, and even that was repudiated by Sir Roy Denman, head of the EEC.

The Committee on Agriculture, Nutrition, and Forestry conducted a hearing in December 1982 to hear the reports from the GATT Ministerial and to assess the outcome. Several members stated that, if export-subsidizing nations were unwilling to change their unfair practices, then the United States has no choice but to stand up for American interests in a more forceful way. The same sentiment was expressed by farm organization representatives in hearings this spring.

That brings us to where we are today. We must respond, yet in a way that is reasonable and responsible. This legislation will respond to the unfair trade practices which other countries are employing in a way which benefits American farmers, expands trade to strengthen the U.S. economy, and saves money for the taxpayers of the United States. I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill, a letter from Dr. Wayne Boutwell, president of the National Council of Farmer Cooperatives, a section-by-section analysis, and a short summary of my legislation be printed in the RECORD.

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

S. 2005

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 "Agricultural Export Trade Equity Act of 1983".

AGRICULTURAL EXPORT PROMOTION

SEC. 2. Section 135 of the Omnibus Budget Reconciliation Act of 1982 (7 U.S.C. 612c note) is amended by adding at the end thereof the following: "Notwithstanding the foregoing provisions, effective for each of the fiscal years ending September 30, 1984 and September 30, 1985, the funds specified in this section shall be used by the Secretary of Agriculture for export assistance only in connection with agricultural commodities and products thereof that have been adversely affected, as determined by the Secretary, by price or credit subsidies used by other countries on their agricultural exports."

DAIRY PRODUCT EXPORTS

SEC. 3. The Secretary of Agriculture shall export not less than one hundred thousand metric tons of dairy products owned by the Commodity Credit Corporation in each of the fiscal years ending September 30, 1984 and September 30, 1985: *Provided*, That to the extent the Secretary carries out this provision through sales of dairy products, such sales shall be made at such prices as the Secretary determines appropriate but

not less than the minimum prices applicable under the International Dairy Arrangement: *And provided further*, That the level of exports required under this provision shall be in addition to any donations of dairy products made under the provisions of section 416 of the Agricultural Act of 1949 and the Agricultural Trade Development and Assistance Act of 1954. Such exports shall be made through the Commodity Credit Corporation under such authority as is vested in the Secretary or the Commodity Credit Corporation under law. The Secretary shall report semiannually, through September 30, 1985, to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture on the volume of exports made under this section.

EXPANSION OF MARKETS FOR UNITED STATES AGRICULTURAL COMMODITIES AND PRODUCTS

SEC. 4. (a) Notwithstanding any other provision of law, the Secretary of Agriculture may formulate and carry out a program under which agricultural commodities, including but not limited to wheat, feed grains, upland cotton, rice, and milk, and products thereof acquired through price support operations by the Commodity Credit Corporation are provided to United States exporters and users and foreign purchasers at no cost to encourage the development, maintenance, and expansion of export markets for United States agricultural commodities and products thereof, including value-added or high-value agricultural products produced in the United States.

(b) In carrying out the program authorized by this section, the Secretary of Agriculture—

(1) shall take such action as may be necessary to ensure that the program provides equal treatment to domestic and foreign purchasers and users of United States agricultural commodities and products thereof in any case in which the importation of a manufactured product made, in whole or in part, from a commodity or product thereof made available for export under this section would place domestic users of the commodity or product thereof at a competitive disadvantage;

(2) shall, to the extent that agricultural commodities and products thereof are to be provided to foreign purchasers during any fiscal year, consider for participation all interested foreign purchasers, giving priority to those who have traditionally purchased United States agricultural commodities and products thereof and who continue to purchase such commodities and products thereof on an annual basis in quantities greater than the level of purchases in a previous representative period;

(3) shall ensure, insofar as possible, that any use of agricultural commodities or products thereof made available under this section by made in such manner as to encourage increased use and avoid displacing usual marketings of United States agricultural commodities and products thereof; and

(4) shall take reasonable precautions to prevent the resale or transshipment to other countries, or use for other than domestic use in the importing country, of agricultural commodities or products thereof made available under this section.

(c) If a foreign purchaser sells in the importing country agricultural commodities or products thereof received from the Secretary of Agriculture, under the authority of this section, and uses the receipts from the

sale of such commodities or products thereof for the construction or rehabilitation of facilities in the importing country to improve the handling, marketing, storage, or distribution of United States agricultural commodities or products thereof in such importing country, such purchaser shall be eligible to receive supplemental distributions of agricultural commodities or products thereof under this section. Supplemental distributions under this section shall be made with such commodities or products thereof, at such intervals, and in such amounts as the Secretary determines appropriate taking into account the extent to which facility improvements have been made, the capability of the importing country to distribute or otherwise use additional commodities or products thereof, and such other factors as determined appropriate by the Secretary that are consistent with the purposes of this section.

(d) The Secretary of Agriculture shall carry out the program authorized by this section through the Commodity Credit Corporation.

(e) The Secretary of Agriculture may issue such regulations as the Secretary deems necessary to carry out this section.

(f) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture or the Commodity Credit Corporation under any other provision of law.

**VALUE-ADDED, PROCESSED, AND PROTEIN
FORTIFIED PRODUCTS**

SEC. 5. (a) Section 201 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721) is amended by adding at the end thereof the following new subsection:

"(c) In distributing agricultural commodities under this title, the President shall consider the nutritional assistance to recipients and benefits to the United States that would result from distributing such commodities in the form of processed and protein-fortified products, including processed milk and plant protein products, and shall take all feasible steps to ensure that an appropriate portion of such commodities distributed each fiscal year be in the form of processed and protein-fortified products. In selecting commodities for distribution under this title, the President shall also consider the nutritional needs of the proposed recipients of the commodities and the purposes of this title."

(b) Subclause (B) of section 1207(a)(5) of the Agriculture and Food Act of 1981 (7 U.S.C. 1736m(a)(5)(B)) is amended to read as follows: "(B) funding an export market development program for value-added farm products and processed foods at a greater funding level than that provided during fiscal year 1983; and".

**NATIONAL COUNCIL
OF FARMER COOPERATIVES,**

Washington, D.C., September 29, 1983.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: We in the agricultural sector continue to face a major challenge in the area of expanding exports. As you are well aware, the gross value of U.S. agricultural exports fell from \$43.5 billion in 1981 to \$39.5 billion in 1982. The U.S. Department of Agriculture is currently projecting that the decline will continue in 1983 with the gross value of U.S. agricultural exports expected to reach only \$34.5 billion. Mr. Chairman, this decline can be attributed to

a number of factors: the worldwide recession, the strength of the dollar, debt burdens faced by many of our foreign customers, and the continued use of unfair trade practices by many of our competitors in the world market.

On behalf of the National Council of Farmer Cooperatives, I want to thank you and the other members of the Senate Agriculture Committee for taking leadership in this area of expanding U.S. agricultural exports. Earlier this year, the Senate Agriculture Committee made this issue a major priority. However, as the year progressed, other issues such as the implementation of the "PIK" program, and target price freeze proposals dominated the Committee's agenda.

I strongly encourage you and the other members of the Senate Agriculture Committee to once again move the issue of agricultural trade to the forefront of your legislative agenda. It is vitally important that the Congress adopt legislation which will help to put the agricultural export sector on the road to recovery. Expanding agricultural exports not only benefits producers, but also benefits the entire economy in the form of creating new jobs and stimulating additional economic activity.

Specifically, I urge the Committee to adopt legislation which would:

(1) Authorize the Secretary of Agriculture to administer export "PIK" programs;

(2) Specify that the \$175-190 million, made available through the Omnibus Budget Reconciliation Act of 1982 for the purpose of expanding agricultural exports, be used for those commodities or products which have been adversely impacted through the use of unfair trade practices on the part of our foreign competitors;

(3) Require the Secretary of Agriculture to export surplus dairy products. The amount to be exported under this provision should take into account the projected world demand for dairy products over the next two years; and

(4) Strongly encourage the Secretary of Agriculture to consider the nutritional assistance to recipients and benefits to the U.S. that would result from distribution of additional value added products through the Public Law 480 program.

In addition, I have attached a list of agricultural organizations which have endorsed this four point proposal.

Again, Mr. Chairman, on behalf of the National Council of Farmer Cooperatives, I want to thank you for the leadership you have provided in the area of agricultural trade and encourage you to take action on the agricultural trade proposal outlined above.

Sincerely,

WAYNE A. BOUTWELL.

Dairymen, Inc.
Corn Refiners Association.
Millers National Federation.
National Association of Wheat Growers.
National Brouler Council.
National Council of Farmer Cooperatives.
National Grange.
National Milk Producers Association.
National Pasta Association.
Rice Millers Federation.
The Fertilizer Institute.
United Egg Producers.

SUMMARY OF MAJOR PROVISIONS

Agricultural export promotion. For fiscal years 1984 and 1985, requires that the export promotion funds provided for in section 135 of the Omnibus Budget Reconcilia-

tion Act of 1982 (Helms amendment funds) be used only for agricultural commodities that have been adversely affected by price and credit subsidies on exports of other countries.

Dairy product exports. During each of the fiscal years 1984 and 1985, requires the Secretary to export at least 100,000 metric tons of CCC dairy products by sale or otherwise, except that any sales must be at prices above the International Dairy Arrangement minimums and the required level of exports must be in addition to any donations for U.S. foreign assistance under P.L. 480 or other assistance programs.

Export payment-in-kind program. Authorizes the Secretary to establish and carry out an export PIK program using surplus CCC agricultural commodities and products thereof, including among others wheat, feed grains, upland cotton, rice, and dairy. The other provisions of this export PIK program provide for: Domestic users to receive equal treatment relative to foreign purchasers and users in cases where the domestic users would otherwise be disadvantaged; all interested foreign purchasers to be considered for participation, with priority to be given to those that traditionally purchased U.S. agricultural commodities; the CCC commodities to be used to encourage increased sales and avoid displacing usual marketings of the United States; reasonable precautions to be taken to prevent resale or transshipment of the commodities to other countries; and supplemental distributions of commodities to foreign purchasers who use proceeds from the sale of the commodities within the importing country to construct or improve the marketing, storage, or distribution capacity in the importing country.

Value-added, processed, and protein fortified products. Requires the President to consider nutritional assistance to recipients and benefits to the United States of providing processed and protein fortified products, including processed milk and plant protein products, under P.L. 480, and to take all feasible steps to ensure that an appropriate portion of the products so distributed are processed and protein fortified products. Also, expresses the sense of Congress that the Secretary fund export market development programs at higher levels than during fiscal year 1983.

SECTION-BY-SECTION ANALYSIS

Short title

The first section provides that this Act may be cited as the "Agricultural Export Trade Equity Act of 1983".

Agricultural export promotion

Section 2 amends section 135 of the Omnibus Budget Reconciliation Act of 1982 by adding a new sentence at the end thereof. The new sentence provides that notwithstanding the other provisions of that section, the funds required under that section to be used by the Secretary of Agriculture for export assistance during fiscal years 1984 and 1985, must be used only in connection with agricultural commodities and products that have been adversely affected by price and credit subsidies used on agricultural exports by other countries. Under this new provision the determination as to which commodities and products have been adversely affected will be made solely by the Secretary.

Dairy product exports

Section 3 directs the Secretary of Agriculture to export, during each of the fiscal

years 1984 and 1985, at least 100,000 metric tons of dairy products owned by the Commodity Credit Corporation (CCC).

To the extent that the Secretary carries out the provisions of this section through export sales of dairy products, such sales must be made at prices determined appropriate by the Secretary but not less than the minimum prices applicable under the International Dairy Arrangement. The level of exports required under this section must be in addition to any donations of dairy products for United States foreign assistance under section 416 of the Agricultural Act of 1949 or Public Law 480. Exports are to be made through the CCC under existing authorities available to the Secretary or the CCC, and the Secretary is to report semiannually, through September 30, 1985, to the Senate and House agriculture committees on the volume of exports under this section.

Expansion of markets for U.S. agricultural commodities and products

Section 4 provides specific authority for the Secretary of Agriculture to establish an export payment-in-kind (PIK) program.

Section 4(a) authorizes the Secretary to formulate and carry out a program to provide agricultural commodities and products thereof acquired by the Commodity Credit Corporation to U.S. exporters and users and foreign purchasers to encourage the development, maintenance, and expansion of markets for U.S. agricultural commodities and products thereof, including value-added or high-value products. Under this program, agricultural commodities and products thereof would be provided by the Commodity Credit Corporation to eligible recipients at no cost. The commodities that could be made available include wheat, feed grains, upland cotton, rice, and milk, and their products, and any other agricultural commodities and products thereof acquired by the Commodity Credit Corporation.

Section 4(b) provides that in carrying out an export PIK program under this section, the Secretary must ensure that the program provides equal treatment to domestic and foreign purchasers and users of U.S. agricultural commodities or products thereof in any case in which the importation of a manufactured product made, in whole or in part, from a commodity or product thereof made available for export under the program would place domestic users of the commodity or product at a competitive disadvantage.

Section 4(b) also directs the Secretary, to the extent that agricultural commodities and products thereof are to be made available to foreign purchasers under an export PIK program, to provide all interested foreign purchasers an opportunity to participate in the program, with priority to be given to those foreign purchasers who have been traditional buyers of U.S. agricultural commodities and products thereof and who continue to purchase such commodities and products on an annual basis in quantities greater than the level of purchases in a previous representative period.

Section 4(b) also requires the Secretary to ensure, insofar as possible, that Commodity Credit Corporation stocks of agricultural commodities and products thereof, that are provided to eligible recipients under this section, be used in such a manner as to encourage increased use and avoid displacing usual marketings of U.S. agricultural commodities and products thereof either in the United States or in foreign markets. Under this subsection, the Secretary is also required to take reasonable care to prevent the resale or transshipment to other coun-

tries of the agricultural commodities and products thereof provided under this section and prevent the use for other than domestic use in the receiving country of such commodities and products.

Section 4(c) authorizes the Secretary to provide supplemental distributions of CCC commodities and products thereof to foreign purchasers who sell in the importing country agricultural commodities or products thereof received from the Secretary under this section and who use the proceeds from such sales for the construction or rehabilitation of facilities in the importing country to improve the importing country's capability to handle, market, store, or distribute U.S. agricultural commodities or products thereof. Supplemental distributions under this subsection would be made with such commodities or products, in such amounts, and at such times as the Secretary considers appropriate, taking into account the extent to which the facility improvements have been made, the capability of the importing country to handle, distribute, and use additional commodities or products, and such other factors consistent with the purposes of this section as the Secretary determines appropriate.

Section 4(d) provides that the Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

Section 4(e) authorizes the Secretary to issue such regulations as are deemed necessary to carry out this section.

Section 4(f) provides that the authority provided in this section is in addition to and not in place of any other authority provided to the Secretary or the Commodity Credit Corporation under any other provision of law.

Value-added, processed, and protein fortified products

Section 5(a) amends section 201 of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) by adding a new subsection (c). The new subsection provides that, in distributing agricultural commodities under title II of Public Law 480, the President shall consider the nutritional assistance to recipients and the United States that would result from providing the commodities in the form of processed and protein fortified products, including processed milk and plant protein products.

The new subsection also directs the President, in distributing agricultural commodities under title II of Public Law 480, to take all feasible steps to ensure that an appropriate portion of the commodities distributed each fiscal year be in the form of protein fortified and processed products. In selecting commodities to meet the requirements of this provision, the President is further directed to consider the nutritional needs of the proposed recipients and the purposes of title II of Public Law 480.

Section 5(b) amends section 1207(a)(5) of the Agriculture and Food Act of 1981 to express the sense of Congress that the Secretary of Agriculture should, and is requested to, expand (to the fullest extent possible) the market development activities of the Foreign Agricultural Service of the Department of Agriculture with particular emphasis on funding an export market development program for value-added farm products and processed foods at a greater level than during fiscal year 1983.●

By Mr. EAST:

S. 2009. A bill to amend the Fair Labor Standards Act of 1938 to exempt tire dealers and retreaders under section 13(b)(10) of that act in the same manner as certain automobile service and automobile selling establishments; to the Committee on Labor and Human Resources.

EXEMPTION OF TIRE DEALERS AND RETREADERS

● Mr. EAST. Mr. President, I rise today to introduce legislation allowing certain exemptions from the overtime premium pay provisions of the Fair Labor Standards Act, title 20, United States Code, section 213, currently enjoyed only by automobile dealers to establishments engaged in selling new or retreaded tires, engaged in retreading tires, or engaged in other service or repair activities related to the automotive industry.

Congress has historically viewed the automotive industry as warranting special treatment under the Fair Labor Standards Act. Prior to 1968, section 13(a)(19) exempted all employees of a retail or service establishment primarily engaged in the business of selling automobiles and other specified vehicles from the act's overtime premium pay provisions. That section was repealed in 1966. However, a more limited exemption from overtime premium pay provisions was maintained under section 13(b)(10), for salesmen, partsmen, or mechanics primarily engaged in selling or servicing such vehicles if employed by a nonmanufacturing establishment primarily engaged in selling those vehicles to ultimate purchasers.

This limited exemption was maintained for automobile dealers in the face of an overall broadening of the act's coverage. Testimony on behalf of automobile dealerships showed that they were experiencing declining profit margins. The National Automobile Dealers Association (NADA) thus requested protection from overtime pay provisions in the face of competition from repair shops, service stations, tire dealers, muffler shops, and independent garages. NADA spokesmen claimed that their competition for the most part was exempt from overtime premium pay provisions under the general retail establishment exemption because most were businesses with less than \$250,000 in annual revenues.

Congress responded with a specific exemption for certain employees of automobile dealers irrespective of the dollar volume of the dealerships' business.

The problem that afflicted the automobile dealers in 1965-66 burdens tire dealers, retreaders and other portions of the automobile aftermarket today. Primarily because of inflation, most tire dealers or retreaders no longer

benefit from the general exemption provided for retail or service establishments. The dollar threshold for that exemption increased to \$362,500/year as of December 31, 1981. However, as the per unit cost of tires and services provided by such establishments increases, they quickly outgrow this exemption.

The result, then, is that the shoe is now on the other foot. Under current law, many small business firms must pay overtime premium pay to employees doing the same work automobile dealers can have done at straight time pay. This means that the statute is perpetuating a serious competitive disadvantage with no fair rationale. This is contrary to the purpose of the law, which was to equalize the competitive positions of automobile dealers and other establishments.

I propose that Congress amend the current section 13(b)(10)(A) of the Fair Labor Standards Act, title 20, United States Code, section 213(b)(10)(A), to read as follows:

(10)(A) any salesman, partsman, or mechanic primarily engaged in selling, servicing, or repairing, or reconditioning automobiles, trucks, farm implements, tires or any other automotive or implement parts, if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles, implements, new or retreaded tires or other automotive or implement parts, or fuel for such vehicles, to ultimate purchaser. Such provisions also shall not apply with respect to any such salesman, partsman, or mechanic if he is employed by an automotive tire establishment engaged in retreading work on tires which the establishment expects to sell in their reconditioned form.

The new language will maintain the exemptions from the overtime pay provisions presently accorded certain employees of automotive and related implement dealerships. It will simply extend coverage to analogous employees of tire dealers and retreaders, independent garages, muffler shops, and service stations to equalize the competitive situation between automobile dealers and their competition for parts and servicing. It will reinstate the competitive equality Congress originally created, which has been destroyed by inflation.●

By Mr. TSONGAS:

S. 2010. A bill to amend subpart E of part 3 of schedule 6 of the Tariff Schedules of the United States Code; to the Committee on Finance.

TARIFFS FOR SNAP BLADE TOOLS

● Mr. TSONGAS. Mr. President, I am introducing a bill today that will reduce a needlessly high tariff for snap-blade tools; tools currently assembled by only one American manufacturer. These tools—actually cutting blades of about three-fourth inches in length which are hand held and are used by artisans, craftsmen, and construction workers—are currently clas-

sified as "knives." The effect of this bill would be to reclassify them as "other knives" for purposes of tariff assessment and thereby reduce the tariff from 11.5 percent ad valorem to 7.5 percent ad valorem. Additionally, the bill provides an automatic annual decrease in the tariff rates through January 1, 1987. The tariff would be reduced to 4.8 percent in 1987, with a greater decrease, to 3.5 percent for products from less developed nations. Communist countries would continue to pay a 40 percent tariff.

These tariff reductions pose no threat to American industry. They were imposed to protect American manufacturers, yet only one U.S. company currently assembles snap-blade tools (the parts are manufactured in Canada). And these tools are in a lower price and quality range than those imported by American distributors. Thus, the current duty being levied is not protecting American manufacturers but hindering American distributors.

My colleague, Congressman BARNEY FRANK, introduced an identical bill earlier this year, H.R. 2851. It is under consideration in the House Ways and Means Committee.

For these reasons, I commend the bill to you and recommend its passage. Mr. President, I ask unanimous consent that the text of the bill follow this statement in the RECORD.

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

S. 2010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart E of part 3 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by inserting immediately after item 649.67 the following new item:

649.69	knives using snap-off blades which are scored into sections to permit the breaking off of used sections, and/or having mechanisms for advancing the next unused sections into positions for use, and blades, handles, and parts thereof.	7.5% ad val. thereof.	5.3% ad val.	40% ad val.
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(2) by amending the superior heading to items 649.71 through 649.85 by inserting "(other than knives provided for an item 649.67)" immediately after "other knives".

SEC. 2. (a) Effective with respect to articles provided for in item 649.69 (as added by the first section of this Act) that are entered or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 and the LDDC column for such item are respectively amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date	Column 1 rate of duty	LDDC rate of duty
January 1, 1984	6.8% ad val.	4.8% ad val.
January 1, 1985	5.9% ad val.	4.3% ad val.
January 1, 1986	5.3% ad val.	3.9% ad val.
January 1, 1987	4.8% ad val.	3.5% ad val.

(b) Articles provided for in such item 649.69 shall be treated as having been designated by the President under section 503 of the Trade Act of 1974 as eligible articles for purposes of the generalized system of preferences and all beneficiary developing countries are eligible for preferential treatment with respect to such articles.

SEC. 3. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.●

By Mr. DeCONCINI:

S. 2011. A bill to require high-buoyancy lifevests aboard commercial aircraft; to the Committee on Commerce, Science, and Transportation.

LIFEVESTS FOR COMMERCIAL AIRCRAFT

Mr. DeCONCINI. Mr. President, today I am introducing a measure which will provide safer air travel for passengers flying aboard commercial aircraft. While deregulation of the airline industry has resulted in a less restrictive environment for the industry to operate within, free from Federal intrusions, this Senator, and I believe many of my colleagues share the view, that there are certain responsibilities that must remain at the Federal level, particularly in the arena of health and safety. One may be quick to point out that the Federal Aviation Administration has never relinquished its control over flight safety standards. On the other hand, given the types of incidents that have occurred over the past several years involving inadequate or improperly maintained safety mechanisms, it is quite clear that very supportable cases can be made for the imposition of more restrictive safety standards on our commercial aviation industry. Mr. President, this is precisely the reason I am sponsoring this legislation. Its purpose is to require our commercial airline fleet to carry high-buoyancy and quick-donning lifevests.

The overwater emergency equipment in use today is antiquated and although technology has drastically improved the quality of available equipment, safety devices aboard commercial aircraft remain at the design of those manufactured in the 1930's and 1940's. Further, regulations covering airline overwater operations have not materially changed for over 40 years. However, the nature of the accidents has changed: Jet water accident experience shows that very little or no time for preparation can be anticipated. All accidents have occurred at a maximum distance of 30 miles from land and with a maximum notice of 7 minutes.

Presently, FAA regulations require lifevests only for those flights that fly

50 nautical miles beyond the shoreline. This rule is faulty when you consider that 215 airterminal airports in the United States have significant bodies of water surrounding their approach and departure areas. Of the 14,000 U.S. flights per day, 9,000, or 70 percent land or depart over water. Thousands of flights a day operate for extended periods over water within the 50 nautical miles distance from the shoreline zone. As a result, it is estimated that 75 percent of the U.S. scheduled fleet are flying without the benefit of life preserving vests.

Twenty years ago, FAA conducted tests which revealed the deficiencies of the lifevests aboard commercial aircraft. However, it was not until December of 1982 that updated manufacturing regulations on lifevests, through changes in the technical standard orders, came out by the FAA. Lifevests must now have 35 pound buoyancy and be able to be donned in 15 seconds. These standards will not be in effect at the manufacturer's level until January 1985. Because there are no requirements for the industry to replace old vests, the adequate vests may not be in complete use for 10 years. Four airlines, Alaskan, American, Pan Am, and Western Airlines, have taken the initiative to purchase and carry the 35 pound buoyancy vests. However, lifevests are still not available on 75 percent of U.S. flights. Instead aircraft covering those flights are equipped only with flotation cushions, because of the 50 nautical mile rule.

I am distressed that the FAA refuses to acknowledge the need for a strong Federal policy to insure the maximum degree of protection for air passengers in case of an overwater accident. The belief that flotation cushions function adequately as life preservers is a dangerous myth. Flotation cushions place passengers, in the water, on their back, with half their head immersed. This leads to increased body cooling rates, which can cause rapid loss of consciousness and hypothermia. The user must hold onto the cushion straps in order for the device to work. Of course, if an individual is unconscious, this is impossible. After 15 minutes in chilly ocean water, even the healthiest person would lose the use of their hands and forearms. Tests have demonstrated that some types of cushions lose buoyancy only after a few minutes.

These useless flotation devices could be replaced by effective lifevests for a very low cost to the airlines. Approximately 310 million passengers fly on U.S. commercial aircraft each year. The FAA estimates the cost of the new regulation lifevests to be about \$40 each. Other estimates place the cost at about \$30. A one-time cost to purchase these vests would add only 5 cents to the cost of every airline ticket

purchased, for the first year only. The vest has a 10-year service life and maintenance is estimated at an additional 3 cents per passenger per year. Such a cost would not have to be absorbed by the airlines but could be included in the price of the passenger ticket. I cannot believe our flying public would be adverse to spending an additional 3 to 5 cents for a safety precaution that may save their life if an incident was to occur.

On May 5 of this year, a situation did occur which clearly illustrates the inadequacies of the present FAA policy. Eastern Airlines flight 855, flying from Miami to Nassau, had to turn around because the No. 1 engine had lost power. When the other two engines were lost, the pilot notified the passengers that the plane would be "ditching" in 7 minutes; the maximum notification time historically ever provided. Luckily, one of the engines was able to restart and the plane landed safely in Miami. However, many passengers complained they had trouble donning the lifevests on board the aircraft. Had the engines continued to fail, passengers would have been floating in the ocean without any life preservers, with little hope for survival.

Mr. President, this is an issue that should not be taken lightly. The Congress should not sit back and wait until a situation like the Eastern flight occurs again, but ends differently in catastrophe. We must take action now—it is long overdue.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2012. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Environment and Public Works.

AMENDMENTS TO THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

Mr. BRADLEY. Mr. President, today I am introducing the Superfund Amendments Act of 1983. This package of amendments to the Comprehensive Environmental Response, Compensation, and Liability Act, more commonly known as Superfund, will allow us to accelerate our progress in cleaning up the worst environmental threat facing our Nation today, hazardous wastes.

The Superfund law authorizes the Federal Government to respond immediately to chemical spills and releases of hazardous substances into the environment. In addition, the law authorizes the Federal Government to participate with the States in long-term actions directed at the permanent cleanup of spills, releases, and abandoned dump sites. These remedial actions are taken at sites listed on a national priorities list now containing

546 sites, 85 of which are in my own State of New Jersey.

The Superfund law was a landmark in environmental legislation. Like no other environmental law, the Superfund provides the financial resources to clean up environmental damage. The law now provides for a \$1.6 billion pool of funds, raised mostly from taxes on petroleum and certain chemicals. The Federal Government augments this tax with a \$44 million per year authorization.

As important as the Superfund law is, it is flawed in two major respects: First, the \$1.6 billion is grossly insufficient to the enormous task; and the second, the law contains several built-in points of controversy that delay cleanup operations. Last March, I introduced S. 816 to extend the Superfund program, tax and authorization an additional 5 years, effectively doubling the resources available to clean up the hazardous waste dump sites that pock our countryside. Today, I am introducing legislation to remove the barriers to effective State-Federal cooperation that have now been identified in the original Superfund law. My intent is to accelerate the cleanup of hazardous waste sites.

First, the bill would provide clear guidance to EPA regarding priority of activities: Clean up first, negotiate second.

Due in part to the Superfund's inadequate resources, until recently EPA has attempted to obtain funding for site cleanup through negotiations with the parties responsible for the release. This negotiation took place before EPA would agree to use Superfund money. While understandable, the result has been extended delays in committing Superfunds to action.

At the Nation's worst dump site, Lipari Landfill in New Jersey, for example, lengthy negotiations between EPA and the main waste generators delayed the cleanup for 2 years. Once the decision to use Superfund was finally made, however, the pace picked up. Cleanup construction began this past summer.

The policy ought to be: Clean up first, negotiate second, litigate third. Any funds obtained in the negotiating or litigating process are deposited in the Superfund account.

Second, the bill would remove EPA's built-in bias toward low-capital cost cleanup options.

Current law has created a built-in bias on the part of EPA toward low-up-front-cost options, while political and fiscal pressures tilt the States in the opposite direction. This has led to delays in reaching EPA-State agreements.

The problem is this. There are two general options for cleaning up a site: excavation and containment. Excavation entails high up-front capital costs

and low operations and maintenance costs. Containment, on the other hand, entails lower up-front capital costs but high and variable operations and maintenance costs. For example, the capital cost of the excavation option at Price's Pit in my State could run \$50 to \$100 million, but the long-term O&M costs would be essentially zero. On the other hand, the capital cost of the containment option will be \$5 to \$13 million, but the O&M costs are likely to be in the \$30 to \$50 million range over 20 or 30 years.

Combine that with the EPA legal interpretation to require the States to pay all O&M costs while EPA pays 90 percent of the capital costs and you can see why EPA and State negotiations have had difficulty. EPA has a strong built-in bias toward low capital cost options. The States, on the other hand, have a strong bias toward high-capital cost options. This bias is strongly reinforced by local opposition to containment options and strong preferences for getting that stuff out of my backyard. Local authorities are inclined to demand the greatest degree of cleanup possible, irrespective of costs, since someone else is footing the bill.

The bill would realign the Federal and State incentives by making both capital costs and O&M costs subject to the same 90/10 cost sharing formula. Decisions would more likely be made on public health, cost-effectiveness calculations, rather than on the basis of who pays for what.

In addition, my bill would allow State and local officials the option to buy more cleanup than EPA decides is cost-effective. As it now stands, if a local mayor wants EPA to excavate a landfill but EPA decides that containment is more cost-effective, the local mayor has no option under the law. My bill gives that mayor the option of using local revenues to provide the community with a more complete cleanup. With this option available to local communities, their residents and officials may become more involved and fiscally responsible participants in the decision. A more rational balancing of benefits and costs may result.

Finally, to facilitate the consensus on the selection of cleanup options, EPA would be authorized under the bill to appoint high-level consultants to give advice to the Administrator or Regional Administrator on a site-by-site basis. These consultants would not be a scientific advisory panel with decisionmaking authority. Rather, the consultants would serve to add credibility to the EPA/State decision-maker.

Third, the bill removes the uncertainty now associated with the State share of the cleanup costs in those cases where the State owned the landfill site. Current law provides that States may be required to pay at least

50 percent. This ambiguity has caused delays when EPA and the State disagree on the appropriate State share. Our bill removes this bone of contention by stipulating that the State share will be 50 percent in these cases.

Fourth, we would extend the deadline for filing claims against parties responsible for natural resource damage. If the damage was known prior to passage of Superfund, the deadline for filing claims is December 11, 1983. The Interior Department, responsible for issuing guidelines to implement this part of the statute has not done so and may not do so until December 1984. We extend the deadline to 3 years from the date the Interior publishes the final regulations.

Fifth, we amend the Superfund law to enable a State to receive a credit for costs it incurred cleaning up Superfund sites between the date of enactment of the law and the date it executed a Superfund agreement with EPA. Congress intended that States which took cleanup actions should be repaid, not penalized, for their aggressive enforcement. EPA's slow start on the Superfund program left many States with unreimbursable, but valid Superfund expenses. This bill permits this reimbursement. It would also allow credits earned at one site to be used at other approved sites within the State.

Sixth, the States would be given the authority to force EPA to take nondiscretionary actions in the event EPA delays or refuses. I hope this authority will not be necessary, but past problems give cause for concern.

Finally, the bill would remove the current ambiguity surrounding State law preemption. The law expressly allows States to impose taxes on chemicals. Both New Jersey State courts and Federal courts have upheld the New Jersey Spillfund tax. And yet the issue is still not settled. The bill endorses this method of raising the revenue—now being contemplated by Washington, Michigan, New York, and Missouri—to come up with the necessary matching funds.

Mr. President, there is no central role of Government than to protect the health and safety of its citizens. During the past several years the Federal Government has had an abysmal record when it came to the cleanup of hazardous wastes. I believe the new Administrator of EPA truly wants to improve that record. But there are legislative steps that must be taken to insure that the intent of Congress—to get these toxic time bombs disarmed and to have that done quickly—can never be flaunted again. These legislative changes are necessary to accomplish that purpose.

I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 2012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CLEANUP ACTIONS TO BEGIN PRIOR TO
CONCLUSION OF NEGOTIATION

SECTION 1. Section 104(a)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding at the end thereof the following: "In the event that the President enters into any negotiation with the owner or operator of the vessel or facility from which the release or threat of release emanates, or any other responsible party, with respect to removal or remedial action to be taken by such owner, operator, or other party, within 60 days of notification of responsible parties the President shall also commence remedial actions under this section, and thereafter seek reimbursement under section 107 for costs incurred for such remedial actions."

FEDERAL SHARE FOR COSTS OF OPERATION AND
MAINTENANCE; USE OF LOCAL FUNDS FOR ADDITIONAL REMEDIAL ACTIONS

SEC. 2. (a)(1) Section 104(c)(3)(C)(i) of such Act is amended to read as follows: "(i) 10 percent of the capital, future operation, and future maintenance costs of the remedial action, or"

(2) Section 104(c)(3)(A) of such Act is amended by inserting before the semicolon the following: ", and payment of 10 percent or 50 percent thereof as required under clause (C)".

(b) Section 104(c) of such Act is amended by adding at the end thereof the following new paragraphs:

"(5) In the event that the State, or the political subdivision thereof, in which the release occurs informs the President that it believes conditions at a site require a remedial action more costly than the action chosen by the President under paragraph (4), the President shall approve such more expensive action; however, the State or political subdivision shall, for purposes of paragraph (3)(C), pay or assure payment of 90 percent of that portion of the costs of such remedial action which exceed the costs of the action chosen by the President.

"(6) For the purpose of advising the President with respect to the selection under paragraph (4) of appropriate remedial action at a particular site, incident, or group of sites, the President may seek the advice of one or more consultants expert in the field of public health or remedial action."

LIMITATION ON STATE SHARE OF CLEANUP COSTS
AT FACILITIES OWNED BY A STATE OR POLITICAL
SUBDIVISION

SEC. 3. Section 104(c)(3)(C)(ii) of such Act is amended to read as follows: "(ii) 50 percent of the capital, future operation, and future maintenance costs of the remedial action relating to a release at a facility that was owned and primarily used for treatment, storage or disposal at the time of any disposal of hazardous substances in such facility, by the State or a political subdivision thereof. For purposes of clause (ii) of this paragraph the term facility does not include navigable waters or the beds underlying those waters. Contribution by the State or a political subdivision thereof of the 10 percent or 50 percent of remedial costs, as appropriate, shall constitute full satisfac-

tion of any claims which the Fund may have against the State and the political subdivision(s) thereof."

STATUTE OF LIMITATIONS

SEC. 4. Section 112(d) of such Act is amended by striking out "date of enactment of this Act" and inserting in lieu thereof "date on which final regulations are promulgated implementing the provision of this Act under which the claim or action is brought."

CREDITS FOR STATE ACTIONS TAKEN PRIOR TO ENACTMENT OF SUPERFUND

SEC. 5. The last sentence of section 104(c)(3) of such Act is amended by striking out "the date of enactment of this Act" and inserting in lieu thereof "the date on which a contract or cooperative agreement is executed between the State and the United States pursuant to this section".

CLARIFICATION THAT NO FEDERAL PREEMPTION EXISTS UNDER CURRENT LAW WITH RESPECT TO TAXATION OR CONTRIBUTIONS TO SIMILAR FUNDS

SEC. 6. Subsection (c) of section 114 of such Act is repealed.

AUTHORITY FOR STATE SUITS TO FORCE IMPLEMENTATION OF ACT

SEC. 7. Section 113 of such Act is amended by adding at the end thereof the following new subsection:

"(d) Any State may bring an action in any United States district court within such State for the purpose of requiring the President or his delegate to take any action required to be taken under the provision of this title. The court shall have the power to require the President or his delegate to take such action if the court finds that the President is required under this title to take such action."

TRANSFER OF STATE CREDIT FOR INDEPENDENT RESPONSE ACTIONS FROM ONE RELEASE TO ANOTHER

SEC. 8. The last sentence of section 104(c)(3) of such Act is amended by inserting after "the specific release in question" the following: "or any release with respect to which remedial action is authorized under this section".

EFFECTIVE DATE

SEC. 9. The amendments made by this Act shall become effective on the date of the enactment of this Act.

FIXING UP SUPERFUND

● **Mr. LAUTENBERG.** Mr. President, I am pleased to join my colleague from New Jersey today in introducing the Superfund Amendments of 1983. Concern about the environment and the health and safety of our citizens, stemming from years of inappropriate and unsafe disposal of hazardous wastes, has reached mammoth proportions in my State. And rightly so.

The passage in 1980 of the Comprehensive Environmental, Response, Compensation, and Liability Act, known as Superfund, offered the promise that the Federal Government would assist in cleaning up dump sites which pose a danger to public health or the environment. That promise has not been fulfilled. In New Jersey, which has 85 sites on the national priority Superfund list, including one ranked worst in the country, the first commitment of funds for cleanup was

announced less than 2 months ago by EPA. And that was only the sixth such announcement EPA has made in the 2 years that the Superfund program has been in effect. In the meantime, wastes leaking from the dumpsites contaminate nearby streams and land, trees and fish die, and the air carries strange and unpleasant aromas.

The fact is that the Superfund as presently constituted is not sufficient to the task of cleaning up the hundreds of hazardous waste sites in this country. In May, the New Jersey Department of Environmental Protection estimated that it would cost about \$200 million to clean up the sites in New Jersey. Clearly the \$1.6 billion in the Superfund cannot begin to cover cleanup in all the States. Similarly the pace of activity has been so slow that it is obvious that the 5-year life span of the program is too short. One of my first actions on coming to the Senate was to join with Senator BRADLEY in sponsoring legislation, S. 816, to extend the life of Superfund for an additional 5 years, to 1990, and to double the authorization for the fund.

Several problems have surfaced with the structure of the program. My own State of New Jersey has worked to identify hazardous sites and have them listed by EPA eligible for Superfund cleanup assistance. We now have more sites than any other State. The State's work on identifying hazardous sites and developing cleanup plans has revealed the need to improve some aspects of the Superfund law.

Mr. President, the bill we are introducing today is aimed at resolving some of the problems which have arisen during the early implementation of Superfund. It establishes some simple principles. The provisions in the bill to accomplish these policies are:

First, Superfund policy must be to clean up first and talk later. The need to negotiate with those responsible for creating a hazardous site—to get them to pay for the cleanup—is important. But it should not become an excuse for interminable delays. EPA should begin cleanup as soon as possible, and negotiate while the work is underway.

Second, State and local officials should have more leverage in designing cleanup plans, based on their assessment of the dangers to the public. They should be able to select a method of cleanup which is more substantial than the one which EPA prefers, so long as the State or local government pays for most of the additional cost.

Third, the Superfund program should provide the same cost-sharing arrangements for maintenance of sites as for initial cleanups. This will avoid deterioration of sites once the initial steps have been taken to contain the danger to the public.

Fourth, the Superfund law should guarantee that States will have to pay no more than half the costs of cleaning up sites which they or local governments owned. The present law does not make clear what the State's share should be in such cases.

Fifth, individuals who wish to file suit against the parties responsible for damage to ground water sources or other natural resources will be given an additional 3 years. The present time limit expires in December, but the Department of Interior has not yet issued the rules covering these suits.

Sixth, the bill will require EPA to reimburse States, such as New Jersey, for money they spent to clean up toxic waste sites while waiting for EPA to begin implementing Superfund. Our State spent about \$4 million on work at 26 sites, before EPA committed a single dollar. New Jersey should not be penalized for beginning work while EPA dragged its heels.

Mr. President, for too long the danger of hazardous waste dump sites and spills has hung like a cloud over our citizens. Congress has recognized the need to clean these sites and stop their poisons from spreading. Inevitably some shortcomings in the law have become apparent as the first efforts to implement the Superfund program have been undertaken. The bill which is being introduced today proposes some improvements in Superfund which will make it a more useful instrument for the States. The States, like New Jersey, which have taken the lead in cleaning up the mistakes of the past will not be penalized for their early action. And all States will have an opportunity to be properly reimbursed for running the sites after they have been cleaned up. The rights of States and others to file claims or suits will be protected.

These improvements being proposed today, together with the extension of the life and size of Superfund proposed earlier this year, will help to assure that the much touted cleanup of hazardous waste can be carried out in earnest.●

By Mr. BUMPERS (for himself, Mr. BENTSEN, Mr. HEINZ, Mr. MATSUNAGA, Mr. MOYNIHAN, and Mr. CRANSTON):

S. 2013. A bill to amend the level of funding authorized for the maternal and child health services block grant for the purpose of insuring no less than the current level of services for fiscal year 1984; to the Committee on Finance.

MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

● **Mr. BUMPERS.** Mr. President, I am today introducing legislation to increase the authorization for appropriations for the maternal and child

health services program from \$373 million to \$499,500,000. This is a modest increase, one that is necessary to maintain the level of current services. Mr. President, this is one of the most cost effective and essential programs we have, and I can say with confidence that this increase in the authorization for the program is necessary if we are to assure adequate services to children and pregnant women.

BACKGROUND

The maternal and child health block grant was created by the Omnibus Reconciliation Budget Act of 1981. It makes funds available to the States to provide health services to low-income pregnant women, mothers, and children. The Federal effort in this area began in 1935 when Congress passed the title V Maternal and Child Health and Crippled Children's Act. The MCH block grant subsumed that program along with the following programs: Lead-based paint poisoning prevention program; voluntary testing and counseling program for genetic disease; hemophiliac diagnosis and treatment centers program; and adolescent pregnancy program.

With the funds, States provide a broad range of services including: prenatal, delivery and postpartum care; well-infant and well-child care; vision and hearing screening; dental care; immunization; school health programs; and diagnostic, treatment and rehabilitation services for handicapped children.

The services have a strong preventative and health promotion thrust: Improve the health status of mothers and children, reduce infant mortality, reduce the incidence of preventable diseases and handicapping conditions, and provide medical services to handicapped children.

Although the major share of the funds goes to the States for services, 15 percent is set aside for the funding of research, training, and innovative programs at the discretion of the Secretary of Health and Human Services. These set-aside funds have supported special projects of regional and national significance—SPRANS. The SPRANS provide the mechanism to respond to the changing needs, issues, and trends in MCH in a timely and thoughtful manner.

FUNDING HISTORY

It should be kept in mind that the funds provided by MCH block grant represent only about 20 percent of the States expenditures for health services for mothers and children. Medicaid sustains the major part of the States efforts. However, the relatively modest contribution of the MCH block grant understates its importance. The program has had far-reaching effects by setting standards for quality comprehensive child health services, reaching populations whose health needs were previously unmet, and supporting re-

search and training. The current administration's attempts to diminish the Federal role in MCH began with the Omnibus Reconciliation Budget Act and its attendant cutbacks representing a 24-percent funding loss. Particularly hard hit were the funds available for discretionary projects, a loss of 44 percent. The table below summarizes the MCH budget history:

Fiscal year 1981—no block grant; the levels represent the totals for the seven programs consolidated into the MCH block grant:

	Millions
Authorization.....	\$558
Appropriation.....	457

Fiscal year 1982—the first year of the MCH block grant:

Authorization.....	\$373
Appropriation (25 percent cut).....	348
President's request.....	291

Note.—My amendment restoring \$24.5 million was added to the fiscal year 1982 urgent supplemental appropriations bill. This brought the level to \$373 million.

Fiscal year 1983—Reagan proposal to consolidate MCH and women, infant and children's supplemental food program (WIC). Congress did not go along:

	Millions
MCH authorization.....	\$373
MCH appropriation.....	373
President's request.....	347

Note.—As part of the jobs bill, Public Law 98-8, an amendment added \$105 million, bringing the total funds to \$478 million for fiscal year 1983.

Fiscal year 1984:

	Millions
MCH authorization.....	\$373
MCH appropriation.....	399
President's request.....	373

The House recently passed H.R. 3021, the Health Care for the Unemployed Act, which included an amendment raising the authorization for MCH to \$483 million. It should be noted that the \$105 million added to MCH in the jobs bill for fiscal year 1983 went entirely for services, that is, no part of the funding was set aside for SPRANS.

My bill would raise the authorization level for fiscal year 1984 to \$449.5 million, which would maintain services at a constant level and include the 15 percent set aside for discretionary funding.

Mr. President, this is a very modest increase in this crucial program. Actually, if the 1981 appropriation is taken as a baseline and then adjusted for inflation, we could justify an authorization level for fiscal year 1984 of about \$600 million. I realize, however, that a \$600 million authorization is out of the question, and I am not asking for that. I am asking that we take the steps necessary to make sure that this program is able to maintain its current level of services for fiscal year 1984 without having to cut local services even more. There are several reasons why the authorization should be increased, and I will mention some of them.

Maternal and child health programs are cost effective.

PRENATAL CARE

The importance and value of adequate prenatal care in reducing death and illness in infancy is well-documented. The cost savings result from the reduced need for the provision of infant intensive care, the reduced incidence of hospitalization for sick infants, and lessened demand for long-term institutional care.

In Mississippi, it costs \$1,100 to provide complete prenatal care to a pregnant woman as compared to the \$20,000 it costs to provide institutional services to a child with handicapping conditions that could have been prevented through proper prenatal care.

Oregon officials studying women receiving inadequate prenatal care in that State estimate that for the cost of caring for five high-risk premature infants (\$150,000), all 149 women involved in the study could have received comprehensive prenatal care, which would have yielded attendant savings.

Ohio advocates estimate that for every \$2 million invested annually in prenatal care, the State will save approximately \$8 million.

Alabama officials estimate that for every dollar that is spent on prevention of infant mortality and handicapping conditions through Medicaid, the State will save between \$5 and \$10 in long-term institutional care for the severely retarded and day care for the mildly retarded.

Despite the demonstrated effectiveness and importance of prenatal care, millions of economically disadvantaged pregnant women go without adequate care. In 1980, 1 out of every 20 pregnant women received no prenatal care until the last trimester. Furthermore, the evidence suggests that the failure on the part of the pregnant women to use medical services is directly linked to their inability to pay, lack of health care coverage, and unavailability of public free care alternatives.

COMPREHENSIVE CHILD HEALTH CARE

Well-baby clinics, well-child clinics, hearing and vision screening, immunizations and other services which promote health represent an investment that results in substantial savings in the long run. Without these services, health care costs are likely to rise as children require emergency room care, more costly treatment services, and increased hospitalizations.

A study by the Center for Disease Control showed that \$180 million spent on measles vaccination programs between 1966 and 1974 saved \$1.3 billion in medical care and long-term care by reducing deafness, retardation and other problems.

A 1977 GAO report found that the costs of screening at birth and treatment of seven common disorders was less than one-eighth the projected

costs of caring for an impaired child over a lifetime.

A Pennsylvania study found that children participating in a comprehensive preventive health program had 30 percent fewer abnormalities on re-screening with attendant cost-savings.

An evaluation of a health screening program by the State of Missouri found that children participating in the program had annual medical costs 16 percent lower than those not participating in the program—\$253.79 for children in the program versus \$318.58 in expenditures for nonparticipants.

IMPACT OF THE REDUCTIONS IN MCH

The loss of funds has required significant and substantial decreases in maternal and child health services. Different States have taken different steps toward cost savings measures. These have ranged from changing eligibility criteria to reduce the numbers served, shutting down projects, and dropping services. States, in coming to terms with the cutbacks, face the prospects of trading fewer hours of operation for the services of an audiologist, dropping services for asthmatic children in order to retain services for children with diabetes, or whether or not to replace a dental hygienist. State by State, a reading of cutback's effects paints a bleak future for millions of America's children. Even if MCH had not sustained such severe cuts in 1981, the health needs of many impoverished children would be unmet. With the cuts, even greater numbers of children are placed in jeopardy. Furthermore, the difficult economic times experienced by families has left many without health insurance. Thus, the demand for MCH program services has increased. In sum, 47 States report cutbacks in MCH block grant programs by reducing eligibility and/or health services. Specific examples follow:

In Iowa, the number of mobile field clinics has been decreased from 114 to 108 with a corresponding decrease in the number of children served from 6,258 to 4,368. These mobile clinics provide preventative and early identification services for children with a variety of problems including congenital heart disease, hearing loss and speech/language defects, scoliosis (spinal curvature), muscular dystrophy, cystic fibrosis, and developmental disorders.

In Ohio over 700,000 people are out of work. The State health department estimates that over 1 million people in Ohio have no health insurance. Potentially, in the next 3 years alone, 60,000 children will be born to Ohio parents who have lost health insurance due to unemployment or underemployment. A preliminary look at seven Ohio counties reveals that as unemployment increases so does infant mortality. In the county that includes Youngstown, where unemployment is

18.6 percent, the infant mortality rate increased from 13.7 percent to 14.9 percent between 1980 and 1981.

In Mississippi, the following has occurred or will occur:

County health departments which run maternity clinics will receive less support for nursing staff and service will be targeted only to the very highest risk patients.

The maternity and infant project, which is located in three underserved counties and which serves approximately 6,000 patients per year will be discontinued.

The improved pregnancy outcome project which is located in the county where infant mortality is highest and the improved child health projects, which are located in other areas where infant mortality is very high and which serve 10,000 to 15,000 patients per year, will be markedly reduced.

The adolescent pregnancy project, which provides medical and counseling services, will undergo a 25-percent reduction.

In Idaho, perinatal services will be provided to 200 fewer patients and payment for hospitalization of high-risk pregnant women and infants will be restricted to \$400 per patient. A cutback in the number of public health clinics being conducted and their hours of operation will reduce the provision of immunization services to children by public health. Also, the vaccine distribution by private physicians has been terminated.

In Illinois, clinics will be decreased from 480 to 400 which will make clinic services less accessible, and approximately 1,200 fewer children will be served.

In Wisconsin, there will be a drastic decrease in screening for hearing problems. In 1981, 80 diagnostic hearing clinics were held and 3,200 children were screened for hearing loss. By 1983, the target population for hearing clinics will undergo a 50-percent decrease with screening for hearing problems limited to children in prekindergarten, kindergarten, and first grade.

In West Virginia the crippled children's program experienced a 40-percent increase in the number of applicants and referrals in January 1983 compared to January 1982. The percentage of those underemployed and requesting services increased over this same time period by 7 percent.

In Alabama a public maternity clinic had 4,200 more visits by pregnant women in 1982 than in 1981.

In South Carolina a well-baby clinic which previously saw infants before they were 8 weeks old is now unable to see infants until they are 3 months old because of lengthening waiting lists.

In Michigan a county health department has had an increase from 2 to 4 weeks in the waiting period for non-acute pediatric care.

In New York City the maternity and infant care project had to turn away 1,000 applicants for services due to lack of funding in 1982.

In Ohio the utilization of an MCH well-child clinic has increased by 100 percent. In 35 Ohio projects waiting time for an appointment has increased by 30 to 50 percent.

In Oklahoma a health department study found that 50 percent of the pregnant women in the State do not receive adequate prenatal care.

Particularly hard hit by the funding cuts are the programs dependent upon the set-aside funds, including services such as genetic testing and counseling, hemophilia programs, and pediatric pulmonary centers which provide specialized services for children with respiratory diseases and disorders such as cystic fibrosis and asthma.

It is unconscionable that in an era when so much can be done to prevent pain and suffering on the part of mothers and children, that we do so little. The dollar of last resort, as some have called the funds under MCH block grant, are spread far too thin.

Mr. President, in closing let me say that this is one of the best Federal programs we have. It is an investment in the future. We cannot have a sound and healthy America unless we are willing to make the commitment necessary to assure the health of our children. I will continue to fight for adequate funding for this program, and I urge the members of the Finance Committee to act quickly on this legislation. I know that several members of that committee, especially the Senator from Texas (Mr. BENTSEN) have expressed an interest in increasing the authorization for this vital program, and I urge them to do so before we adjourn in November.

I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks.

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

S. 2013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 501(a) of the Social Security Act is amended by striking out "fiscal year 1982" and inserting in lieu thereof "fiscal years 1982 and 1983 and \$499,500,000 for fiscal year 1984".

By Mr. HART:

S.J. Res. 186. Joint resolution entitled the "War Powers in Grenada Act"; to the Committee on Foreign Relations.

WAR POWERS IN GRENADA ACT

● Mr. HART. Mr. President, I am today introducing a resolution which invokes the War Powers Act regarding American involvement in Grenada. This legislation is intended to trigger the reporting requirement of the War

Powers Act, and to start the clock on the 60-day limit on the use of U.S. troops in overseas combat.

Like all Americans, I hope the actions taken today will avert the tragedy and horror of Beirut. But regardless of the eventual outcome, it is clear that American combat troops have already been involved in imminent hostilities, and as a result, the War Powers Act must be invoked.

This resolution does not limit the power of the President to implement his foreign policy. Rather, it brings the Congress into the process and will allow for a full and in-depth debate on American involvement in Grenada.

The resolution gives the President 48 hours to report to Congress on the rationale for the introduction of U.S. combat troops into Grenada. He then has 60 days before he is required to bring the troops home unless Congress authorizes a longer stay.

Had the Congress insisted over the past year that the President obey the War Powers Act, the recent tragedy in Beirut might have been averted. At the very least, it would have forced President Reagan to produce something he has not yet: namely, a clear rational policy for Lebanon.

With that in mind, I have included in this resolution a requirement that the President include in his report to Congress a description of the specific goals of the U.S. mission in Grenada and the criteria to determine its success.

Finally, this bill simply implements the War Powers Act, invoking the law to check our military involvement in Grenada. As such, it puts the impetus for further authorization of an American military presence—past the 60-day limit—on the Congress. This is as the law should be, for it gives the Congress its rightful say in crucial foreign policy matters. But, I say now that I will oppose any further extension of U.S. military involvement in this small island country. As far as I am concerned, the 60-day timeframe contained in the War Powers Act is a more than generous amount in this instance—and I will actively fight any extension.

Mr. President, I ask unanimous consent that a copy of this resolution be incorporated into the CONGRESSIONAL RECORD at the close of my remarks.

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

S.J. RES. 186

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1, the Congress finds that:

(a) Starting on October 25, 1983, the United States Armed Forces were introduced into hostilities or into situations where imminent involvement in hostilities in Grenada were clearly indicated by the circumstances as provided for in section 4(a)(1) of the War Powers Resolution;

(b) No later than October 27, 1983, the President must submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate pursuant to section 4(a)(1) of the War Powers Resolution which must include the following information:

(1) The circumstances necessitating the introduction of the United States Armed Forces into Grenada;

(2) The constitutional and legislative authority for the introduction of the United States Armed Forces into Grenada; and,

(3) The estimated scope and duration of the hostilities or of the imminent involvement of the United States Armed Forces in hostilities.

Section 2, in the report to the Congress required by the War Powers Act, the President should also include:

(a) A description of the specific goals of United States policy in Grenada; and

(b) A description of the specific criteria that are being applied to determine when the United States Armed Forces participating in the fighting in Grenada have successfully accomplished their mission as described in Section 1, clause b.

Section 3, within sixty calendar days after a report is submitted pursuant to Section 1 (b), the President shall terminate any use of United States Armed Forces in Grenada unless the Congress has (1) declared war or has enacted a specific authorization for such use of United States Armed Forces or (2) has extended by law the sixty-day period.

By Mr. MELCHER:

S.J. RES. 187. A joint resolution to repeal the Multinational Force in Lebanon Resolution; to the Committee on Foreign Relations.

REPEAL OF MULTINATIONAL FORCE IN LEBANON RESOLUTION

Mr. MELCHER. Mr. President, despite the continuous statements of President Reagan, his Cabinet officials, and others that it is essential to have 1,600 U.S. Marines stationed near Beirut because Lebanon is vital and strategic to the United States, I disagree and reject their contention. This policy statement of the President is nullified by the casual attitude of the Defense Department in, first, permitting and, second, condoning, after the fact, the lack of security measures taken for protection of the Marine headquarters near the Beirut airport. A military action that is claimed to be vital and strategic to the interests of the United States is negligent and haphazard when a high percentage of the U.S. contingent, including the headquarters, is situated in a nondefensible area with only minimal, easily penetrated lines of defensive protection.

A several-story building supported on exposed columns was used as the headquarters and to barracks over 200 marines. The building was not only vulnerable to air or ground artillery attack but also, inconceivable as it is, was vulnerable to demolition by explosives hauled in a pickup truck penetrating over 1 mile from outside the perimeter area through three so-called

defense checkpoints. News accounts today tell us that Marine Commandant Kelley assures us that proper security measures are in effect. That is an astounding statement unless there has been a complete revamping of security measures since Sunday.

Senate Joint Resolution 159, approved by majority vote in this Republican-controlled Senate and by majority vote in the Democratically-led House, gave bipartisan endorsement to the President's Lebanon policy, the continued presence of the U.S. Armed Forces contingent in Lebanon for another 18 months, and the approval of further commitment of Armed Forces if necessary to protect those already there. I opposed this policy at the time and I continue to oppose it. The events of Sunday's disaster should cause reassessment. I am, therefore, introducing a joint resolution on behalf of myself and Senator PRYOR today to repeal Senate Joint Resolution 159.

As I interpret Senate Joint Resolution 159, my resolution must be considered by the Senate Foreign Relations Committee within 15-calendar days and, if approved by the committee and approved by the Senate and House, then the President is required by the War Powers Act to submit to Congress within 48 hours his proposal on continued commitment of U.S. Armed Forces in Lebanon, or Congress may act as it previously has with Senate Joint Resolution 159 in setting requirements for the withdrawal or the continued presence of our Armed Forces in Lebanon.

I continue to urge that our Marine contingent be replaced by another military contingent from a country not strongly allied, as the United States is, with Israel. I believe that the presence of U.S. Armed Forces in Lebanon aggravates rather than assists the efforts for a peaceful solution for this strife-torn country with so many ancient conflicting feuds between religious groups. I believe that, rather than assisting the Gemayel government toward stability in Lebanon, the presence of our Marines in their sitting duck position on the Beirut airport flats creates a tempting target for hostile acts of war against them by various Moslem partisans. The United States should continue efforts to work with all factions, including the Saudi Arabians, to reassert an end to hostilities with a real cease-fire and negotiations for peace.

This resolution, if adopted, will perform the proper function of Congress under the War Powers Act to assure the people of the United States that we are developing a good policy to effectuate peace without exposing U.S. Armed Forces to needless attacks with the consequent loss of life and casualties. Furthermore, it will allow the President to reassess his asserted posi-

tion that Lebanon is vital and strategic to United States national interests. That term is apropos to Israel and to Syria, but is not the case for the United States. We do have a vital interest in oil supplies in the Persian Gulf, which is 700 miles away.

We can be supportive of the sovereignty of Israel without maintaining our Armed Forces in Lebanon. Rather, it is vital to the United States to reassess its policy in Lebanon immediately, which this resolution seeks to do.

Furthermore, the invasion of Grenada should not distract us from the timely and urgently needed correction of a disastrous Lebanon policy. There are vital and strategic areas of concern for the United States in Latin America and island countries of the Caribbean. That assessment of Grenada in this hemisphere may be correct for the treaty signatories of the Organization of Eastern Caribbean States, but whatever our decision on Grenada, it should not interfere with immediate reassessment of U.S. Lebanon policy under the War Powers Act.

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. 187

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Multinational Force in Lebanon Resolution (Public Law 98-119) is repealed.

ADDITIONAL COSPONSORS

S. 175

At the request of Mr. DECONCINI, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 175, a bill to amend title 17 of the United States Code to exempt the private noncommercial recording of copyrighted works on video recorders from copyright infringement.

S. 209

At the request of Mr. INOUE, the name of the Senator from Idaho (Mr. McCURE) was added as a cosponsor of S. 209, a bill to amend the Controlled Substances Act to establish a temporary program under which heroin would be made available through qualified hospital pharmacies for the relief of pain of cancer patients.

S. 444

At the request of Mr. SASSER, his name was added as a cosponsor of S. 444, a bill to provide that registration and polling places for Federal elections be accessible to handicapped and elderly individuals, and for other purposes.

S. 815

At the request of Mr. HATFIELD, the name of the Senator from New Hampshire (Mr. RUDMAN) was added as a co-

sponsor of S. 815, a bill to provide that it shall be unlawful to discriminate against any meetings of students in public secondary schools and to provide the district courts with jurisdiction.

S. 865

At the request of Mr. HATFIELD, the name of the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 865, a bill to establish a nationally uniform deep-draft vessel tax for the purpose of financing operations and maintenance of deep-draft commercial channels and harbors; to fund a percentage of new channel improvements; and to provide an expedited procedure for the authorization and permitting of navigation improvement projects and related landside facilities in deep-draft ports, and for other purposes.

S. 1584

At the request of Mr. DANFORTH, the name of the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 1584, a bill to amend the Internal Revenue Code of 1954 to conform the treatment of overall domestic losses with the treatment of overall foreign losses and to conform the foreign tax credit carryover and ordering rules with similar investment credit rules.

S. 1676

At the request of Mr. SASSER, his name was added as a cosponsor of S. 1676, a bill to provide that registration and polling places for Federal elections be accessible to handicapped and elderly individuals, and for other purposes.

S. 1928

At the request of Mr. DURENBERGER, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 1928, a bill to amend the Social Security Act to authorize the conduct of federally assisted pilot projects designed to improve the delivery of services under the various human services programs by establishing integrated service delivery systems for those programs.

S. 1939

At the request of Mr. WALLOP, the names of the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Hawaii (Mr. INOUE), the Senator from Arizona (Mr. DECONCINI), the Senator from Montana (Mr. MELCHER), the Senator from South Dakota (Mr. ABDNOR), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of S. 1939, a bill to amend the Internal Revenue Code of 1954 to extend the period for qualifying certain property for the energy tax credit, and for other purposes.

S. 1950

At the request of Mr. MATTINGLY, the names of the Senator from Massa-

chusetts (Mr. TSONGAS), the Senator from North Carolina (Mr. HELMS), the Senator from Iowa (Mr. GRASSLEY), and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of S. 1950, a bill to amend the Internal Revenue Code of 1954 to increase the annual contribution limit for individual retirement accounts from \$2,000 to \$3,000 and to make such accounts more equitable in the case of lesser earning and nonworking spouses.

SENATE JOINT RESOLUTION 57

At the request of Mr. CHILES, the names of the Senator from Vermont (Mr. STAFFORD), and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of Senate Joint Resolution 57, a joint resolution to designate the week of April 3 through April 9, 1983, as "National Drug Abuse Education Week."

SENATE JOINT RESOLUTION 113

At the request of Mr. WILSON, the names of the Senator from Nebraska (Mr. EXON), the Senator from Wisconsin (Mr. KASTEN), the Senator from North Carolina (Mr. EAST), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of Senate Joint Resolution 113, a joint resolution to provide for the designation of the week beginning June 3 through June 9, 1984, as "National Theatre Week."

SENATE JOINT RESOLUTION 171

At the request of Mr. STENNIS, the names of the Senator from Maryland (Mr. MATHIAS), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Joint Resolution 171, a joint resolution for the designation of July 20, 1984, as "National P.O.W./M.I.A. Recognition Day."

SENATE JOINT RESOLUTION 181

At the request of Mr. BENTSEN, the names of the Senator from Montana (Mr. MELCHER), the Senator from Maine (Mr. MITCHELL), the Senator from Rhode Island (Mr. PELL), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Vermont (Mr. STAFFORD), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of Senate Joint Resolution 181, a joint resolution to provide for the awarding of a gold medal to Lady Bird Johnson in recognition of her humanitarian efforts and outstanding contributions to the improvement and beautification of America.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. MATTINGLY, the names of the Senator from Missouri (Mr. EAGLETON), and the Senator from Illinois (Mr. PERCY) were added as cosponsors of Senate Concurrent Resolution 62, a concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health

and Human Services to develop a plan outlining the steps which might be taken to correct the social security benefit disparity known as the notch problem.

SENATE CONCURRENT RESOLUTION 71

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Concurrent Resolution 71, a concurrent resolution deploring the assassination of Benigno Aquino, calling for the conduct of a thorough, independent and impartial investigation and calling for free and fair elections in the Philippines.

SENATE CONCURRENT RESOLUTION 79—URGING JAPAN TO IMPORT U.S. COAL

Mr. HEINZ (for himself, Mr. FORD, Mr. RANDOLPH, Mr. WARNER, Mr. SPENCER, Mr. GARN, Mr. HUDDLESTON, Mr. HEFLIN, Mr. SARBANES, Mr. MATHIAS, Mr. METZENBAUM, Mr. SASSER, and Mr. MELCHER) submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 79

Whereas, America's coal represents this nation's most abundant source of Energy;

Whereas, the United States is a secure and reliable supplier of coal;

Whereas, this nation has recently undertaken enormous capital expenditures in its port facilities, rail facilities and coal mines in order to enhance its coal exports;

Whereas, the relationship between Japan and the United States has been one of cooperation in a number of areas of vital importance to both nations;

Whereas, Japan has been the largest export market for U.S. mined coal, traditionally importing approximately one-third of its coal requirements from the United States, and generating \$1.5 billion in annual trade and 50,000 jobs; and,

Whereas, the Japanese government has placed the U.S. coal industry at a competitive disadvantage by entering into long term contracts with non-American producers, and by subsidizing joint ventures with non-American mining and exporting concerns, resulting in a 50% reduction in the U.S. share of the Japanese coal market; and,

Whereas, such a decline in the U.S. share of the Japanese coal market, in light of the current \$20 billion U.S. trade deficit with that nation, is unacceptable; and,

Whereas, a commitment by the Government of Japan to purchase one-third of that nation's coal requirements from the United States would reduce the imbalance in trade;

Now, therefore, be it resolved by the Senate, that

It is the sense of the Congress that, on the occasion of his visit to Japan, in November 1983 the President should express to the Government of Japan that:

(1) immediate action must be taken to reduce the current \$20 billion balance of trade deficit currently in its favor,

(2) the reduction of the trade imbalance is critical to the future of United States—Japan trade relations,

(3) the Government of Japan should formally announce its long term commitment to purchase one-third of its metallurgical

and steam coal requirements from the United States.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the Government of Japan.

● Mr. HEINZ. Mr. President, on behalf of myself, the distinguished Senator from Kentucky, Senator FORD and 12 of our Coal Caucus colleagues, we are today introducing a resolution based on simple fairness.

Its message is direct. It expresses the sense of the Senate that the Japanese Government should take immediate action to reduce the large \$20 billion trade deficit which it currently enjoys with the United States. By announcing its long-term commitment to purchase one-third of its metallurgical and steam coal requirement from the United States, such action could in a matter of years reduce the current trade imbalance between our two countries by nearly \$3 billion.

If the Japanese Government is serious about a balanced and fair trade relationship with the United States, it will take advantage of the President's upcoming visit to Japan in November 1983 to make such an announcement.

Why is this resolution necessary? Because during the course of the last year Japan has cut in half, a traditional relationship with the U.S. coal industry worth \$1.5 billion in trade and 50,000 U.S. jobs.

During the last year alone our exports to Japan have dropped from 22 to 12 million metric tons. If current trends continue, future U.S. coal exports will account for only 3 or 4 percent of the Japanese market. The result—loss of over 35,000 jobs in our coal fields where unemployment is running at 30 percent.

With a balance of trade deficit in Japan's favor running at \$20 billion and expected to rise to \$25 billion in 1984, such action on the part of the Japanese Government is totally unacceptable.

Our industry and workers have expended billions of dollars to service the Japanese market.

In my own State of Pennsylvania, the private sector in concert with the State government has invested over \$50 million to increase the port of Philadelphia's coal export facilities fivefold from 3 to 15 million tons yet our coal export facilities are operating at less than 20 percent of capacity.

Consider that investment already under way or planned could expand our coal port loading facilities nationwide from less than 100 million to 290 million tons by 1985.

Consider that using existing equipment our barge transportation industry can transport an additional 40 million metric tons of export coal served by our inland waterways.

With continued improvements in our rail and inland waterway transporta-

tion system this Nation represents the largest most reliable most secure source of coal in the world today.

How has the Japanese Government responded to our efforts—by placing the U.S. coal industry at a competitive disadvantage—entering into long term contracts with our foreign competitors and subsidizing joint ventures in their coal production and transportation facilities.

We simply cannot accept a Japanese coal buying policy which in a matter of years will relegate this Nation to the roll of a spot supplier competing for less and less of the Japanese market. All that we ask is that the U.S. industry be allowed to compete fairly and freely for its fair and traditional share of the Japanese market.

The commitment we seek from the Japanese Government to purchase one-third of its metallurgical and steam coal requirements is in everyone's interest. It will facilitate better trade from U.S. relations between our two countries, decrease Japan's severe reliance on oil imported from the Persian Gulf, and create a healthier U.S. coal industry for our companies and our workers.

Mr. President on October 17, I conveyed my thoughts on this very important issue to President Reagan. I ask unanimous consent that a copy of that letter be placed in the RECORD at the conclusion of my remarks. In addition I ask unanimous consent that the statement of Mark Joseph, chairman of the Coal Exporters Association also be included in the RECORD.

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

U.S. SENATE,

Washington, D.C., October 17, 1983.

President RONALD REAGAN,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Your upcoming visit to Japan offers an excellent opportunity to take immediate action to reduce our very large trade deficit with that country. It is my hope that you will seek the formal commitment of the Japanese government to purchase one third of its metallurgical and steam coal requirements from the United States.

As a result of your leadership in establishing the U.S. Japan Energy Working Group, both nations have been examining ways in which greater cooperation can be achieved in the trade of coal oil and natural gas. Indeed, the U.S. delegation has been seeking to negotiate a formal commitment by the Government of Japan to stabilize and increase its importation of U.S. mined coal.

Japan at the present time is the largest purchaser of U.S. coal, accounting for \$1.5 billion in sales and 50,000 U.S. jobs. Over the past few years, the United States has supplied the Japanese with approximately one third of their metallurgical and steam coal requirements. Unfortunately, our share of the Japanese market is rapidly declining. Today, the United States accounts for only 16% of the Japanese market with even further reductions in market share likely in

the future. Over the past year alone, our sales have dropped from 22 million metric tons to 12 million metric tons.

The Japanese government has placed the U.S. coal industry at a competitive disadvantage by entering into long term contracts with our foreign competitors and subsidizing joint ventures in their coal production and transportation facilities. The failure of the Japanese government to enter into similar arrangements with the U.S. coal industry will have the effect of relegating the United States to the role of a swing supplier at best.

With a \$20 billion balance of trade deficit currently favoring Japan, a 50% decline in our coal sales to Japan is totally unacceptable. A long term commitment by the Japanese government to purchase one third of its coal from the United States, could reduce our current trade imbalance by \$3 billion in a matter of years.

The importance of export markets to the future of the U.S. coal industry and our coal miners cannot be dismissed. Over 50,000 U.S. coal miners are currently unemployed. In my own state of Pennsylvania, nearly 9,500 miners have lost their jobs since January of 1981.

In an attempt to assist both our miners and our industry, the State of Pennsylvania in cooperation with the private sector has invested over \$50 million to increase the port of Philadelphia's coal export capacity from 3 to 15 million tons. Despite this investment, our coal export facilities in Philadelphia are operating at less than 20 percent of their capacity. The commitment which has been made in Philadelphia to coal exports is being made by state and local governments in cooperation with the private sector throughout this nation. In return, we must expect the opportunity to be able to compete fairly in international markets.

U.S. coal producers, miners and exporters have already made significant commitments necessary to serve the Japanese coal market. As Chairman of the Senate Coal Caucus, it is my hope that you will be able to announce that the Government of Japan has agreed to make a significant long term commitment to the U.S. coal industry.

Sincerely,

JOHN HEINZ,
U.S. Senator.

U.S. COAL IN JAPAN: STATEMENT OF MARK R. JOSEPH

Japan is the largest single foreign purchaser of United States coals. During 1982, 25 percent of our total coal exports or 25.7 million short tons worth \$1.5 billion, were shipped to Japan. Over 86 percent or 22.3 million tons were classified as metallurgical grade coal and 3.4 million tons as steam grade. In 1982, the United States provided 32.3 percent of total Japanese coal purchases of just over 85 million tons.

The United States began shipping coal in quantity (primarily metallurgical coal) to Japan in the years following World War Two. United States coal producers supplied over 60 percent of Japanese total coal requirements well into the 1960's when our market share began to decline. The period since 1970 has been especially volatile. United States' market share declined from 51.8 percent in 1970 to 29.8 percent in 1973, bounded back to 40.6 percent in 1974 and declined to a low of 17.4 percent in 1978. Although we have regained much of the market share lost, gains made principally due to labor problems and unavailability of

coal from our prime competitor, Australia, there is the possibility that both the traditional metallurgical coal market and the developing steam coal market could be closed to United States participation in future years.

METALLURGICAL COAL

United States coals formed the basis for the development and growth of the Japanese steel industry. Although the sixty percent share of the Japanese coking coal market supplied by the U.S. has slipped to approximately 30-35 percent since 1970, actual tonnage shipped has increased, averaging just over 22 million tons since 1979.

The production levels of the steel industry in Japan, as in the United States, are driven by economic considerations. The worldwide recession has resulted in sharp declines in demand for steel worldwide which in turn has caused raw steel production in Japan to decline from 123 million met tons in 1980 to 110 million tons in 1982 and an estimated 105 million tons this year.

These reductions in steel output, coupled with already high coal and coke stocks have caused sharp reductions in Japanese steel mill purchases of metallurgical coal. Metallurgical, or coking coal purchases, which have averaged 70-72 million short tons annually are unlikely to be more than 65 million tons in 1983, a reduction of almost 10 percent.

The reduction in demand for imported coking coal has been spread very unevenly among the major coal suppliers to Japan. The United States has borne the brunt of the demand reduction. Thru August, imports from the United States has been cut by almost 10 million tons or by 50 percent. Alternatively, imports of coking coal from Australia have increased by 1.6 million tons (8.5 percent), and additional coals have been imported from U.S.S.R. and China. Imports from South Africa and Canada have been reduced (by 400,000 and 680,000 tons respectively) but not as severely as has been the case in the United States.

In 1982, 22.3 million tons of U.S. met coal were shipped to Japan—in 1983 no more than 15 million tons will be shipped to Japan. Information available to U.S. suppliers indicate that the U.S. coal will be cut even further in 1984, possibly to no more than 8-12 million tons. Unless steel production levels improve sharply, the future could be equally as bleak for United States coal. Forecasts indicate that, if steel production does not improve, imports of U.S. coals could be cut even further, possibly reaching as low as 4-5 million tons in 1986 and later.

The United States has effectively been reduced to the role as "swing" supplier to the Japanese market. If the economy is flat, the United States coal is the first to be cut. If the economy, and steel production, improves (or if there are supply disruptions elsewhere), the U.S. will be called upon to supply additional quantities of coal.

This buffer situation has put undue hardship on the United States coal industry. The result of recent Japanese decisions have been mine closures and unemployment in Alabama, Virginia, West Virginia, Kentucky, Pennsylvania, Maryland. U.S. companies have closed mines representing in excess of \$200 million in investment (made only to serve the Japanese market), at least 7,000 miners have been laid off and additional mine closures and layoffs can be expected unless the Japanese increase their purchases of U.S. met coal.

STEAM COAL

Steam coal use in Japan is relatively new, as is the U.S. role in the Japanese steam coal market. We did not begin shipping steam coal to Japan until 1980, and even now are shipping only 3 million tons or less to Japanese cement mills and utility plants. That figure will decline to no more than two million tons in 1983 and could be even less in 1984.

The long term outlook for United States participation in the slowly growing Japanese steam coal market is equally as bleak. The Japanese overestimated both growth in demand for electrical generation and growth in demand for steam coal use. Forecasts for electricity generation have been revised sharply downward in the past year. However, plans to use LNG and nuclear power remain the same. Therefore, all the reduction in electricity growth is made by reducing the amount of coal that will be used under boilers—delaying the construction of new coal fired boilers and supporting infrastructure.

A year ago, the Japanese forecasts predicted that 66 million metric tons of steam coal would be imported in 1990 (for utility and industrial use—See Table 3). Recently, this estimate has been revised downward to approximately 43-48 million metric tons. The greater percentage of this requirement is already under long-term contract in Australia, Canada, South Africa, in the U.S.S.R. and in China. Thus despite the Japanese expressed interest in both purchase of, and investment in, U.S. steam coal (especially in western states), the United States has effectively been reduced to the role as swing supplier through the end of this decade.

The Japanese have stated that the reason for the sharp decline in coal purchases from the United States is one of price—the United States coals are higher in price than are coals from competing sources. Although not true in all instances, on average this is a correct statement. However, any price differential can be reduced significantly, and continued availability of coal assured, through positive action on the part of the Japanese.

Coal is readily available in the United States due to our abundant reserve base and the large competitive coal mining industry which has traditionally operated at far below capacity levels. As a result, most of the coal purchased from the United States by Japanese buyers is purchased on a spot basis or under very short term (one year) pricing arrangements. Spot markets are volatile as are spot prices. Over the long run, these spot purchases tend to be at a higher price level than would be the case if the coal were to be purchased under long term contracts (as is true of the Japanese purchases of coal from competitor countries).

Long term agreements, which can be concluded by the Japanese, will assure that the investments necessary to maintain the coal industries capacity to supply their market will continue to be made and that the coal purchased by the Japanese will be at the lowest possible price. As pointed out in a report by the Department of Commerce from the September working group meeting, "Long term contract facilitate investment, planning, scheduling, equipment utilization, all of which translate into lower costs." We would point out that long term supply arrangements are available from every link of the coal exporting chain, from

the mine, to the inland transportation link, the exporting terminal to the ocean carrier.

The United States coal producers and exporters have already made significant financial commitments necessary to serve the Japanese met coal market and are prepared to make the same commitments to serve Japanese steam coal needs.

TABLE 1.—JAPAN IMPORTS OF COAL

[In thousands of short tons]

	1982		1981	
	Tons	Percent share	Tons	Percent share
Coking coal from:				
Australia	27,958	39.1	32,109	44.3
Canada	10,511	14.7	10,531	14.5
China	1,507	2.1	1,278	1.8
South Africa	3,646	5.1	3,266	4.5
U.S.S.R.	1,225	1.7	1,248	1.7
United States	26,357	36.9	23,778	32.8
Other	255	.4	274	.4
Total	71,459	100.0	72,484	100.0
Steam coal from:				
Australia	6,882	49.0	6,256	48.8
Canada	1,435	10.2	1,258	9.8
China	1,624	11.6	1,311	10.2
South Africa	2,574	18.3	1,391	10.8
U.S.S.R.	229	1.6	282	2.2
United States	1,251	8.9	2,336	18.2
Other	44	.4	0	0
Total	14,039	100.0	12,832	100.0

Note: Japanese steam-met classifications differ from those used by U.S. exporters. Coking coal includes both heavy coking coal (volume < 30 percent) and coking coal (volume > 30 percent).

Source: Japan Exports and Imports.

TABLE 2.—JAPAN IMPORTS OF COAL

[In thousands of short tons]

	January to August 1983	January to August 1982	1982-83 change	
			Tonnage	Percent
Coking coal from:				
Australia	20,260	18,675	+1,585	+8.5
Canada	7,114	7,796	(682)	-8.7
China	1,216	900	+316	+35.1
South Africa	2,104	2,496	(392)	-15.7
U.S.S.R.	1,128	773	+355	+45.5
United States	10,829	20,453	(9,624)	-47.1
Other	213	193	+20	+10.4
Total	42,864	51,286	(8,422)	-16.4
Steam coal from:				
Australia	5,543	4,637	+906	+19.5
Canada	484	801	(417)	-46.3
China	1,147	975	+172	+17.6
South Africa	1,789	2,035	(246)	-11.6
U.S.S.R.	236	111	+125	+12.6
United States	770	1,362	(592)	-43.5
Other	31	14	+17	NA
Total	10,010	10,035	(25)	-2

Note: Japanese steam-met classifications differ from those used by U.S. exporters. Coking coal includes both heavy coking coal (volume < 30 percent) and coking coal (volume > 30 percent).

Source: Japan Exports and Imports.

TABLE 3.—COAL DEMAND OUTLOOK (TENTATIVE ESTIMATE)

[In millions of metric tonnes]

	Fiscal year 1982	Fiscal year 1990		Fiscal year 1995
	Actual figures	Present estimate	Previous estimate	Present estimate
Total demand	95.3	105-113	153	115-137
Domestic coal	18.9	18-20	18-20	18-20
Overseas coal	76.4	85-95	133-135	95-119
Metallurgical coal	66.2	62-65	87	65-71
Domestic coal	4.6			
Overseas coal	61.6			
Iron and steel	60.7	55-58	80	57-63
Other	5.5	Approx. 7	7	Approx. 8

TABLE 3.—COAL DEMAND OUTLOOK (TENTATIVE ESTIMATE)—Continued

[In millions of metric tonnes]

	Fiscal year 1982	Fiscal year 1990		Fiscal year 1995
	Actual figures	Present estimate	Previous estimate	Present estimate
Steam coal (including anthracite)	29.1	43-48	66	50-66
Domestic coal	14.4			
Overseas coal	14.8			
Electric utilities	14.8	26-30	42	~42
Other industries and residential, etc.	14.3	17-18	24	~24
(Cement industry)	(8.9)	(Approx. 9)	(14)	(Approx. 9)

Note: This is a tentative estimate set up for the long-term energy supply and demand outlook. The estimate is expected to be finalized by the end of this year following further expert review of these figures.

SENATE RESOLUTION 251—CONDEMNING THE SALE OF HUMAN ORGANS

Mr. TSONGAS submitted the following resolution which was referred to the Committee on Labor and Human Resources:

S. RES. 251

Whereas relatively recent medical advancements in the transplantation of human organ transplants have been spectacular;

Whereas such advancements also raise great and troubling ethical and legal questions concerning the process of obtaining human organs for transplant;

Whereas there is a general lack of direction and national policy regarding such process;

Whereas the resulting pressures caused by a lack of national policy has encouraged the practice of the sale of human organs for profit; and

Whereas the sale of human organs for profit is unethical and offends all decent people: Now, therefore, be it

Resolved, That it is the sense of the Senate to condemn the sale for profit of human organs for transplantation and to urge the appropriate committees of the Congress to develop and adopt, as soon as possible, legislation prohibiting this practice.

● Mr. TSONGAS. Mr. President, I am introducing a resolution today with my colleagues, Senator PELL and Senator SYMMS, which condemns the sale of human organs for profit. This resolution is prompted by our belief that the Senate should go on record in opposition to this perverse practice and the Congress should take immediate steps to prohibit the procedure.

The need for human organs for transplantation has reached critical proportions in our Nation. Commercializing and exploiting this need is immoral and unethical. Hopefully, in the future, it will also become illegal. Recent reports have been published in the media on the plans of a Virginia doctor to establish the International Kidney Exchange to broker human kidneys for profit. Under this doctor's

plan, potential donors can contact his organization and offer to sell one of their kidneys at a price established by the donor. International Kidney Exchange (IKE) would send potential buyers a list of available kidneys and the proposed prices. The perspective recipient would then be able to bargain hunt for his life, and pay IKE \$5,000 for their services.

The potential for exploitation of poor and sick people is incalculable. The idea that vital organ transplants will be performed and determined by the ability to pay is alien to the way we view quality medical care in this Nation. Equally offensive is the doctor's plan to market his organization among indigents in Third World countries. He readily admits that the price paid to these donors could be even cheaper than donors from this country. This suggestion is not only repugnant, it is potentially dangerous since recipients and their doctors would not have full knowledge of the medical history of their donor, risking the possibility of receiving a kidney from a diseased donor.

A vast majority of the medical community is justly outraged by this proposal. While it is true that an individual can live a perfectly normal life with one kidney, removing a vital organ is major surgery and should not be taken lightly. It is not medically advisable to have a kidney removed unless it is absolutely necessary and physicians from the National Kidney Foundation, the American Association of Tissue Banks, the American Society of Nephrology, and the American Society of Transplant Surgeons have joined together in opposing the so-called IKE plan.

One other major area of concern is the potential threat to the traditional practice of donating organs. The implications of material incentives go far beyond the sale of kidneys. Some individuals might be less inclined to donate organs under charitable circumstances if he or she believes they can receive a fee for it. This could have a devastating impact on voluntary donations and unbiased distribution of all organs.

The first kidney transplant took place in Boston 30 years ago and great strides have been made in antirejection drugs. Organ procurement and distribution is an important issue that should be controlled by a national allocation system not a private-sector initiative that virtually assures poor and low-income individuals will be shortchanged. The unconscionable practice of brokering organs for profit should not become an acceptable practice or policy and I urge my colleagues to join me in speaking out against it. ●

AMENDMENTS SUBMITTED

CRIME CONTROL ACT OF 1983

LAXALT AMENDMENT NO. 2436

(Ordered to lie on the table.)

Mr. LAXALT submitted an amendment to the bill S. 1762, a bill entitled the "Crime Control Act of 1983" as follows:

AMENDMENTS TO TITLE I (BAIL) S. 1762

On page 19, lines 15 and 16, delete "the defendant" and insert in lieu thereof "he".
On page 21, line 1, after "section," insert the following:

To the extent practicable, a person charged with violating the condition of his release that he not commit a Federal, State, or local crime during the period of release shall be brought before the judicial officer who ordered the release and whose order is alleged to have been violated.

On page 28, delete lines 7 and 8, and insert in lieu thereof the following:

(1) in subdivision (a), by striking out "§ 3146, § 3148, or § 3149" and inserting in lieu thereof "§§ 3142 and

On page 29, line 5, insert "under" before "18".

AMENDMENTS TO TITLE II (SENTENCING) S. 1762

On page 80, line 10, delete "3671" and insert in lieu thereof "3673".

On page 82, beginning with "or" on line 3, delete through line 19, and insert in lieu thereof the following:

"(3) was imposed for an offense for which a sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), and the sentence is greater than—

"(A) the sentence specified in the applicable guideline to the extent that the sentence includes a greater fine or term of imprisonment or term of supervised release than the maximum established in the guideline, or includes a more limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the maximum established in the guideline; and

"(B) the sentence specified in a plea agreement, if any, under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure; or

"(4) was imposed for an offense for which no sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and is greater than the sentence specified in a plea agreement, if any, under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure.

On page 83, beginning with "or" on line 3, delete through line 19, and insert in lieu thereof the following:

"(3) was imposed for an offense for which a sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1), and the sentence is less than—

"(A) the sentence specified in the applicable guideline to the extent that the sentence includes a lesser fine or term of imprisonment or term of supervised release than the minimum established in the guideline, or includes a less limiting condition of probation or supervised release under section 3563 (b)(6) or (b)(11) than the minimum established in the guideline; and

"(B) the sentence specified in a plea agreement, if any, under Rule 11 (e)(1)(B) or

(e)(1)(C) of the Federal Rules of Criminal Procedure; or

"(4) was imposed for an offense for which no sentencing guideline has been issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)(1) and is less than the sentence specified in a plea agreement, if any, under Rule 11 (e)(1)(B) or (e)(1)(C) of the Federal Rules of Criminal Procedure;".

On page 84, line 23, delete "c" and insert in lieu thereof "e".

On page 93, delete line 9 through 12, and insert in lieu thereof the following:

(9) by deleting "imposition of sentence is suspended, or disposition is had under 18".

On page 96, after line 8 insert the following and reletter subsequent subsections accordingly:

(f) Rule 6(e)(3)(C) is amended by adding the following subdivision:

"(iv) when permitted by a court at the request of an attorney for the government, upon a showing that such matters may disclose a violation of state criminal law, to an appropriate official of a state or subdivision of a state for the purpose of enforcing such law."

On page 96, delete lines 11 and 12, and insert in lieu thereof the following:

(1) The item relating to Rule 35 is amended to read as follows:

"35. Correction of Sentence.

"(a) Correction of a sentence on remand.

"(b) Correction of a sentence for changed circumstances."

On page 97, delete "12" from the beginning of the page and insert "9" in lieu thereof.

On page 97, insert a quotation mark at the beginning of line 4.

On page 121, after line 12, insert the following:

Redesignate subsections in section 4082 accordingly.

On page 124, line 10, delete "3667" and insert in lieu thereof "3669".

On page 124, delete lines 13 through 19, and redesignate subsequent subsections accordingly through page 128.

On page 126, line 8, after "(g)" insert "and redesignating (h) to (g)".

On page 126, line 13 and 14, delete "3666" and "3667" and insert in lieu thereof "3668" and "3669", respectively.

On page 127, line 14, delete "(4)" and insert in lieu thereof "(3)".

On page 127, line 15, delete "title." and insert in lieu thereof "title." and "and".

On page 127, after line 15, insert the following:

(F) by redesignating paragraphs accordingly.

On page 130, line 24, after "(1)" insert "by adding "and" after paragraph (2) and."

On page 131, line 15, delete "Board" and insert in lieu thereof "the Board".

On page 131, delete lines 21 through 24, and insert in lieu thereof the following: "fense was committed, pursuant to sentencing guidelines and policy statements issued pursuant to 28 U.S.C. 994(a)."

On page 132, after line 22, insert the following:

SEC. 222A. Section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472) is amended by inserting "notwithstanding the provisions of 18 U.S.C. 3559(b)," before the term "if" in paragraphs (i)(1)(B) and (n)(1)(B).

AMENDMENTS TO TITLE III (FORFEITURE)

On page 164, line 4, delete "remove" and insert in lieu thereof "and remove".

AMENDMENTS TO TITLE IV (MENTAL DISEASE OR DEFECT)

On page 178, delete line 8, and insert in lieu thereof the following: "vincing evidence."

(b) The sectional analysis of chapter 1 of title 18, United States Code, is amended to add the following new section 20:

"20. Insanity defense."

On page 189, lines 16, 20, 23, 24, and 25, delete "defendant" each time it appears and insert in lieu thereof "person".

On page 190, line 3, delete "release" and insert in lieu thereof "transfer".

On page 190, lines 3, 8, 15, 18, 19, 20, and 25, delete "defendant" each time it appears and insert in lieu thereof "person".

On page 190, line 22, delete "his" and insert in lieu thereof "the".

On page 191, lines 1, 6, 9, and 10, delete "defendant" each time it appears and insert in lieu thereof "person".

On page 201, delete lines 11 through 18, and reletter subsequent subsections accordingly through page 203.

AMENDMENTS TO TITLE V (DRUG ENFORCEMENT AMENDMENTS)

On page 211, lines 6 and 8, delete "I(b)" and insert in lieu thereof "I(c)".

On page 211, lines 7 and 10, delete "II(a)(5)" and insert in lieu thereof "II(a)(4)".

On page 212, after line 15, insert the following new section:

SEC. 505A. Section 202(c) schedule II(a)(4) of the Controlled Substances Act (21 U.S.C. 812(c) schedule II(a)(4)) is amended by adding the following sentence at the end thereof: "The substances described in this paragraph shall include cocaine, ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives."

On page 215, line 3, delete "201(g)(1)" and insert in lieu thereof "201(g)".

On page 215, line 4, delete "811(g)(1)" is amended to read: "and insert in lieu thereof "811(g)" is amended to add the following new paragraph:"

On page 215, line 5, delete "(g)(1)" and insert in lieu thereof "(3)".

On page 215, delete lines 10 through 14, and redesignate subsequent paragraphs accordingly.

On page 218, delete line 17, and insert in lieu thereof the following: on a ground specified in section 304(a). Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit, or impose additional restrictions upon, research involving drugs or other substances scheduled under the Convention which is conducted in conformity with this subsection and other applicable provisions of this subchapter."

On page 218, line 19, after "by" insert the following: deleting "or" at the end of subsection (2), by

On page 220, lines 3 and 4, delete "(f)" and insert in lieu thereof "(g)".

On page 220, delete after "by" on line 18 through line 19, and insert in lieu thereof the following: deleting "and" after paragraph (4), deleting the period and substituting "; and" after paragraph (5), and adding thereto a new paragraph (6) as follows:

On page 220, line 20, delete "(e) Enter" and insert in lieu thereof "(6) enter".

On page 221, line 9, after "by" insert the following: deleting "or" at the end of subpart (A), by

On page 221, line 11, delete "is".

On page 221, line 12, delete "exclusively," and insert in lieu thereof "exclusively."

On page 221, delete line 20, and insert in lieu thereof the following: may by regulation prescribe, except that if a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention."

On page 222, line 7, delete "and".

On page 222, line 12, delete "prescribe," and insert in lieu thereof "prescribe; and".

On page 222, after line 12, insert the following new paragraph:

"(3) in any case when a nonnarcotic controlled substance in schedule IV or V is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements, prescribed by regulation of the Attorney General, as are required by the Convention, instead of any notification or declaration required by paragraph (2) of this subsection."

On page 222, line 17, delete "V." and insert in lieu thereof "V."

AMENDMENTS TO TITLE VI (JUSTICE ASSISTANCE)

On page 228, after line 10, delete "TITLE I" and insert in lieu thereof "TITLE I—JUSTICE ASSISTANCE".

On page 228, Part B of the Table of Contents, delete "Sec. 201. Bureau of Justice programs." and insert in lieu thereof "Sec. 201. Establishment of Bureau of Justice Programs."

On page 228, Part B of the Table of Contents, delete "Establishment, duties and functions." and insert in lieu thereof "Duties and functions of Director."

On page 229, delete everything in "Part G" of the Table of Contents and insert in lieu thereof the following new "Part G":

"PART G—CRIMINAL JUSTICE FACILITIES

"Sec. 701. Establishment of the Bureau of Criminal Justice Facilities.

"Sec. 702. Functions of the Bureau.

"Sec. 703. Grants authorized for the renovation and construction of criminal justice facilities.

"Sec. 704. Allotment.

"Sec. 705. State plans.

"Sec. 706. Basic criteria.

"Sec. 707. Clearinghouse on the construction and modernization of criminal justice facilities.

"Sec. 708. Interest subsidy for criminal justice facility construction bonds.

"Sec. 709. Definitions.

On page 229, Part H of the Table of Contents, delete "rules," in the first line and insert in lieu thereof "rules".

On page 229, delete "PART M—EMERGENCY ASSISTANCE" and insert in lieu thereof "PART M—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE".

On page 230, delete "PART N—TRANSITION—REPEALER" of the Table of Contents and insert in lieu thereof "PART N—TRANSITION".

On page 241, line 7, delete "and".

On page 245, line 6, delete "local" and insert in lieu thereof "and local".

On page 248, line 18, delete "STATE/LOCAL" and insert in lieu thereof "STATE and LOCAL".

On page 255, after line 9, insert (in small caps) the following:

"DISTRIBUTION OF FUNDS

On page 262, line 14, after "GRANTS" insert (in small caps) "AUTHORIZED".

On page 262, delete line 16.

On page 264, line 21, delete "706" and insert in lieu thereof "705".

On page 267, line 23, delete "707" and insert in lieu thereof "706".

On page 268, line 16, delete "708" and insert in lieu thereof "707".

On page 269, line 5, delete "709" and insert in lieu thereof "708".

On page 270, line 10, delete "710" and insert in lieu thereof "709".

On page 282, after line 7, insert the following:

"DEFINITIONS

On page 290, after line 13, insert the following:

"AUTHORITY FOR FBI TO TRAIN STATE AND LOCAL CRIMINAL JUSTICE PERSONNEL

On page 300, line 20, after "surplus" insert "real and related personnel".

On page 301, line 3, after the word "real" insert "and related personal".

On page 301, line 16, after the word "real" insert "and related personal".

On page 302, line 9, delete "or" and insert in lieu thereof "for".

On page 302, line 25, delete "personal or real" and insert in lieu thereof "real and related personal".

AMENDMENTS TO TITLE X (MISCELLANEOUS VIOLENT CRIME AMENDMENTS)

On page 317, delete line 12, and insert in lieu thereof the following: the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, shall be fined not.

On page 317, line 19, after "section" insert "and section 1952B".

On page 318, line 2, delete "of" and insert in lieu thereof "of,".

On page 318, line 3, delete "pay" and insert in lieu thereof "pay,".

On page 318, line 13, delete "kidnapping" and insert in lieu thereof "kidnaping".

On page 319, line 2, delete "murder," and insert in lieu thereof "murder or kidnapping,".

On page 322, line 19, after "five" insert "nor more than ten".

On page 325, line 1, delete "as" and insert in lieu thereof "on".

On page 325, line 12, delete "title" and insert in lieu thereof "section".

On page 326, line 19, insert "INVOLUNTARY" before the word "SODOMY".

On page 327, after line 20, insert the following:

SEC. 1009A. Section 114 of title 18 is amended by deleting "Shall be fined not more than \$1,000 or imprisoned not more than seven years, or both" and inserting in lieu thereof "Shall be fined not more than \$25,000 and imprisoned not more than twenty years, or both".

On page 329, delete line 2, and insert in lieu thereof the following: Commission or interstate transmission facilities, as defined in 49 U.S.C. 1671."

On page 331, after line 5, insert the following:

(f) Table of Chapters is amended to add:

"210. International Extradition.....3191".

On page 331, line 6, delete "(f)" and insert in lieu thereof "(g)".

On page 334, line 7, delete "court." and insert in lieu thereof "court".

On page 334, line 8, delete "The" at the beginning of the line and insert in lieu thereof "the", and indent lines 8 and 9 to align with lines 2 and 11.

On page 353, line 7, delete "Except" and insert in lieu thereof "(a) Except".

AMENDMENTS TO TITLE XI (SERIOUS NONVIOLENT OFFENSES)

On page 361, delete line 10, and insert in lieu thereof the following:

Code is amended—

(a) by deleting in the first paragraph "shall be fined not more than \$2000 or imprisoned not more than one year, or both" and inserting in lieu thereof "shall be fined not more than \$10,000 or imprisoned not more than five years, or both";

(b) by adding a new paragraph as follows:

On page 368, after line 12, delete "entities." and insert in lieu thereof "entities." then add the following new line:

"511. Forging endorsements or signatures on securities of the United States."

On page 371, line 16, delete "repealed." and add the following: repealed, and the section analysis of Chapter 11 for section 216 be amended to read: "216. Repealed."

On page 373, delete line 5 and all that follows through the item relating to possession of contraband articles after line 10 on page 374, and insert in lieu thereof the following:

On page 374, line 15, delete "after section 665 a new section 666" and insert in lieu thereof "a new section 667".

On page 374, line 17, delete "666" and insert in lieu thereof "667".

On page 374, line 22, delete "benefit to" and insert in lieu thereof "benefit of".

AMENDMENTS TO TITLE XII (PROCEDURAL AMENDMENTS)

On page 376, line 11, delete "925(a)" and insert in lieu thereof "952(a)".

On page 376, line 22, delete "fifteenth," and insert in lieu thereof "fifteenth".

On page 380, delete lines 3 through 6, and insert in lieu thereof the following:

(2) again in paragraph (c) by deleting "section 1503" and substituting "sections 1503, 1512, and 1513";

(3) by deleting the "or" at the end of paragraph (f), by redesignating present paragraph "(g)" as "(h)", and by inserting a new paragraph (g) as follows:

On page 380, line 9, insert "or" after the semicolon.

On page 380, delete line 25, and insert in lieu thereof "deleted, and amend section analysis accordingly".

On page 382, after line 11 and before line 12, delete "3523. Civil action to restrain witness or victim intimidation." and insert in lieu thereof "3523. Penalty for wrongful disclosure."

On page 382, line 15, delete the words "in a official proceeding" and insert in lieu thereof "in an official proceeding concerning an organized criminal activity or other serious offense".

On page 382, at the end of line 23, insert the following:

The Attorney General shall issue guidelines defining the types of cases for which the exercise of authority of the Attorney General contained in this subsection would be appropriate. Before providing protection to any person under this chapter, the Attorney General shall—

"(1) to the extent practicable, obtain and consider information relating to the suitability of the person for inclusion in the program, including the criminal history, if any, and a psychological evaluation of, the person;

"(2) make a written assessment in each case of the seriousness of the investigation or case in which the person's information or

testimony has been or will be provided, and the possible risk of danger to persons and property in the community where the person is to be relocated; and

"(3) determine that the need for such protection outweighs the risk of danger to the public.

Neither the United States nor the Attorney General shall be subject to civil liability on account of a decision to provide protection under this chapter.

On page 383, line 23, before "refuse" insert "disclose or".

On page 383, line 24, after "other" insert "matter".

On page 384, line 4, delete the period and insert ", except that the Attorney General shall, upon the request of State or local law enforcement officials, promptly disclose to such officials the identity and location, criminal records, fingerprints, and other relevant information relating to the person relocated or protected when it appears that the person is under investigation for or has been arrested for or charged with an offense that is punishable by more than one year in prison or that is a crime of violence. The Attorney General shall establish an accurate and effective system of records concerning the criminal history of persons provided protection under this chapter in order to provide the information described in the paragraph."

On page 385, between lines 7 and 8, insert the following:

"(d) ENFORCEMENT OF JUDGMENT IN CIVIL ACTION BY SPECIAL MASTER.—(1) Anytime 120 days after a decision by the Attorney General to deny disclosure of the current identity and location of a person provided protection under this chapter to any person who holds a judicial order or judgment for money or damages entered by a Federal or State court in his favor against the protected person, the person who holds the judicial order or judgment for money or damages shall have standing to petition the United States district court in the district where the petitioner resides for appointment of a special master. The United States district court in the district where the petitioner resides shall have jurisdiction over actions brought under this subsection.

"(2)(A) Upon a determination that—

"(i) the petitioner holds a Federal or State judicial order or judgment; and

"(ii) the Attorney General has declined to disclose to the petitioner the current identity and location of the protected person with respect to whom the order of judgment was entered,

the court shall appoint a special master to act on behalf of the petitioner to enforce the order or judgment.

"(B) The clerk of the court shall promptly furnish the master appointed pursuant to clause (A) with a copy of the order of appointment. The Attorney General shall disclose to the master the current identity and location of such protected person and any other information necessary to enable the master to carry out his duties under this subsection. It is the responsibility of the court to assure that the master proceeds with all reasonable diligence and dispatch to enforce the rights of the petitioner.

"(3) It is the duty of the master to—

"(A) proceed with all reasonable diligence and dispatch to enforce the rights of the petitioner; and

"(B) to carry out his enforcement duties in a manner that minimizes, to the extent practicable, the safety and security of the protected person.

The master may disclose to State or Federal court judges, to the extent necessary to affect the judgment, the new identity or location of the protected person. In no other cases shall the master disclose the new identity or location of the protected person without permission of the Attorney General. Any good faith disclosure made by the master in the performance of his duties under this subsection shall not create civil liability against the United States.

"(4) Upon appointment, the master shall have the power to take any action with respect to the judgment or order which the petitioner could take including the initiation of judicial enforcement actions in any Federal or State court or the assignment of such enforcement actions to a third party under applicable Federal or State law.

"(5) The costs of the action authorized by this subsection and the compensation to be allowed to a master shall be fixed by the court and shall be apportioned among the parties as follows:

"(A) the petitioner shall be assessed in the amount he would have paid to collect on his judgment in an action not arising under the provisions of this section; and

"(B) the protected person shall be assessed the costs which are normally charged to debtors in similar actions and any other costs which are incurred as a result of an action brought pursuant to this section.

In the event that the costs and compensation to the master are not met by the petitioner or protected person, the court may, in its discretion, enter judgment against the United States for costs and fees reasonably incurred as a result of an action brought pursuant to this section.

"(e) RESOLUTION OF COMPLAINTS OR GRIEVANCES.—The Attorney General shall establish guidelines and procedures for the resolution of complaints or grievances of persons provided protection under this chapter regarding the administration of the program.

On page 385, after line 13, insert the following:

§ 3523. Penalty for Wrongful Disclosure

"Whoever, without the authorization of the Attorney General, knowingly discloses any information received from the Attorney General under section 3521(b)(6) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

On page 387, after line 24, insert a new Part I as follows:

PART I—JURISDICTION OVER CRIMES BY UNITED STATES NATIONALS IN PLACES OUTSIDE THE JURISDICTION OF ANY NATION

SEC. 1201. Section 7 of title 18, United States Code, is amended by adding a new paragraph, as follows:

"(7) Any place outside the jurisdiction of any nation with respect to an offense by or against a national of the United States.

● Mr. LAXALT. Mr. President, I am submitting for printing a group of noncontroversial technical and substantive amendments to S. 1762 for inclusion in the RECORD. These have the approval of the managers of the bill, and we anticipate that they will be offered and approved en bloc without debate when the bill is considered. I submit them and a set of explanations to the amendments for the RECORD.

EXPLANATION OF AMENDMENTS TO S. 1762

Page 19, lines 15-16: Technical Amendment.

Page 21, line 1: Expressly requires to the extent practicable that a person who violates the pre-trial release condition not to commit further crimes while on release be brought back before the same judge who released the person in the first instance to consider appropriate further action.

Page 28, lines 2-8: Technical Amendment.

Page 29, line 5: Technical Amendment.

Page 80, line 10: Technical Amendment.

Page 82, lines 3-19: This is a non-substantive clarifying amendment concerning appellate review of a sentence by the defendant where the sentence is above the applicable guideline or where no guideline for the offense existed.

Page 83, lines 3-19: This is a non-substantive clarifying amendment concerning appellate review of a sentence by the government where the sentence is below the applicable guideline or where no guideline for the offense existed.

Page 84, line 23: Technical Amendment.

Page 93, lines 9-12: Technical Amendment.

Page 96, line 8: This amendment creates, in Rule 6(e) of the Federal Rules of Criminal Procedure, a procedural mechanism whereby a Federal prosecutor could seek a court order to notify State authorities of facts relating to the commission of a State offense. Such a procedure was recently approved by the Judicial Conference's Advisory Committee on Criminal Rules.

Page 96, line 9: Technical Amendment.

Page 96, lines 11-12: Technical Amendment.

Page 97, preceding line 1: Technical Amendment.

Page 97, line 4: Technical Amendment.

Page 121, after line 12: Technical Amendment.

Page 124, line 10: Technical Amendment.

Page 124, lines 13-19: This amendment deletes amendments to 18 U.S.C. 1963 that were inadvertently carried over from prior criminal code bills (S. 1630) and not appropriate in the context of this bill.

Page 124, lines 20 and 22: Technical Amendments.

Page 125, lines 5 and 19: Technical Amendments.

Page 126: Technical Amendments.

Page 127: Technical Amendments.

Page 128: Technical Amendments.

Page 130, line 24: Technical Amendment.

Page 131: Technical Amendments.

Page 132, after line 22: Clarifying amendment to make it clear that the new 18 U.S.C. 3559(b) is not intended to repeal the current death penalty and related procedures applicable to aircraft hijacking, where death results.

Page 164, line 4: Technical Amendment.

Page 178, after line 8: Technical Amendment.

Page 189: Technical Amendments.

Page 190: Technical Amendments.

Page 191: Technical Amendments.

Page 201: This amendment deletes new 18 U.S.C. 4246(g) as redundant since it covers the same subject area as Rule 12.2(c) of the Federal Rules of Criminal Procedure, which took effect August 1, 1983. Moreover, Rule 12.2(c) sets forth a more accurate standard, in light of recent Supreme Court decisions, for determining under what circumstances a defendant's statements made in the course of a mental examination are admissible in evidence.

Page 201, lines 19 and 23: Technical Amendments.

Page 202, line 11: Technical Amendment.

Page 203, line 6: Technical Amendment.

Page 211, lines 6 and 8 and lines 7 and 10: Technical Amendments.

Page 212: An amendment to conform Schedule II(a)(4) to other points of the bill.

Page 215: Clarifying amendment to make it clear that this bill does not intend to change in any way the current mandatory exemption of over-the-counter nonnarcotic drugs from the controlled substances schedule process. It does this by retaining the mandatory provisions of current 21 U.S.C. 201(g)(1) and eliminating over-the-counter nonnarcotic drugs from the new permissive exemption authority proposed by this bill.

Page 218, line 17: Necessary language to continue current law inadvertently left out of S. 829.

Page 218, line 19: Technical Amendment.

Page 220: Technical Amendments.

Page 221, lines 9, 11, and 12: Technical Amendments.

Page 221, line 20: Language that in essence, appears in current law that is necessary to meet U.S. obligations under the Convention on Psychotropic Substances.

Page 222, line 7: Technical Amendment.

Page 222, lines 12-13: Technical Amendments.

Page 222, line 17: Technical Amendment.

Page 228: Technical Amendments.

Page 229: Technical Amendments.

Page 230: Technical Amendment.

Page 241, line 7: Technical Amendment.

Page 245, line 6: Technical Amendment.

Page 248, line 18: Technical Amendment.

Page 255, after line 9: Technical Amendment.

Page 262, lines 14 and 16: Technical Amendment.

Page 264, line 21: Technical Amendment.

Page 267, line 23: Technical Amendment.

Page 268, line 16: Technical Amendment.

Page 269, line 5: Technical Amendment.

Page 270, line 10: Technical Amendment.

Page 282, lines 7-8: Technical Amendment.

Page 290, lines 13-14: Technical Amendment.

Page 300, line 20: Clarifying Amendment.

Page 301, lines 3 and 16: Clarifying Amendments.

Page 302, line 9: Technical Amendment.

Page 302, line 25: Clarifying Amendment.

Page 317, line 12: This amendment would conform the "consideration" clause of proposed section 1952A to that in proposed section 1952B (at page 318, lines 2-3).

Page 317, line 19: The amendment makes the definition of "anything of pecuniary value" applicable both to section 1952A and 1952B as is appropriate.

Page 318: Technical Amendments.

Page 319, line 2: Amendment corrects inadvertent omission of a penalty for an attempt or conspiracy to kidnap another person.

Page 322, line 19: The proposed new offenses for committing a crime of violence with or while carrying a handgun loaded with armor-piercing ammunition inadvertently omitted a maximum prison term. This amendment sets the maximum term for the offense at ten years.

Page 325: Technical Amendments.

Page 326: Technical Amendment.

Page 327: Section 114 punishes maiming. Except for murder and rape, maiming is probably the most serious crime of violence against the person in the criminal code. The penalty for this offense, however, is anomalously low. Whereas the more modern assault statute involving serious bodily injury, 18 U.S.C. 113(f), carries a ten-year and \$10,000 maximum sentence, 18 U.S.C. 114 is

only punishable by seven years in prison and a fine of \$1000. The amendment would elevate the penalty for maiming to twenty years and \$25,000.

Page 329, line 2: Amendment to exclude interstate transmission facilities from this general offense concerning destruction of energy facilities, because such facilities are already protected under title 49.

Page 331: Technical Amendments.

Page 334: Technical Amendments.

Page 335, line 7: Technical Amendment.

Page 361: Amendment to further amend 18 U.S.C. 2232 (relating to interfering with a search or seizure) to raise the penalty to a five year felony for unlawfully impeding or preventing a search or seizure by destroying or removing property.

Page 368: Technical Amendments.

Page 371: Technical Amendment.

Page 373, line 5 through 374, line 10: This amendment strikes the new prison contraband provision proposed in Part H of title XI and substitutes a total unified approach to prison contraband.

The prison contraband amendments of the bill (section 1109) were designed primarily to cure a defect in current law under which introduction of contraband into, or movement of such articles within, a prison facility is an offense, but possession of contraband items by a prisoner is not covered. To cure this defect, section 1109 of the bill added a new 18 U.S.C. 1793 to reach possession in a prison facility of escape tools, narcotic drugs, and weapons. Present statutes concerning prison contraband, 18 U.S.C. 1791 and 972 (which also reaches inciting a prison riot), were unchanged.

A number of problems have been noted with the approach adopted in section 1109 of the bill. For example, the ten-year penalty for existing offense remains the same, irrespective of whether the contraband article is a gun or a pack of cigarettes; no penalty is provided for the possession of non-narcotic drugs such as LSD or PCP; a prisoner found carrying an escape tool would be subject to a ten year penalty if charged under existing section 1792 but to only a one year penalty if charged under the new proposed offense. Also, this section of the bill fails to provide needed statutory authority to summarily seize and forfeit contraband articles in Federal correctional institutions. (See, *Sell v. Parratt*, 548 F.2d 753 (8th Cir.) cert. denied, 434 U.S. 873 (1977); but see *Louery v. Cuyler*, 521 F. Supp. 430 (E.D. Pa. 1981) (upholding confiscation of contraband money and declining to follow *Sell*).

The amendment of section 1109 addresses these problems by creating a single, unified offense to address both the introduction of contraband articles into prisons, and the procurement and possession of these items by prisoners. This new offense is to appear as a new 18 U.S.C. 1791, and it is based on the prison contraband offense included in the criminal code revision bill approved by the Judiciary Committee in the last Congress (S. 1630). Under this new offense, the severity of the penalty would depend on the relative dangerousness of the article involved, with the most severe penalty imprisonment for ten years and a \$25,000 fine) applicable to offenses involving firearms and explosives. In all, five levels of penalties are provided.

The aspects of current 18 U.S.C. 1792 concerning prison contraband are deleted so that the offense deals solely with conduct involving prison riots and mutiny. Currently, no fine is prescribed for this offense; therefore, a \$25,000 fine has been added.

Finally, a new section has been added to title 28, United States Code, to authorize the summary seizure and forfeiture of contraband articles by Bureau of Prisons personnel. A virtually identical amendment was included in the criminal code revision bill approved by the Judiciary Committee in the last Congress (S. 1630).

Page 374, lines 15, 17, and 22: Technical Amendments.

Page 376, lines 11 and 12: Technical Amendments.

Page 380: Technical Amendments.

Page 382, after 11: Technical Amendments.

Page 382, line 15: This amendment establishes, as a predicate for witness protection, the requirement that the official proceeding involve an allegation of organized criminal activity or other serious offense. This reflects the view that witnesses should be afforded protection only in serious cases.

Page 382, line 23: The first paragraph and subsection (1) reflect the finding that there has been not sufficient delineation of the guidelines for placing persons in the witness protection program. The amendment requires the Attorney General to issue formal guidelines. Subsection (2) requires a written assessment by the Attorney General in each case of the need for protection versus the danger to the community posed by placing a relocated witness in its midst. Subsection (3) requires a determination that the need for protection outweighs the risk of danger to the community. The final sentence makes clear that no civil liability attaches to a decision to afford protection to a witness.

Page 383, line 23: This amendment provides that the Attorney General may disclose as well as refuse to disclose the identity of a protected witness after weighing danger to the witness, detriment to the effectiveness of the program, and benefits to the community or the person seeking the disclosure.

Page 383, line 24: Technical Amendment.

Page 384, line 4: This amendment mandates disclosure to law enforcement authorities of relevant information about a protected witness when the witness is charged with a felony or a violent misdemeanor. Disclosure remains discretionary when the charge involves a non-violent misdemeanor. This comports generally with present practice in the administration of the program.

Page 385, after line 7: Subsection (d) establishes a procedure by which an individual with a judicial order or judgment for money or damages may petition a federal court for the appointment of a master to enforce his or her rights against the protected person. This does not apply to child custody order.

This procedure assures that the identity of the protected person is not publicly disclosed while providing an opportunity to an individual with a legitimate order or judgment to have it enforced.

Under current law it is difficult, if not impossible, for individuals to collect judgments against persons who have entered the Witness Security Program because their location is unknown.

Subsection (e) requires the Attorney General to establish guidelines and procedures for the resolution of complaints by protected persons about the administration of the program.

Page 385, after line 13: This amendment establishes as a felony offense the disclosure of the identity or location of a protected witness when such information is provided

ed by the Attorney General to assist a state or local investigation.

Page 387, after line 24: This amendment to S. 1762 adds a new Part I to title XII to amend 18 U.S.C. 7 to provide United States extraterritorial jurisdiction of serious crimes committed by or against United States nationals, as when such crimes are committed in Antarctica or on an ice flow. A similar proposal was adopted by the Judiciary Committee in S. 1630 in the 97th Congress. In addition, a similar amendment to 18 U.S.C. 7 with respect to offenses committed aboard space craft was enacted in the 97th Congress (see P.L. 97-96, December 21, 1981).●

FISCAL YEAR 1984 SUPPLEMENTAL APPROPRIATIONS

WARNER AMENDMENT NO. 2437

Mr. WARNER proposed an amendment to the bill H.R. 3959. An Act making supplemental appropriations for the fiscal year ending September 30, 1984, and for other purposes, as follows:

At an appropriate place in H.R. 3959 add the following new section:

Sec. . The Department of Housing and Urban Development Independent Agencies Appropriation Act, 1984, under the account, Federal Emergency Management Agency, State and Local Assistance, is amended by adding the following before the period: "Provided, further, That notwithstanding any other provision of law for the fiscal year 1984, \$55,000,000 is available for contributions to the States under section 205 of the Federal Civil Defense Act of 1950, as amended, (50 U.S.C. App. 2286) for personnel and administrative expenses."

SPECTER AND HEINZ AMENDMENT NO. 2438

Mr. SPECTER (for himself and Mr. HEINZ) proposed an amendment to the bill H.R. 3959, supra, as follows.

On page 24, between lines 11 and 12, insert the following:

CHAPTER VII—DEPARTMENT OF EDUCATION HIGHER EDUCATION

For part B of title VII of the Higher Education Act of 1965, \$5,000,000, to remain available until expended, for construction, renovation and related costs of an urban research park facility to be established jointly by the Cheyney State College of Cheyney, Pennsylvania, and Lincoln University of Lincoln, Pennsylvania, except that the provisions of section 721 (a)(2) and (b) shall not apply to the funds appropriated under this heading, and the amount of the grants paid from funds appropriated under this heading shall not be subject to any matching requirement contained in section 721(c) of such part and shall be used for the facilities of the type mentioned in section 713(g).

SPECTER (AND OTHERS) AMENDMENT NO. 2439

Mr. SPECTER (for himself, Mr. FORD, Mr. MOYNIHAN, Mr. DIXON, Mr. SASSER, and Mr. METZENBAUM) proposed an amendment to the bill H.R. 3959, supra, as follows:

On page 10 between lines 19 and 20, insert the following:

EXTENSION OF SUPPLEMENTAL RAILROAD UNEMPLOYMENT COMPENSATION

SEC. 1206. (a) Section 17 of the Railroad Unemployment Insurance Act is amended—

(1) in subsection (a)(2), by inserting ", or the benefit year beginning July 1, 1983" after "July 1, 1982";

(2) in subsection (e), by striking out "June 30, 1983" and inserting in lieu thereof "June 30, 1984"; and

(3) by amending subsection (f) to read as follows:

"(f)(1) For purposes of this section the term 'period of eligibility' means, with respect to any employee for the benefit year beginning July 1, 1982, the period beginning with the later of—

"(A) the first day of unemployment following the day on which he exhausted his rights to unemployment benefits (as determined under subsection (b)) in such benefit year; or

"(B) March 10, 1983,

and consisting of five consecutive registration periods (without regard to benefit year); except that for purposes of this paragraph, any registration period beginning after June 30, 1983, and before the date of the enactment of the Supplemental Appropriations Act, 1984, shall not be taken into account for purposes of payment of benefits, or in determining the consecutiveness of registration periods.

"(2) For purposes of this section the term 'period of eligibility' means, with respect to any employee for the benefit year beginning July 1, 1983, the period beginning with the later of—

"(A) the first day of unemployment following the day on which he exhausted his rights to unemployment benefits (as determined under subsection (b)) in such benefit year; or

"(B) the date of the enactment of the Supplemental Appropriations Act, 1984,

and consisting of five consecutive registration periods; except that no such period of eligibility shall include any registration period beginning after June 30, 1984."

(b) The amendments made by this section shall apply with respect to days of unemployment during any registration period beginning on or after the date of the enactment of this Act.

(c) Amounts appropriated under section 102(b) of Public Law 98-8 shall remain available without regard to fiscal year limitation for purposes of carrying out the amendments made by this section, and amounts appropriated under such section into the railroad unemployment insurance account in the Unemployment Trust Fund may be transferred into the railroad unemployment insurance administration account in the Unemployment Trust Fund as may be necessary to carry out the amendments made by this section (as determined by the Railroad Retirement Board).

STEVENS AMENDMENT NO. 2440

Mr. HATFIELD (for Mr. STEVENS) proposed an amendment to the bill H.R. 3959, supra, as follows:

On page 21, line 1, after the word "Alaska" insert the following: "shall remain available until expended and".

PRYOR (AND OTHERS) AMENDMENT NO. 2441

Mr. PRYOR (for himself Mr. WARNER, Mr. MELCHER, Mr. BYRD, Mr. BINGAMAN and Mr. RANDOLPH) proposed an amendment to the bill H.R. 3959, supra, as follows:

On page 5, after line 20, add the following:

VETERANS' BURIAL EXPENSES

For payments in providing financial assistance to any program carried out by a State (including the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands) to assure an honorable burial for each veteran who is buried in such State and, during the year ending on the date of the veteran's death, received less than \$10,000 in income of any kind, \$1,000,000. The Administrator of Veterans' Affairs shall determine whether a program carried out by a State is a program described in the preceding sentence. The total amount of the financial assistance which the Administrator may provide to any State hereunder shall be an amount which bears the same ratio to the total amount of such assistance available for all States during fiscal year 1984 as the total number of veterans residing in such State on the first day of such fiscal year bears to the total number of veterans residing in the United States on such day.

DECONCINI AMENDMENT NO. 2442

Mr. DECONCINI proposed an amendment to the bill H.R. 3959, supra, as follows:

On page 24, between lines 11 and 12, insert the following:

EMERGENCY CONSERVATION PROGRAM

For an additional amount to carry out the emergency conservation program authorized by title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 et seq.), \$7,000,000, to remain available until expended.

BIDEN (AND OTHERS) AMENDMENT NO. 2443

Mr. BIDEN (for himself, Mr. DECONCINI, Mr. CHILES, Mr. PELL, and Mr. MOYNIHAN) proposed an amendment to the bill H.R. 3959, supra, as follows:

At the appropriate place in the bill, add the following new account:

Office of the Director of National and International Drug Operations and Policy and the Commission on Drug Interdiction and Enforcement

For Salaries and expenses, not otherwise provided for, of the Office of the Director of National and International Drug Operations and Policy and the Commission on Drug Interdiction and Enforcement, \$1,000,000: Provided that

(a) The Congress hereby makes the following findings:

(1) The flow of illegal narcotics into the United States is a major and growing problem.

(2) The problem of illegal drug activity falls across the entire spectrum of Federal Activities both nationally and internationally.

(3) Illegal drug trafficking is estimated by the General Accounting Office to be a \$79,000,000,000 a year industry in the United States.

(4) The annual consumption of heroin in the United States is in the range of four metric tons, and annual domestic consumption of cocaine is estimated to be forty to forty-eight metric tons.

(5) Despite the efforts of the United States Government and other nations, the mechanisms for smuggling opium and other hard drugs into the United States remain virtually intact and United States agencies estimate that they are able to interdict no more than 5 to 15 per centum of all hard drugs flowing into the country.

(6) Such significant indicators of the drug problem as drug-related deaths, emergency room visits, hospital admissions due to drug-related incidents, and addiction rates are soaring.

(7) Increased drug trafficking is strongly linked to violent, addiction-related crime and recent studies have shown that over 90 per centum of heroin users rely upon criminal activity as a means of income.

(8) Much of the drug trafficking is handled by syndicates which results in increased violence and criminal activity because of the competitive struggle for control of the domestic drug market.

(9) Controlling the supply of illicit drugs is a key to reducing the crime epidemic confronting every region of the country.

(10) The magnitude and scope of the problem requires a director of National and International Drug Operations and Policy with the responsibility for the coordination and direction of all Federal efforts by the numerous agencies.

(11) Such a director must have broad authority and responsibility for making management, policy, and budgetary decisions with respect to all Federal agencies involved in attacking this problem so that a unified and efficient effort can be made to eliminate the illegal drug problem.

(b) It is the purpose of the Office to insure—

(1) the development of a national policy with respect to illegal drugs;

(2) the direction and coordination of all Federal agencies involved in the effort to implement such a policy; and

(3) that a single, competent, and responsible high-level official of the United States Government, who is appointed by the President, by and with the advice and consent of the Senate, and who is accountable to the Congress and the American people, will be charged with the responsibility of coordinating the overall direction of United States policy, resources, and operations with respect to the illegal drug problem.

(c)(1) There is established a Commission on Drug Interdiction and Enforcement (hereinafter referred to as the 'Commission') which shall be composed of:

(A) Four members appointed by the President, one of whom shall be designated by the President as chairman;

(b) The Attorney General, the Secretary of the Treasury, the Secretary of Transportation, and the Secretary of State;

(c) Four members appointed by the Speaker of the House of Representatives from the membership of the House Committee on the Judiciary; and

(d) Four members appointed by the President pro tempore of the Senate from the membership of the Senate Committee on the Judiciary.

(2) Of amounts appropriated under this account \$1,000,000 shall be available for the

Commission established under this subsection.

(3) A majority of the Commission shall constitute a quorum for the transaction of its business, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than four members of the Commission.

(4) Each member of the Commission who is not otherwise in the service of the Government of the United States be compensated at a rate not to exceed the daily equivalent of the rate than payable for grade GS-18 in the General Schedule under section 5332 of title 5, United States Code, for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code. Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code.

(5) It shall be the duty of the Commission to study and evaluate, in accordance with, but not limited to, paragraph (6), existing laws, policies, and procedures governing drug interdiction, including existing authorities for domestic drug interdiction agencies, international drug eradication, crop substitution, and other cooperative programs in source and transshipment countries, and domestic and foreign intelligence-gathering programs for drug interdiction, and to make such administrative, legislative, and procedural recommendations to the President, the Director of the Office of National and International Drug Operations and Policy and to the Congress as are appropriate.

(6) In particular, the Commission shall—

(a) conduct a study and analysis of the effect of provisions in current law which affect possession or transfer of controlled substances and other laws whose purposes are to deter drug trafficking into the United States;

(b) conduct a study and analysis of current administrative and statutory obstacles to enhancing the gathering and tactical use of both domestic and foreign intelligence for use by Federal, state, and local drug interdiction agencies, including the appropriate role for the El Paso Intelligence Center (EPIC);

(c) conduct study and analysis of the Posse Comitatus doctrine, including modifications which would improve the use of military resources for drug interdiction and intelligence purposes;

(d) conduct a study and analysis of coordination between Federal, state, and local agencies involved in drug interdiction and intelligence gathering and how such coordination can be improved;

(e) conduct a study and analysis of the relationship between the different segments of enforcement of U.S. drug laws, particularly intelligence gathering, interdiction, prosecution, and results of prosecution, and recommend appropriate legislation and administration actions;

(f) conduct a study and analysis of the allocation of Federal resources in the area of drug interdiction, and make appropriate recommendations regarding a comprehensive,

coordinated overview of Federal drug interdiction and enforcement agencies' resource requirements rather than a piecemeal approach to drug interdiction and enforcement budgeting;

(g) recommend a coordinated approach to gathering and verifying drug interdiction, seizure, arrest and prosecution statistics;

(h) make a semiannual report to the House and Senate Committees on the Judiciary during the period before publication of its final report (described in subparagraph (i)); and

(i) make a final report of its findings and recommendations to the President, to the Director of National and International Drug Operations and Policy and each House of Congress, which report shall be published no later than January 20, 1985.

(j) develop a coordinated interagency Federal strategy on narcotics control to be implemented by the Director of National and International Drug Operations and Policy beginning January 20, 1985.

(7)(a) The Commission is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(b) staff members of the Committee on the Judiciary of the Senate or of the Committee on the Judiciary of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Staff members so detailed shall serve on the staff of the Commission without additional compensation except that they may receive such reimbursement of expenses incurred by them as the Commission may authorize.

(8) The Commission may call upon the head of any Federal department or agency to furnish information and assistance which the Commission deems necessary for the performance of its functions, and the heads of such departments and agencies shall furnish such assistance and information, unless prohibited under law, without reimbursement.

(9) The Commission is authorized to make grants and enter into contracts for the conduct of research and studies which will assist it in performing its duties under this subsection.

(10) The Commission is authorized to conduct hearings and prepare written transcripts of the same.

(11) The Commission shall cease to exist upon the filing of its final report, except that the Commission may continue to function for up to 60 days thereafter for the purpose of winding up its affairs.

(12) The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the daily equivalent of the rate then payable for grade GS-18 in the General Schedule under section 5332 of such title.

(13) There is authorized to be appropriated the sum of \$1,000,000 for necessary salaries and expenses of the Commission.

(d)(1) There is established in the executive branch of the Government an office to be known as the "Office of the Director of National and International Drug Operations

and Policy" (hereinafter in this heading referred to as the "Office of the Director"). There shall be at the head of the Office of the Director a Director of National and International Drug Operations and Policy (hereinafter in this section referred to as the "Deputy Director") to assist the Director in carrying out the Director's functions under this.

(2) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director and the Deputy Director shall each serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than four years unless such person is reappointed to that same office by the President, by and with the advice and consent of the Senate. The Director shall be entitled to the compensation provided for in section 5313, title 5, United States Code. The Deputy Director shall be entitled to the compensation provided for in section 5314, title 5, United States Code.

(3) The Director shall serve as the principal director and coordinator of United States operations and policy on illegal drugs.

(4) The Director shall have the responsibility, and is authorized to—

(A) implement the strategy recommended pursuant paragraph c(6);

(B) thereafter, revise any such strategy and develop, review, implement and enforce all United States government policy with respect to illegal drugs and narcotics;

(C) direct and coordinate all United States Government efforts to halt the flow into, and sale and use of illegal drugs within the United States;

(D) develop in concert with governmental entities budgetary priorities and budgetary allocations of entities of the United States Government with respect to illegal drugs; and

(E) coordinate the collection and dissemination of information necessary to implement United States policy with respect to illegal drugs.

(5) In carrying out his responsibilities under paragraph (4), the Director is authorized to—

(A) direct, with the concurrence of the head of the agency employing such personnel, the temporary reassignment of government personnel within the United States Government in order to implement United States policy with respect to illegal drugs;

(B) procure temporary and intermittent services under section 3109(B) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the grade of GS-18 of the General Schedule;

(C) accept and use donations of property from all government agencies; and

(D) use the mails in the same manner as any other department or agency of the executive branch.

(6) Notwithstanding any other provision of law, rule, or regulation to the contrary, the Director shall have the authority to direct each department or agency with responsibility for drug control to carry out the policies established by the Director consistent with the general authority of each agency or department.

(7) The Administrator of the General Services Administration shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

(8) The Director shall submit to the Congress, by January 1, 1986, and annually thereafter, a full and complete report reflecting accomplishments with respect to the United States policy and plans theretofore submitted to the Congress.

(9) For the purpose of carrying out the function of the Office there are authorized to be appropriated \$500,000 for fiscal year 1985, and such sums as may be necessary for each of the four succeeding years, to be available until expended.

(10) This subsection shall be effective January 20, 1985.

NOTICE TO SUSPEND THE RULES

Mr. BAKER submitted the following notice in writing:

In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of Rule XVII and paragraph 5 of Rule XVII and that part of Rule VIII, paragraph 2, containing the words "during the first two hours of a new legislative day", as well as the last sentence of paragraph 2, for the purpose of moving to proceed to H.J. Res. 308, a joint resolution increasing the statutory limit on the public debt.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public oversight hearing before the Subcommittee on Public Lands and Reserved Water to receive testimony on the acquisition of land, and acquisition and termination of grazing permits or licenses issued by the Bureau of Land Management pursuant to the Taylor Grazing Act (43 U.S.C. 315 et seq.) at the White Sands Missile Range, N. Mex.

The hearing will be held on Monday, November 14, beginning at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will meet on Tuesday, November 1, 1983, at 2 p.m. in room 608 Dirksen Senate Office Building to package and report the reconciliation bill of 1984.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 26, 1983, in order to receive testimony concerning S. 1841, the National Productivity and Innovation Act.

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

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, October 27, 1983, in order to receive testimony concerning Mr. Sherman E. Unger to be the U.S. circuit judge for the Federal circuit.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, October 27, at 11 a.m., to hold a hearing on the situation in Grenada.

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

SUBCOMMITTEE ON MERCHANT MARINE

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Merchant Marine of the Committee on Commerce, Science and Transportation be authorized to meet during the session of the Senate on Thursday, October 27, to hold hearings on S. 1546, Deepwater Port Act Amendments of 1983 and other matters relating thereto.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, October 26, to hold an oversight hearing on computer security in the Federal Government and private sector.

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

ADDITIONAL STATEMENTS

THE CIVIL RIGHTS COMMISSION

● Mr. BENTSEN. Mr. President, when I offered an amendment last Friday to save the Civil Rights Commission from its pending extinction, I did so out of a very real concern that this administration is attempting to strangle and vitiate an independent Civil Rights Com-

mission which has served the Congress, several administrations, and the American people for more than 26 years.

I offered my amendment because I considered the situation to be an emergency. If the situation was an emergency then, the situation is even more grave today.

I withdrew my amendment based on the good faith assurances from the chairman of the Judiciary Committee and the majority leader that the Civil Rights Commission reauthorization bill would be marked up and reported by the committee yesterday, and that the full Senate would have an opportunity to debate the bill before this session of the Congress adjourned sine die.

I want to make clear that I believe the chairman of the Judiciary Committee made a good faith effort to fulfill his pledge to me. I want the chairman to know that I believe his pledge fell victim to circumstances beyond his control. I bear the chairman no ill will, and I trust his word as much today as I did 5 days ago. The position of the majority leader is well known, and I want him to know that I trust his word as well.

If anyone broke those good faith assurances, it was Ronald Reagan. The administration's action of physically evicting sitting Civil Rights Commissioners from their offices yesterday is a frustrating outrage.

The President's action torpedoed a compromise that was the result of broad bipartisan concern for the extension of an independent Civil Rights Commission. By the President's action, I must assume that he prefers to have a commission that answers to him alone, and failing that, he prefers to have no commission at all. Well, we cannot block his firing of the Commissioners, but the President will soon learn that the Senate is not powerless to respond. And respond we must.

The principle at stake here is important. It is a principle that has transcended six changes in the oval office, both Republicans and Democrats. The principle is that the long struggle for equality and dignity for minority Americans is worth the fight, that the American dream should extend beyond a privileged few and reach to all of our citizens, no matter the circumstances of their birth or upbringing.

So it is with considerable disappointment that I witnessed yesterday's Civil Rights Commission massacre. Not concern for myself, but for those citizens who will lose their opportunity to succeed in America: Hispanics, women, blacks, native Americans, and the handicapped. I will not sit idly by while their ticket to opportunity in America is voided. In good conscience I cannot and will not allow their part of the American dream to expire.

What the President did yesterday is virtually unprecedented. Of course, Presidents throughout our history have been plagued by critics within the Government, and a few have tried to have those critical voices silenced. But the wholesale dismissal of half a commission is an action that only President Nixon's firing of the Justice Department's leadership in 1973 can match.

This President will tolerate no criticism—no matter how justified or well-reasoned—of his civil rights policies, and he will do all he can to quell the voices of dissent. That being the case, I am compelled to join the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Delaware (Mr. BIDEN) in proposing legislation to remove the Civil Rights Commission from his grasp.

I believe the compromise worked out by Republicans and Democrats on the Judiciary Committee was the best solution, and I would have far preferred that option. But the President's action yesterday rendered that compromise meaningless, and sent us all back to square one. Well, I am willing to meet that challenge, and with the help of my colleagues from both sides of the aisle, I am willing to work to restore an independent, bipartisan Civil Rights Commission that will do the bidding of justice and not of a narrow ideological viewpoint.

Mr. President, I am proud to be an original cosponsor of Senate Concurrent Resolution 78, to establish a Congressional Commission on Civil Rights. The President's action is a form of tyranny, tyranny to put down voices of dissent. I am confident that the principles of right and justice will overcome that tyranny. I hope that those who join me in supporting the very important principle at stake here, the principle of equality of opportunity, will join me in supporting this measure. ●

S. 1113

● Mr. D'AMATO. Mr. President, on April 20, 1983, I introduced S. 1113, legislation that would repeal the inclusion of tax-exempt interest for determining the taxation of social security benefits. This bill became necessary because of a little-known provision contained in the social security bailout package which established a direct tax on municipal bonds. The Social Security Amendments of 1983 mandated an income threshold of \$25,000—\$32,000 for a married couple—for taxation of social security benefits. Included in the threshold calculation are taxable earnings, half of all social security benefits, and all tax-exempt interest income.

Mr. President, I rise today to refute the fallacious arguments that have been used in opposition to S. 1113. Many of these arguments were articu-

lated on August 1, 1983, at a hearing held by the Finance Committee to consider this legislation. At that time, it became apparent that misconceptions still existed concerning the impact of S. 1113.

Perceived equity is the principal concern of those Senators who support the provision including tax-exempt interest in calculating adjusted gross income for purposes of taxing social security benefits. In the Finance Committee hearing, concern was expressed that repeal of the provision would allow an individual with \$40,000 of taxable investment income to shift just enough taxable investments into State and local bonds to avoid taxes on social security benefits. In effect, so the argument goes, passage of S. 1113 would allow the wealthy to escape sharing the burden of taxation of social security benefits.

Needless to say, Mr. President, the equity argument does not stand up when scrutinized. Let's look at the example often used, that is, a wealthy individual with \$40,000 of taxable investment income. According to the Office of the Actuary of the Social Security Administration, an individual who retires on January 1, 1984, at the age of 65, will receive an average social security benefit of \$542 per month, or \$6,504 for the year. Half of the social security benefits—\$3,252—will be included in the threshold calculation for taxation of social security benefits.

Since this person is argued to have \$40,000 of taxable investment income, he or she exceeds the income threshold of \$25,000. With a 35 percent marginal tax rate, taxes on these social security benefits would be \$1,138.20. For our purposes, I will assume that the taxable investment income is derived from dividends on IBM common stock. It is fair to assume that a retired person would own a blue chip stock such as IBM. On October 11, 1983, IBM common stock was selling at \$132 $\frac{3}{4}$, with a dividend of \$3.80 per share. To receive \$40,000 of dividend income a year, this individual would have to own roughly 10,526 shares of IBM, which equates to \$1,397,368.40 of investment principal.

To come under the income threshold, the individual would have to sell 4,868 shares of IBM and transfer the proceeds—\$646,289—to tax-free municipal bonds. This would reduce taxable investment income to \$21,500. Taxable income, when added to half of social security benefits—\$3,252—would yield a total adjusted gross income of \$24,752, just below the income threshold. If S. 1113 were enacted, this person would have avoided \$1,138.20, a year of taxes on social security benefits, by changing the composition of his or her investments.

However, this example does not take into account the commissions that

would be paid to securities brokers to sell 4,868 shares of IBM and buy the equivalent amount of municipal bonds. Securities firms generally charge a commission of 1.25 percent on the proceeds of a stock sale. In the example I have discussed, the sale of 4,868 shares of IBM would have resulted in a brokerage commission of \$8,078.50. The average municipal bond commission is between 3 and 5 percent on the amount invested. To be conservative, however, I will use the same 1.25 percent commission charged on the sale of common stock. Consequently, the commission charged for purchasing municipal bonds would also be \$8,078.50, for total transactions cost of \$16,157.

In this example, the 65-year-old newly retired person would spend \$16,157 in commissions to shift investments from taxable securities to municipal bonds in order to save \$1,138.20 in taxes on social security benefits. This individual would have to live to be 79 years old before such a transaction would begin to pay for itself, even if we totally disregard the declining time value of money. This is a real problem since, according to the most recent statistics available, the average individual turning 65 on January 1, 1981, will only live to be 77.2 years old.

Mr. President, I offered this long example because I feel that it is wrong to assume that, if S. 1113 were enacted, the wealthy would shift their investments to tax-exempt bonds to avoid taxation of their social security benefits. The commissions incurred to change investment vehicles would be far out of proportion to the taxes saved on the social security benefits.

Furthermore, should S. 1113 be enacted, wealthy individuals would not go to the trouble of switching investment strategies to save a portion of their social security benefits. The affluent individual perceives social security benefits as nothing more than gravy. Wealthy people will not incur brokerage commissions or potential losses on liquidated investments and will not spend the time to save taxes on benefits, which are considered a gift courtesy of the Federal Government.

Alternatively, what about the rich individual whose original income source is \$40,000 of only tax-exempt interest? This person would not pay taxes on social security benefits should tax-exempt interest be removed from the threshold calculation. Once again, my bill's detractors point to this example as another inequity that would exist if S. 1113 became law.

Let us look at this example closely. A new issue municipal bond with an AA rating is yielding today roughly 10 percent. To accrue \$40,000 of tax-exempt interest, over \$400,000 must be invested in municipal bonds. It is hard to imagine an individual who has

amassed \$400,000 of principal while accruing no taxable income. With few exceptions, wealthy individuals with over \$400,000 of principal, have taxable income at least equal to the \$25,000 threshold. Certainly, the Congress should not base tax policy on such a very few exceptions.

Mr. President, another common criticism of S. 1113 is that it will be the first step toward unraveling the social security bailout package. Obviously, my intention in introducing S. 1113 is not to destroy the carefully crafted compromise that restored the solvency of the social security system. I do not believe, however, the passage of S. 1113 would lead to the crumbling of the social security package.

Actually the social security package has already been altered by the Senate. The Social Security Amendments of 1983 included a provision that would treat as earnings for social security purposes compensation received by retired Federal judges who continued to perform judicial services. This provision was scheduled to take effect on January 1, 1984. On September 29, 1983, the Senate, by voice vote, passed an amendment to defer the effective date of this provision for 2 years. This amendment was based on S. 1276, introduced on May 12, 1983.

Supporters of S. 1276, and the subsequent floor amendment, stated that both the National Commission on Social Security Reform and the Senate did not support the inclusion of income earned by senior judges for social security purposes. Therefore, these Senators argued, the bailout package should be altered to reflect this fact.

I believe that the same argument should be used in support of S. 1113. The Commission and the House did not support the inclusion of tax-exempt interest for determining taxation of social security benefits. The provision was added in markup by the Senate Finance Committee and adopted in conference. I do not understand how some can oppose my bill on the grounds that it unravels the social security bailout package, yet still support different legislation that also alters the package.

Clearly, some changes will be needed in the Social Security Amendments of 1983. This can be accomplished without destroying the overall package. S. 1113 is one such change.

Mr. President, some members of the Finance Committee staff have questioned whether inclusion of tax-exempt interest for determining taxation of social security benefits would adversely impact the municipal bond market. They have shown that, in certain circumstances, individuals can pay added taxes on their social security benefits and still enjoy the economic benefits of municipal bonds. However, their examples miss the point. Inves-

tors are going to flee the municipal bond market because the provision sets a precedent for the taxation of tax-exempt securities. Through quantitative analysis it is impossible to measure what impact the precedent of taxing municipal bonds will have on individual investors.

In my mind, however, the impact of the precedent will be great. Confirming this notion, in an article in the October 10, 1983, issue of *Forbes* magazine entitled "Don't Do It." The economics editor of *Forbes*, Bob Weberman, outlined why individuals saving for retirement should think twice before purchasing municipal bonds. Mr. President, I will ask that this article be reprinted in the *Record*, in its entirety, at the conclusion of my remarks.

An unexpected result of the provision including tax-exempt interest in the threshold calculation is that many cities and States are, in effect, taxing their own tax-exempt bonds. Many jurisdictions piggyback the Federal calculation of adjusted gross income for purposes of determining State and city individual income taxes. Unknowingly, many jurisdictions are taxing their own general obligation bonds.

The following States piggyback the IRS calculation of adjusted gross income for personal income tax purposes:

Arizona	Missouri
Delaware	Montana
Georgia	Nebraska
Hawaii	New Mexico
Idaho	New York
Illinois	North Dakota
Indiana	Ohio
Iowa	Oklahoma
Kansas	Oregon
Kentucky	Rhode Island
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	West Virginia
Michigan	Wisconsin
Minnesota	

In addition, New York City also piggybacks the Federal calculation of adjusted gross income. New York City boasts that their municipal bonds are triple tax-exempt—that is exempt from Federal, State, and local taxes. Since both New York State, and New York City piggyback Federal income tax policies, the income generated by New York City bonds is calculated into the income threshold for taxation of social security benefits. In effect, for social security recipients, the Federal Government has mandated that New York City bonds become triple taxed rather than remain triple exempt. Similar situations exist throughout the Nation. It is unconscionable that the Federal Government should be allowed to impose taxes at the State and local level by taxing municipal bonds at the national level.

Mr. President, I have attempted to clear the air of the erroneous arguments made concerning S. 1113. I have made the point that the equity issue does not exist. If S. 1113 is enacted, wealthy individuals will not shift their investments from taxable securities to State and local bonds. In addition, concern that the social security bailout package will crumble as a result of enacting S. 1113 is unfounded. This is nothing more than a scare tactic.

Mr. President, I firmly believe that the issues surrounding S. 1113 are quite clear. The tax on municipal bonds established in the social security amendments, which, to my mind, is clearly unconstitutional, must be repealed. Any Federal infringement on the ability of cities and States to issue tax-exempt securities will result in constricting the existing avenues of municipal finance. Furthermore, the tax is borne solely by the middle-class senior citizens of our society. This is the equity argument that must be addressed. Consequently, I will continue to fight for passage of S. 1113. I urge my colleagues to join me in this effort.

I ask that the article to which I earlier referred be printed in the RECORD.

The article follows:

[From *Forbes Magazine*, Oct. 10, 1983]

Don't Do It

(By Ben Weberman)

I get many letters from people over 65—sometimes one or two decades over—who feel they can't afford to pay taxes. Which tax-free bonds are best, they ask? My answer in many cases is: none of them. Tax-exempt bonds are a lousy investment for most retired people. Don't be quick to let some hungry stockbroker persuade you otherwise.

If you are retired on a pension of \$35,000 to \$50,000 a year and have investments besides, you may be an exception. You will be in a high enough tax bracket so that it may pay you to buy tax-frees. But those with small pensions and Social Security should look elsewhere. The income necessary to make tax-frees feasible can vary up or down, depending on the spread between tax-free and taxable yields. Right now, the spread is narrow. Good quality tax-frees yield 9.35 percent, while long-term taxable Treasury and corporate issues pay from 11.7 percent to 12.5 percent. But even with that narrow spread you have to be in the 30 percent bracket—taxable income of over \$29,900 for a married couple—before it makes any sense to buy tax-frees instead of super-gilt-edged Treasury bonds.

It's easy enough to figure this out: A 9.35 percent tax-free return on \$10,000 worth of municipal bonds is \$935, while you would have only \$875 after paying federal taxes on the 12.5 percent yield that same \$10,000 of principal would fetch in taxable corporate bonds. But anyone in, say, a 20 percent bracket would be a bit better off in good corporates. He would get \$935 on the \$10,000 in munis, but after-tax income of \$1,000 on the corporate obligations.

There are other things to consider before you rush into tax-frees. Most are expensive to buy and expensive to sell: With commissions and spreads, a round trip in tax-exempts could cost 5 percent in and 5 percent

out, depending on where you do business. Treasury bonds, by contrast, are highly liquid and can be bought with relatively modest spreads.

Then there are state and local taxes. States can't tax the income from federal bonds, but they can tax the income from bonds issued in another state—even when those bonds are exempt from federal taxes. Say you live in an outrageously high-tax place like New York City. You could easily be paying 18 percent in state and city income taxes on so-called tax-exempts. In rough terms this would have the net effect of reducing bottom line yield on tax-exempts by about one percentage point.

Finally, a new tax on some Social Security retirees pushes up even higher the income threshold where tax-frees are sensible. Starting in 1984, retired persons whose annual income from all sources is more than \$25,000 for individuals and \$32,000 for couples must pay taxes on some of it. Tax-free bond returns must be included in figuring this combined income. The Public Securities Association, not surprisingly, is doing its best to get this provision repealed because it cuts into the lucrative market for selling tax-exempts to the elderly. This new tax is levied on half the total Social Security benefits or half the combined taxable income over the minimums, whichever is smaller. This means that a retiree with an income of \$33,600, including Social Security, who has \$5,000 in tax-exempt bond interest will pay \$602 in taxes on that "tax-free" yield. On the other hand, a pensioner with an income of \$78,600 and \$20,000 in tax-exempt interest would pay no additional tax on the municipals. For him, tax-free really means tax-free. Why? The guy with \$20,000 in taxable income and \$4,300 of taxable Social Security benefits pays tax on tax-exempts because the \$5,000 of "tax-free" income puts him over the \$25,000 threshold on combined income. The retiree with the high income is already there.

How this tax has the municipal bond industry screaming. James Leenthal, head of the firm bearing his name and legislative committee member of the Public Securities Association, sees it as a major attack on the concept of tax-exemption. He points out that the state of Idaho tried to tax interest on Treasuries in 1948 on the grounds that the tax was not on the income from federal obligations but "on the individual." Congress amended the Internal Revenue Code to prohibit it. But now the federal government is doing the same thing. It hardly seems fair, but that's the way it is.

So, what do you do if you are close to retirement age and you already have a portfolio of tax-exempts? In such a case you probably have a paper loss. My advice would be: Switch into something else and use the realized capital losses to reduce your current income taxes. Remember that you can use \$6,000 of long-term capital losses against \$3,000 of ordinary income. You can also use the losses to offset capital gains elsewhere in your investments. But even if you are already retired and not paying much in taxes, it may pay you to switch and thus improve your spendable income.

It's a basic axiom of financial common sense that fear of taxes shouldn't be allowed to distort investment decisions. It appalls me how frequently elderly people sin against common sense in this regard—and how frequently stockbrokers knowingly mislead them. ●

THREE MEMBERS OF CIVIL RIGHTS COMMISSION FIRED

● Mr. HART. Mr. President, I deplore the President's action in firing three members of the U.S. Commission on Civil Rights, Mary Berry, Blandina Cardenas Ramirez, and Murray Saltzman. Such precipitous and irresponsible action shows scant regard for the integrity of the Commission and the efforts of the Congress to break an impasse over its future.

Since 1957, the Civil Rights Commission has well served the Nation as a "watchdog" on civil rights. The Commission, through reports, statements, and the efforts of individual Commissioners, has educated Americans on the realities of discrimination in our Nation, and the steps we must take to insure equal opportunity regardless of race, color, creed, religion, sex, or national origin. Thanks to the Commission, ours is a more equal and just Nation since 1957.

All Presidents have come under the Commission's fire. That is the way it should be. Without the ability to continually prod members of all administrations—regardless of their political persuasion—into a deeper commitment in support of civil rights—the Commission would lose much of its force and legitimacy. But President Reagan is the first President to have fired sitting Commissioners, precisely because their views are different from his own. That is not the way the Commission is supposed to work, and that's not the way civil rights will be protected in this Nation.

Today's firings point out the real issues in this debate: not busing, not quotas, but the ability of the U.S. Civil Rights Commission to be a strong force for effective civil rights enforcement and education.

It is bad enough that the President fired three Commissioners, but it is inexcusable to do so at a time when Members of Congress of both parties are delicately attempting to work out a bipartisan solution to the impasse. Today's action will exacerbate the difficulties in achieving a compromise which will keep the Commission in existence beyond the winding down period.

I would hope that an administration concerned about its record in enforcing the civil rights of all Americans would not want on its conscience the death of the U.S. Civil Rights Commission. But that is exactly what will happen unless the administration can stop its wrangling for political advantage and seek the high road on the path to a strong Commission.

Mr. President, last week President Reagan announced his support for the Martin Luther King national holiday. Now is the time for him to show that he learned something from that exercise and join those of us across the

Nation working to make a Civil Rights Commission strong enough and independent enough to do its job.●

U.S. YOUTH COUNCIL AND INTERNATIONAL YOUTH YEAR COMMISSION

● Mr. MOYNIHAN. Mr. President, I rise today to bring to the attention of this body the fine contributions of the U.S. Youth Council (USYC). A broad range of young Americans participate in this fine organization, including representatives from both political parties, trade unions, major civil rights groups, and religious organizations. The USYC is one of the most diverse organizations of its kind.

The USYC provides future American leaders with the opportunity to meet with one another, while learning about the importance of international affairs, and to extend the hand of friendship to their foreign counterparts. The council has successfully promoted international exchange and educational programs, broadening the knowledge and experiences of many of our Nation's young persons.

Mr. President, this worthy organization established the International Youth Year Commission (IYY) in December 1981. This commission applied for and received recognition from the State Department as America's foremost nongovernmental group to coordinate our Nation's observation of the U.N. International Youth Year. Since the State Department's recognition, the membership of the IYY Commission has expanded from 18 to 57 organizations. The commission has made significant progress in the last 15 months to coordinate and promote the International Youth Year.

These two organizations have performed a noble service by enhancing youth awareness and international harmony. The council and the commission deserve the utmost respect, support, and commendation from this body.

I urge my colleagues to review the membership of the International Youth Year Commission, and I ask that a list of the member groups be printed in the RECORD.

The list follows:

INTERNATIONAL YOUTH YEAR COMMISSION MEMBER ORGANIZATIONS

A. Philip Randolph Institute.
A Presidential Classroom for Young Americans.
Abdala Cuban Youth Movement.
Alpha Kappa Alpha Sorority, Inc.
Alpha Phi Alpha Fraternity, Inc.
American Council of Young Political Leaders.
American-Israel Public Affairs Committee.
American Student Association.
Arrow, Inc., National American Indian Youth Committee.
Big Brothers/Big Sisters of America.
B'nai B'rith Youth Organizations.

Center for Russian Jewry With Student Struggle for Soviet Jewry.
Charles Edison Memorial Youth Fund.
College Democrats of America.
College Republican National Committee.
Covenant House.
Distributive Education Clubs of America.
Freedom Leadership Foundation.
Frontlash, Inc.
Future Farmers of America.
Institute on Religion and Democracy.
Intercollegiate Studies Institute.
International Association of Students in Economic and Business Management.
International Center for Integrative Studies.
Leadership Institute.
Legacy: International Youth Program of the Institute for Practical Idealism.
Lincoln Institute for Research and Education.
NAACP, National Association for the Advancement of Colored People, Youth and College Division.
National Association of Secondary School Principals/Student Councils.
National Congress of American Indians.
National Forensic League.
National 4-H Council.
National Urban League.
National Youth Day.
New American Patriots.
North American Jewish Students Network.
North American Jewish Youth Council.
People-to-People Committee for the Handicapped.
People-to-People International.
Recruitment and Training Program.
Sister Cities International Youth Committee.
Student National Education Association.
Teen-Age Republicans.
United Negro College Fund.
United States Jaycees.
Veterans of Foreign Wars of the United States—Youth Division.
Vocational Industrial Clubs of America.
Volunteer: The National Center for Citizen Involvement.
World Affairs Council of Philadelphia.
Young Americans for Freedom.
Young America's Foundation.
Young Democrats of America.
Young Republican National Federation.
Young Social Democrats.
Youth for Energy Independence.
Youth Institute for Peace in the Middle East.
Youth Policy Institute.●

THE 125TH BIRTHDAY OF THEODORE ROOSEVELT

● Mr. D'AMATO. Mr. President, on the occasion of the 125th birthday of Theodore Roosevelt, I take great pride in bringing to your attention just a few of the outstanding contributions of this native New Yorker—the 26th President of the United States.

Born on October 27, 1858, into a situation which could have offered a life of leisure and ease, Theodore Roosevelt entered politics and devoted his life to public service. As commander of the Rough Riders, Theodore Roosevelt, or as he was more affectionately known T. R. became a national hero during the Spanish-American War. He then went on to become Governor of New York, Vice President, and our

youngest President, when he succeeded to this office when President McKinley was assassinated in September 1901.

T. R. significantly changed this Nation's domestic and foreign policies. He believed that Government should act fairly both to business and labor. He thus proposed the addition of a Secretary of Commerce and Labor to the Cabinet. This was accomplished in 1903. He reacted positively to the problems highlighted by muckrakers such as Upton Sinclair. It was during his administration that the Meat Inspection Act and the Federal Food and Drug Act were passed. Protection of our Nation's forests was also a high priority. The U.S. Forest Service was established in 1905 and more than 125 million acres were added to the national forest.

Theodore Roosevelt envisioned the United States as a world leader. He believed that such a leadership role had to be supported by a strong armed forces, the so-called big stick. Between 1902 and 1905, Mr. Roosevelt persuaded Congress to authorize the building of 10 battleships and 4 armored cruisers. He believed that a canal across Central America was necessary for the fleet to shift rapidly between the Atlantic and Pacific oceans and then turned this belief into reality by negotiating the building of the Panama Canal.

Mr. Roosevelt was the first American to receive the Nobel Prize for peace. He won the prize for his efforts to end the Russo-Japanese War. He brought representatives from Japan to Portsmouth, N.H., and served as the mediator in these talks, which eventually led to the Treaty of Portsmouth.

Mr. President, in light of Theodore Roosevelt's accomplishments, I am especially honored to pay tribute to our 26th President on this occasion of his 125th birthday.●

TAKING ON THE DOCTORS

● Mr. KENNEDY. Mr. President, I would like to insert in the RECORD a recent editorial from the Washington Post entitled "Taking on the Doctors." The editorial describes and applauds a Ways and Means Committee amendment to the reconciliation bill that would freeze for 6 months the minimum medicare charges allowed for physicians services to hospital inpatients and mandate assignment for these charges.

Under current law, a physician providing services to medicare patients has two choices: He can accept medicare's recognized reasonable charges or he can ignore them. In the former case—which is called accepting assignment—the beneficiary is liable for the normal 20 percent copayment. In the latter case, the beneficiary is liable for

the 20 percent copayment plus whatever additional charges the physician chooses to impose.

Mr. President, these excess charges cost beneficiaries an estimated \$2.1 billion annually. These excess charges are amounts our elderly and disabled beneficiaries can ill afford. Medicare already covers only about 42 percent of the elderly's medical costs; medicare beneficiaries already spend a shocking 20 percent of income for health care. Any freeze on medicare recognized physician fees that does not also mandate assignment would result in increased costs to beneficiaries and worsen an already grave situation.

Mr. President, Senator METZENBAUM and I are sponsors of a bill, S. 1635, that would require assignment of all medicare charges. The 1984 budget resolution mandates that medicare savings be achieved without imposing any additional costs on medicare beneficiaries. I would like to take this opportunity to announce that I and Senator METZENBAUM will be offering some version of the Ways and Means amendment on the floor as a substitute for any reconciliation provisions that seek to achieve savings at the expense of medicare beneficiaries.

The editorial follows:

TAKING ON THE DOCTORS

As part of the almost forgotten budget reconciliation effort, the House Ways and Means Committee has completed work on legislation placing further restraints on the fast-growing Medicare program for the aged and disabled. Over the last two years, Congress has raised costs for Medicare participants and set strict limits on hospital payments. Now, the committee sensibly reasons, it is time to require a contribution from the doctors.

The committee's plan would save more than \$1.7 billion over three years, of which \$900 million would come from smaller payments to doctors. But so huge is the Medicare program that those savings would amount to a negligible loss for the average physician. The plan would apply only to doctors' charges to hospitalized patients, and it would freeze the maximum Medicare reimbursement payments for only six months at a level about 6 percent less than the currently prevailing rates.

So modest and temporary is the sacrifice asked of the doctors that organized medicine has scarcely objected to the freeze. But there is another element in the committee's plan that alarms the doctors. That is a rule that would prevent them from shifting unrecovered costs to patients by requiring doctors to accept the Medicare payment limits—including the 20 percent contribution from patients—as payment in full for in-hospital services.

Most doctors now charge considerably more—27 percent on average—than the Medicare limits. Even if they can't always collect the remainder from patients, keeping nominal charges higher inflates the cost basis for adjusting Medicare limits in the following year. Of course, it's not the prospect of losing money that the doctors cite with concern. It's the principle. Ever since Medicare began pouring billions into their pockets, doctors have been alert to the threat that the government might, as one

congressional staffer put it, "come between the patient and the doctor in the all-important billing relationship."

Some spokesmen for the elderly fear that the fee restrictions will cause doctors to refuse to serve hospitalized Medicare patients. But it's hard to imagine that many—if any—doctors would be so mean-spirited. For a few years—thanks primarily to fewer patient visits rather than to price restraint—doctors have, like most other people, fallen behind inflation. But last year, in the midst of a recession, doctors scored their greatest income gains in 15 years, bringing their average after-expense income to over \$100,000. Especially noteworthy are the six-digit incomes regularly earned by surgeons, anesthesiologists and other specialists who—not by coincidence—also draw the largest reimbursements from Medicare. When large government benefits have been conferred on an already well-favored group for many years, and the cost of those benefits has become very burdensome to the society, some compromising of principle may be required. ●

A CONSENSUS ON REBUILDING AMERICA'S VITAL PUBLIC FACILITIES

● Mr. SASSER. Mr. President, the Labor-Management Group earlier this week released a report on our Nation's infrastructure needs in which it called for a long-term, multibillion-dollar commitment toward the repair and replacement of old, and the construction of new, public facilities in our Nation.

Because the report, "A Consensus on Rebuilding America's Vital Public Facilities" represents the confluence of thinking of a number of major corporate and labor leaders in our country, it demands serious review and consideration.

When the report was released, there was much attention given the group's projection that spending increases of \$9 to \$11 billion a year will be required to meet highway, bridge, urban water supply and wastewater treatment needs in the foreseeable future.

I want to point out today that certain of the group's recommendations find expression in two bills already pending in the Senate—S. 676, the Capital Assistance Revenue Sharing Act (or CARS Act) of 1983, which I introduced last March 3; and S. 1432, the Federal Capital Investment Program Information Act of 1983, which I joined my colleague, Senator DAVE DURENBERGER, in introducing on June 8, 1983.

As the chairman and ranking member of the Subcommittee on Intergovernmental Relations, Senator DURENBERGER and I are concerned about the roles of Federal, State, and local governments in meeting the challenge presented by the declining condition of our Nation's infrastructure, and the need for new public facilities brought on by population growth in certain regions of our Nation.

In this context, I believe the significance of the Labor-Management

Group's general policy recommendations regarding the role of Federal, State, and local governments should be underlined. The relation between the recommendations and the two bills I have mentioned is clear:

First, the report says:

The Federal Government's role in the infrastructure areas reviewed should include the establishment of standards to ensure the public's general welfare and safety, and funds for research and development, as well as catch-up capital funding in areas of critical need, such as wastewater treatment. State and local governments should provide infrastructure services properly adapted to local needs, and should cooperate in interstate and regional arrangements when such arrangements represent the most efficient approach.

The CARS Act would authorize \$3.5 billion a year, allocated through a streamlined version of the extremely efficient general revenue sharing program, to State and local governments to pay for just the kind of capital improvement projects emphasized in the Labor-Management Group's report.

State and local governments have cut back on capital spending in recent years—a point underscored by the group's report: State and local government investment expenditures dropped from 2.2 percent of our Nation's GNP in 1961 to 1.1 percent in 1981.

The bill would provide some immediate catchup funding to undertake projects which have been deferred or delayed; at the same time, it leaves to State and local governments—who know and understand their own capital improvement needs better than any single Federal agency, the range and flexibility to establish priorities.

Of course, the levels of funding in my legislation are meant to complement, not supplant existing federal grant programs for capital spending. The Labor-Management Group's recommendations in this area also warrant consideration.

Second, the report says:

There is a need for a federal capital budgeting process that identifies capital, maintenance, and operating funding requirements; clarifies funding responsibilities between federal, state, and local authorities; and assists in the development of a process for setting capital priorities based on objective economic analysis.

The Federal Capital Investment Program Information Act moves decisively in this direction. It would require in the President's annual presentation of the Federal budget to the Congress reports on current service levels for public capital investments and alternative high and low levels for such investments over 10 years in current dollars and over 5 years in constant dollars; capital investment needs in each major program area over 10 years; policy issues involved in new and existing capital programs; projections of

State and local government investments; and related matters.

We in the Congress are going to need such information, and so will the executive branch, if we are to move convincingly to the capital budgeting proposed by the Labor-Management Group. S. 1432 provides the Congress with an instrument to respond to this recommendation as S. 676 provides the Congress with the framework for a response to the first recommendation. I urge my colleagues to give prompt and serious consideration to both measures.

The other policy recommendations of the group deserve close attention and consideration. While the document is lengthy, it deserves to be shared by greater numbers. Therefore, I ask that the executive summary of the Labor-Management Group report be printed in the RECORD.

The report follows:

**EXECUTIVE SUMMARY OF THE LABOR-MANAGEMENT GROUP REPORT
FOREWORD**

The Labor-Management Group is a private, non-governmental group of labor and business leaders who meet informally to discuss issues which affect economic growth, full employment, and other mutually shared goals.

The Group believes the national interest requires a new spirit of mutual trust and cooperation between Labor and Management. It is in this spirit that the Group frames its discussions, mindful that such discussions will not always result in consensus. Infrastructure renewal is an issue which has produced areas of joint agreement. The Group is hopeful that this study can contribute to the rebuilding of America's vital public facilities.

An executive summary and study recommendations are contained in Chapter 1 of this report. A discussion of underlying trends causing infrastructure deterioration is contained in Chapter 2 and an analysis of highways, bridges, urban water supply and wastewater treatment facilities is contained in Chapters 3 through 6.

LABOR-MANAGEMENT GROUP MEMBERSHIP

Coordinator: Professor John T. Dunlop, Harvard University.

Labor members:

Lane Kirkland, President, AFL-CIO.

Thomas R. Donahue, Secretary-Treasurer, AFL-CIO.

Douglas A. Fraser, President Emeritus, International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, AFL-CIO.

John H. Lyons, President, International Association of Bridge, Structural & Ornamental Iron Workers, AFL-CIO.

Lloyd McBride, President, United Steelworkers of America, AFL-CIO.

Gerald W. McEntee, President, American Federation of State, County and Municipal Employees, AFL-CIO.

Glenn E. Watts, President, Communications Workers of America, AFL-CIO.

William H. Wynn, President, United Food and Commercial Workers, AFL-CIO.

Management members:

Clifton C. Garvin, Jr., Chairman, Exxon Corporation.

Stephen D. Bechtel, Jr., Chairman, Bechtel Group, Inc.

Charles L. Brown, Chairman, American Telephone & Telegraph Company.

James E. Burke, Chairman, Johnson & Johnson.

James H. Evans, Chairman, Union Pacific Corporation.

Philip M. Hawley, Chairman, Carter, Hawley, Hale Stores, Inc.

Ruben F. Mettler, Chairman, TRW Inc.

Roger B. Smith, Chairman, General Motors Corporation.

John F. Welsh, Jr., Chairman, General Electric Company.

Walter B. Wriston, Chairman, Citicorp.

Staff coordinators:

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Henry J. Lartigue, Jr., Exxon.

CHAPTER 1—EXECUTIVE SUMMARY AND RECOMMENDATIONS

Dam and bridge failures from coast to coast, water main ruptures in major cities, and a magnificent but seriously worn national highway network are a few of many examples of the tragic deterioration of the nation's physical plant.

The warning clarion of the news media has heightened the public's awareness of the decay of our infrastructure—the 1980's term for such key public works as highways, bridges and water facilities. And coupled with the new national awareness of the seriousness of the problem has come a growing public understanding of the vast sums of money that will be needed to make things right.

Deterioration of some parts of the nation's infrastructure has begun to affect industrial productivity. When water mains burst, a community is subjected to inconvenience, property damage and health hazards. When a bridge is closed or weight limits are imposed, established traffic patterns are disrupted, and extra costs are encountered in the use of alternative routes. When sewage lines and treatment facilities are inadequate, raw sewage pollutes open waterways.

The nation's infrastructure problem is of sufficient magnitude and seriousness to warrant the attention and concern of all its citizens. The Labor-Management Group has undertaken an analysis which examines key underlying causes of this problem and offers policy recommendations for its solution.

The term "infrastructure" has been used broadly and it encompasses a wide variety of different capital facilities and public functions. Some of these functions relate to advances in health, knowledge, and general welfare, which could be defined as "social infrastructure." Other facilities and functions are directly related to commercial transactions and the provision of necessities such as water and sewer services. These facilities could be defined as "physical infrastructure."

This report concentrates on publicly operated physical infrastructure facilities—highways, bridges, urban water supply systems and wastewater treatment facilities. These facilities account for approximately 40 percent of non-military capital investment expenditures by governments at all levels and their importance to the country's economic health is self-evident.

The Causes of Deficient Infrastructure

Six broad trends contribute to the nation's current infrastructure problems:

A Coincidence of Life Cycles: Physical facilities eventually wear out or become obso-

lete, and, unfortunately, the life cycle of much of the U.S. infrastructure is drawing to a close concurrently.

Those portions of public infrastructure traceable to industrialization and urbanization between the late 1800's and 1930, such as urban water, sewer, and public transport facilities, are reaching the twilight of their natural lives. Additionally, the Interstate and Defense Highway System, for which construction was begun in 1956, has been subjected to heavy wear and tear, as well as weathering, and it is reaching a critical point in its life cycle. Other facilities put in place during previous periods of capital expansion are also wearing out, resulting in a peak level of new investment and repair needs for users and taxpayers of the 1980's.

Shifts In Population and Industry: Americans are migrating from the Northeast and Midwest to the South and West, and from city centers to suburbs.

These population shifts have resulted in two different infrastructure problems—those of the older regions and those of growing areas. The infrastructure of older regions may no longer be the right size for the diminished market served. This can mean a competitive disadvantage for established cities and regions, as well as the loss of tax base.

On the other hand, expanding population centers in the South and West demand large, new infrastructure investments. Houston is experiencing serious congestion on its freeway system and a backlog of other necessary expansion projects. Many Western cities are concerned their growth will be limited by scarce water supplies.

High Inflation and High Interest Rates: Unprecedented high levels of inflation in the late 1970's and high real interest rates since 1980 have contributed to the postponement of needed infrastructure spending.

High inflation and interest costs are a problem for any enterprise, private or public, that seeks to create capital assets. They raise current dollar estimates of future funding required for needed investments. They also add to investor uncertainty, discouraging investments that produce benefits in the future—a characteristic of infrastructure projects. Moreover, revenues are less likely to keep pace with cost increases during periods of high inflation. This is particularly true in the public sector where taxes or user charges—major sources of revenues—often cannot be adjusted without legislative approval.

Although inflation has slowed since 1980, real interest rates have increased dramatically—reaching 7 percent during the first quarter of 1983 for high quality municipal bonds. These high rates encourage the delay or cancellation of marginal, slow-payback projects.

Declining Share of GNP Devoted to Infrastructure: Although total federal, state, and local government expenditures have risen as a percentage of gross national product during the past twenty years, government (non-military) investment expenditures have declined as a share of GNP. These trends are summarized below.

GOVERNMENT INFRASTRUCTURE SPENDING TRENDS (1961-81) TOTAL AND INVESTMENT EXPENDITURES

(Current dollars in billions)

	1961	1981	Average annual growth rate (percent)
Total Federal, State, and local government expenditures:			
Current dollars	\$149.1	\$979.7	10.0
Percent of GNP	28.4	33.3	
Investment expenditures (nonmilitary):			
Federal Government:			
Current dollars	\$5.1	\$32.1	9.6
Percent of GNP	1.0	1.1	
State and local governments:			
Current dollars	\$11.6	\$33.5	5.0
Percent of GNP	2.2	1.1	
Total:			
Current dollars	\$16.7	\$65.6	6.8
Percent of GNP	3.2	2.2	

Federal investment expenditures have averaged about 1 percent of GNP during the past 20 years. State and local capital spending, however, has declined as a percentage of GNP from 2.2 percent in 1961 to 1.1 percent in 1981. Most of this decline occurred in recent years and it has undoubtedly contributed to current infrastructure problems.

Federal Program Emphasis on Capital Projects Rather Than Repair and Maintenance: The Federal Government historically has emphasized the capital cost of public works projects rather than operating or maintenance costs. An example is the Interest and Defense Highway System where, until recently, federal funds covered 90 percent of construction costs, but no repair costs.

There is a need to reassess the proper balance of federal funding between new construction and rehabilitation. This reassessment appears to be underway in the highway program, where it is widely recognized that a major share of future funding must go to rehabilitation and reconstruction of existing facilities as opposed to construction of new highways.

Growth in Social Relative to Investment Expenditures: One explanation for shortfalls in infrastructure funding is that social priorities are changing. Expenditures for public facilities have become less popular, compared with other claims on federal and state and local budgets. In a comprehensive analysis of trends in the mix of government spending published by The National Bureau of Economic Research in 1980, Professor George F. Break identified three structural changes in government expenditures during the postwar period: domestic programs gained significantly in relation to defense programs; social security and welfare spending increased rapidly; and social investment expenditures in health, education, and other areas increased in relative importance, but less dramatically than transfer payments to individuals.

Some observers speculate the rise of social spending has squeezed out resources otherwise available for physical infrastructure. Others say the social welfare and transfer payment trend is irrelevant to actual or needed physical investment spending. While this study may contribute to a better understanding of government spending trends and the need for additional infrastructure investments, it does not attempt to put forth policy recommendations for government funding priorities.

It is not possible to quantify the exact contribution of each of these trends to the deteriorated infrastructure conditions now

confronting this country. However, taken together, the trends provide a useful historical context for understanding the complexity of the problem and its origins.

The Funding Shortfall

A comprehensive assessment of infrastructure funding needs is not available. There are, however, "needs studies" for facilities which receive federal funding, such as highways, bridges, and wastewater treatment. These studies are required by legislation and they are prepared by federal agencies. Cost estimates included in these studies are shaped by a number of factors such as the quality of economic cost-benefit studies, uncertainties regarding future use, and social policy objectives (i.e. water quality standards). Despite these limitations, however, the studies represent the best available information from which to develop estimates of infrastructure funding requirements. They form the basis of the funding shortfall estimates included in this study.

In addition to reviewing published government reports, the Infrastructure Task Force's research in preparing this report included field visits and dozens of interviews with government officials, scholars, leaders of key associations and public interest groups, and other experts in the specific infrastructure areas.

Absent policy changes, it appears annual investment spending needs for the facilities studied are approximately \$38 billion per year over the next 12 years.

ANNUAL INFRASTRUCTURE CAPITAL FUNDING NEEDS 1983-95

(Constant 1981 dollars in billions)

	Total	New construction	Repair, rehabilitation and replacement
Highways and bridges (excludes local roads)	\$24.0	\$7.4	\$16.6
Urban water supply	7.2	3.4	3.8
Wastewater treatment	6.6	6.2	.4
Total	37.8	17.0	20.8

Highway and bridge funding of approximately \$24 billion per year is needed for new construction and the repair, rehabilitation, and replacement of 1.2 million miles of existing highway systems. This 1.2 million miles includes the Interstate System and other federally-aided highways, and accounts for more than 80 percent of the nation's traffic volume; but excludes nearly 2.8 million miles of local roads. New construction expenditures for highways and bridges total \$7.4 billion per year, with more than one-half (\$3.9 billion) earmarked for completion of the Interstate. Repair, rehabilitation, and replacement programs needed to restore highways to their 1978 conditions, assuming no relaxation of current standards, are expected to cost \$16.6 billion annually.

Urban water supply funding needs are estimated at \$7.2 billion per year based on a 1980 report prepared by the President's Intergovernmental Water Policy Task Force. This report assumes replacement of water mains more than 90 years old, and rehabilitation as required of mains less than 90 years of age. Nearly one-quarter of the 756 urban water supply systems studied will require new sources of water supply during the next ten years.

The Environmental Protection Agency's 1982 Needs Survey indicates that meeting

the goals of the Federal Water Pollution Control Act will require wastewater treatment facilities costing \$6.6 billion per year. There exists a backlog of facilities required to serve the 1980 population and to meet expansion needs through the year 2000.

Comparison of the \$38 billion annual capital needs with current or planned expenditures shows an expected capital funding shortfall of approximately \$9 to \$11 billion per year. Details of this shortfall are shown below.

COMPARISON OF ESTIMATED ANNUAL CAPITAL NEEDS 1983-1995 WITH CURRENT OR PLANNED EXPENDITURES

(Constant 1981 dollars in billions)

	Estimated needs	Current or planned spending	Estimated shortfall
Highways and bridges	\$24.0	\$19.0	\$5.0
Urban water supply	7.2	6.4	.8
Wastewater treatment	6.6	1.6-3.9	2.7-5.0
Total	37.8	27.0-29.3	8.5-10.8

The \$19 billion in anticipated annual funding for highways and bridges includes \$4.4 billion of expected benefits from increases in user fees included in the Surface Transportation Act of 1982. Despite these increases, there still appears to be a funding shortfall of approximately \$5 billion per year.

The urban water supply funding shortfall of \$800 million per year was determined by assessing institutional, financial, and physical constraints affecting urban water supply systems and identifying those systems likely to incur funding shortages in the future.

Wastewater treatment funding needs are largely dependent on the Federal Government's Municipal Wastewater Treatment Construction Grants Program. Given the current federal budget deficit, the future of this program is highly uncertain. Eligible wastewater treatment projects can receive 75 percent of their funding from the Federal Government. Historically, these federal programs have also been a significant factor in determining state and local wastewater treatment spending. If federal funding continues at its present \$2.5 billion annual rate, the shortfall is expected to be less than \$3 billion, but cutbacks could raise the shortfall to \$5 billion per year.

Critical Policy Issues

National trends and policies affect the decisionmaking processes of America's 50 state governments and 35,000 local governments—many of which have ownership and management responsibilities for the four infrastructure areas studied. Therefore, the Labor-Management Group sought to identify broad policy areas which could be addressed in the aggregate, recognizing that individual decisions would of necessity reflect specific local circumstances. Four critical policy issues are addressed in this study.

Who should pay for the publicly provided services threatened with disrepair, and how should they pay?

How should major capital projects needed for growth and rehabilitation be financed?

How should public facilities be organized and managed to achieve long-term results?

What role should the federal, state and local governments play in helping to rebuild America's vital facilities?

General and specific policy recommendations are summarized in the following paragraphs. These recommendations have been

developed from an analysis of the critical policy issues related to infrastructure renewal in general, and a detailed review of key infrastructure areas.

General Policy Recommendations

Labor and Management support the application of the following guidelines in evaluating and developing solutions for rebuilding America's vital public facilities.

Who pays for use and how?

Users and direct beneficiaries should pay a fair share of the costs of infrastructure services included in this study. But, the imposition of new user fees or increases in existing fees should be determined on a case-by-case basis, recognizing social, political, economic and technological conditions.

How should major capital projects be financed?

To improve access to capital markets, increased reliance on financing backed by user revenues should be encouraged. States can play a larger role in facilitating local government access to financial markets by helping to pool risks, improving information flows and reducing transaction costs.

How to organize and manage for results?

Public facility units should be scaled to achieve efficiencies available from natural or user-oriented boundaries and managed to achieve long-term objectives. Operating performance can be improved and future costs, including capital requirements, can be reduced through greater attention to proper maintenance and repair. Government reorganization of responsibilities for infrastructure should ensure accountability to the public and due regard to the interests of existing personnel and collective bargaining relationships.

What is the role of each level of government?

The Federal Government's role in the infrastructure areas reviewed should include the establishment of standards to ensure the public's general welfare and safety, and funds for research and development, as well as catch-up capital funding in areas of critical need, such as wastewater treatment. State and local governments should provide infrastructure services properly adapted to local needs, and should cooperate in interstate and regional arrangements when such arrangements represent the most efficient approach.

There is a need for a federal capital budgeting process that identifies capital, maintenance, and operating funding requirements; clarifies funding responsibilities between federal, state, and local authorities; and assists in the development of a process for setting capital priorities based on objective economic analysis.

Specific Policy Recommendations

Labor and Management have agreed on the following specific policy recommendations for the areas studied.

Highways and bridges:

Funding: User fees have been the primary funding source for major highways and bridges included in the Federal-Aid systems. During the past 20 years, user fees have not increased to meet overall funding needs. Although federal highway user fee increases provided in the 1982 Surface Transportation Act and fee increases enacted by at least 26 states during the past two years should help, further increases may be required.

Fees levied as highway user fees should be used to fund highway programs, and, at state or local option, complementary alternative transportation facilities.

Access to capital: The use of revenue-backed bonds should be expanded to fund

the building and repair of road segments and bridges.

Government roles and responsibilities: During the 1960's, most federal funding was directed toward new construction rather than the rehabilitation of existing highways. The 90 percent federal, 10 percent state matching ratio was one of the incentives adopted during this period to promote the early completion of the Interstate System. Much of the system is at the end of its design life and emphasis should be shifted toward additional 4R (repair, resurfacing, restoration, or reconstruction) spending. To accomplish this: federal programs should be structured to match more closely state and local needs; and federal and state highway programs should be strengthened to encourage local governments to undertake needed maintenance and repair programs.

Federal highway design and construction standards should be continually assessed to determine if opportunities are available to lower capital costs by adopting regional standards or other safe, cost efficient alternatives.

Urban water supply:

Funding: Urban water supply systems are heavily dependent upon user fees for financing; and rate adjustments, determined on a case-by-case basis, represent a key funding option for urban water supply systems. In many instances, water user fees do not recover costs, do not provide funds essential for future needs, and do not encourage conservation. Users should be charged on the basis of water consumption.

Access to capital: States should provide greater assistance to local communities to broaden their access to capital markets. Bond-pooling and state guarantees might be employed to achieve this objective. The use of revenue bonds should be expanded to the extent possible to fund water facility projects.

Organization and management: Water filtration facilities should be located to take advantage of natural hydrological boundaries. Federal and state programs should be strengthened to promote regional solutions that will achieve these efficiencies, while simultaneously focusing local attention on the maintenance, repair and capital replacement needs of urban water supply systems.

Water conservation programs should be expanded to reduce water demand and reduce capital requirements for new water sources.

Wastewater treatment:

Funding: User fees designed to encourage reduction of pollution as well as to provide financial support are an essential feature of wastewater management. EPA programs for technical assistance, research and development, enforcement and water quality management should receive increased support.

A long-term issue that needs to be addressed in wastewater treatment is how to provide capacity to meet expanding water treatment and sewer construction needs, as well as rebuilding or replacing existing facilities when they wear out. The 1981 amendments to the Clean Water Act authorized appropriations for the construction grant program of \$2.5 billion a year through 1985 compared with approximately \$5 billion per year during the 1973-1980 period.

The federal construction grant program should provide ample flexibility for optimal project selection at the state, regional or local level. The greatest need in some areas of the country may be construction of wastewater treatment plants of sufficient capacity to meet water quality standards.

Other areas may need new interceptor or trunk sewer lines to facilitate treatment plant construction on a regional scale. Some older cities may have a priority for separating storm and sanitary sewer systems, or reconstructing antiquated main sewer lines. Some areas may want to create holding capacity for stormwater runoff, so that it can be treated before being discharged into natural waterways. The federal grant program should allow for these differences and encourage processes designed to achieve optimal project selection.

Organization and management: Insufficient attention has been given to the maintenance, repair, rehabilitation and replacement of wastewater treatment facilities. Deferred maintenance has increased the costs and capital outlays needed for major rehabilitation. This issue involves training personnel at existing facilities, generating and diffusing innovative technologies, and developing sound budgetary approaches.

Since water quality concerns affect strategies for developing and paying for wastewater infrastructure, attention must also be given to the joint federal/state effort responsible for monitoring and enforcing water pollution control policies.

Congress, the Administration, and the public should give informed, penetrating consideration to the following proposal for a more regionalized approach to water pollution control.

A region-wide approach should be used to address stormwater runoff and nonpoint sources of water pollution such as agriculture, mining, forestry, and road and building construction. Where storm and sanitary sewer systems are separate, untreated stormwater runoff compounds the water pollution control effort. In combined storm/sanitary sewer systems, however, a heavy rain can flood the treatment facility.

Congress should establish regional water quality authorities with boundaries established by natural drainage basins and with authority to regulate wastewater discharges into natural waterways from point and non-point sources. Existing municipal or regional treatment authorities could become operations districts within the regional authorities, shifting boundaries over time as necessary to improve coverage and achieve the optimum size for efficient operations.

The EPA should establish region-wide effluent limits for each regional authority.

Consideration should also be given to establishing a system of EPA-sanctioned effluent fees designed to encourage the limitation and control of pollution at its source. These fees should be related to the cost of treating discharges and/or the estimated damage to waterways of failure to treat such wastes. The system should be administered by the regional authorities, and should apply to both public and private effluent sources. The effluent fees should provide funding for wastewater treatment facilities.

Government role and responsibilities. The Clean Water Act of 1972 launched the nation on a Herculean undertaking. It set national pollution control goals, authorized a far-reaching permit system to regulate discharges into natural waterways, and established a multi-billion dollar annual federal grant program for construction of wastewater treatment facilities. In the decade since passage of this act, the nation's capacity to treat waterborne wastes has been expanded enormously and valuable experience has been gained in the management of water quality.

Although considerable progress has been made since 1972, notably with respect to control of industrial water pollution, America has a long way to go to achieve a satisfactory, effective long-term approach to water quality. A full assessment of the success of the Clean Water Act and later amendments to it is beyond the scope of this report—as is a review of pending proposals for both legislative and regulatory changes in the program—but Labor and Management have concluded that more progress is needed with respect to municipal wastes, toxics and control of nonpoint source pollution. A number of changes have already been put in place and these may result in substantial improvements, but our studies lead us to believe that there are additional opportunities for further progress in effective management of the nation's water quality.

Conclusion

Although aggregate increased spending of \$9 to 11 billion (1981 dollars) per year is indicated through the comparison of needs and current spending levels, the task, if approached on a facility-by-facility basis, should be manageable for the majority of cases. Difficult political decisions are necessary. Citizen resistance may be strong, and improved government management and organization will not come about easily, quickly, or without resistance. However, the time for action is now. An informed citizenry will be the safeguard that will ensure that our vital facilities and in turn, our nation, stay healthy and safe for generations to come.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I see no other Senator seeking recognition. May I say that I have a few items in my folder of things that can be done, I believe, by unanimous consent. I wonder if the minority leader is prepared to consider these items?

Mr. BYRD. Mr. President, this side is prepared to proceed.

Mr. BAKER. I thank the minority leader.

HOUSE CONCURRENT RESOLUTION 187 HELD AT THE DESK

Mr. BAKER. Mr. President, first I ask unanimous consent that House Concurrent Resolution 187, a concurrent resolution abhorring the assassination of Benigno Aquino, be held at the desk pending further consideration.

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

AUTHORIZATION FOR REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. BAKER. Mr. President, I have a resolution in respect to Senate legal counsel, and while ordinarily I do not ask the Senate to proceed to matters that have not yet been placed on the calendar, we have been doing that in the case of legal counsel when it is felt to be routine and regular.

Mr. President, in view of that I now send to the desk a resolution for

myself and the distinguished minority leader and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. 252) to authorize representation by the Senate legal counsel of Senator PAULA HAWKINS and employees in the case of *United States v. William M. Conover, et al.*

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

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, this resolution would authorize and direct the Senate legal counsel to represent Senator PAULA HAWKINS and staff in response to a subpoena which has been issued by one of the defendants in a Federal criminal prosecution styled *United States v. William M. Conover, et al.*, now pending in the U.S. District Court for the Middle District of Florida. The subpoena directs Senator HAWKINS to testify and to produce correspondence pertaining to alleged irregularities in the procurement practices of a federally assisted rural electrical cooperative in Florida. At Senator HAWKINS' request, the Senate legal counsel would be authorized to assert all privileges to which Senator HAWKINS may be entitled.

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

The resolution (S. Res. 252) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 252

Whereas, the case of *United States v. William Conover et al.*, No. 83-70-Cr-T-8, is pending in the United States District Court for the Middle District of Florida;

Whereas, counsel for defendant Anthony R. Tanner has caused to be issued a trial subpoena for the taking of testimony and the production of documents upon Senator Paula Hawkins, relating to the investigation and hearing of the Subcommittee on Agricultural Credit and Rural Electrification into the procurement and election procedures of rural electrical cooperatives;

Whereas, pursuant to sections 703(a) and 704(a) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a) (Supp. V 1981), the Senate may direct its counsel to represent the members and employees of the Senate with respect to any subpoena or order relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI(2) of the Standing Rules of the Senate, no member may be absent from the service of the Senate without leaves;

Whereas, when it appears that documents, papers, and records under the control of or in the possession of the Senate are needful for use in any court for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: Now, therefore, be it.

Resolved, That the Senate Legal Counsel is directed to represent Senator Paula Hawkins or any Senate employees substituted for her in connection with subpoenas issued for testimony and the production of documents in the case of *United States v. William M. Conover, et al.*

JOINT REFERRAL OF S. 1978

Mr. BAKER. Next, Mr. President, I would pose this request. I ask unanimous consent that S. 1978, a bill to amend the Internal Revenue Code of 1954, and the employee Retirement Income Security Act of 1974, be jointly referred to the Committee on Finance and the Committee on Labor and Human Resources.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. No objection.

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

SHIPPING ACT OF 1983

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 47.

The PRESIDING OFFICER laid before the Senate the following message from the House for Representatives:

Resolved, That the bill from the Senate (S. 47) entitled "An Act to improve the international ocean commerce transportation system of the United States", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Shipping Act of 1983".

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SEC. 2. DEFINITIONS.

As used in this Act—

(1) "agreement" means an understanding, arrangement, or association (written or oral) and any modification or cancellation thereof; but the term does not include a maritime labor agreement;

(2) "antitrust laws" means the Act of July 2, 1890 (ch. 647, 26 Stat. 209), as amended; the Act of October 15, 1914 (ch. 323, 38 Stat. 730), as amended; the Federal Trade Commission Act (38 Stat. 717), as amended; sections 73 and 74 of the Act of August 27, 1894 (28 Stat. 570), as amended; the Act of June 19, 1936 (ch. 592, 49 Stat. 1526), as amended; the Antitrust Civil Process Act (76 Stat. 548), as amended; and amendments and Acts supplementary thereto;

(3) "assessment agreement" means an agreement, whether part of a collective-bargaining agreement or negotiated separately, to the extent that it provides for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized;

(4) "bulk cargo" means cargo that is loaded and carried in bulk without mark or count;

(5) "Commission", except in section 17, means the Federal Maritime Commission;

(6) "common carrier" means a person holding itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation that—

(A) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

(B) utilizes, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country;

(7) "conference" means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff, but does not include a joint service, consortium, pooling, or transshipment arrangement;

(8) "controlled carrier" means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by the government under whose registry the vessels of the carrier operate; ownership or control by a government shall be deemed to exist with respect to any carrier if—

(A) a majority portion of the interest in the carrier is owned or controlled in any manner by that government, by any agency thereof, or by any public or private person controlled by that government; or

(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier;

(9) "deferred rebate" means a return by a common carrier of any portion of the freight money to a shipper as a consideration for that shipper giving all, or any portion, of his shipments to that or any other common carrier, or for any other purpose, the payment of which is deferred beyond the completion of the service for which it is paid, and is made only if, during both the period for which computed and the period of deferment, the shipper has complied with the terms of the rebate agreement or arrangement;

(10) "fighting ship" means a vessel used in a particular trade by an ocean common carrier or group of such carriers for the purpose of excluding, preventing, or reducing compe-

tition by driving another ocean common carrier out of that trade;

(11) "forest products" means forest products in an unfinished or semifinished state that are of a size too large for the largest commercially available container or that are offered for carriage by the shipper as non-containerized cargo in lot sizes having a volume greater than two thousand five hundred and sixty cubic feet or that are transported in shipload lot sizes;

(12) "inland division" means the amount paid by a common carrier to an inland carrier for the inland portion of through transportation offered to the public by the common carrier;

(13) "inland portion" means the charge to the public by a common carrier for the non-ocean portion of through transportation;

(14) "loyalty contract" means a contract with an ocean common carrier or conference, other than a service contract or contract based upon time-volume rates, by which a contract shipper or consignee obtains lower rates by committing all or a fixed portion of its cargo to that carrier or conference;

(15) "marine terminal operator" means a person engaged in the United States in the business of furnishing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier;

(16) "maritime labor agreement" means a collective-bargaining agreement between an employer subject to this Act, or group of such employers, and a labor organization representing employees in the maritime or stevedoring industry, or an agreement preparatory to such a collective-bargaining agreement among members of a multiemployer bargaining group, or an agreement specifically implementing provisions of such a collective-bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group; but the term does not include an assessment agreement;

(17) "nonvessel-operating common carrier" means a common carrier that does not operate the vessels by which the ocean transportation is provided, and is a shipper in his relationship with an ocean common carrier;

(18) "ocean common carrier" means a vessel operating common carrier, but does not include one engaged in ocean transportation by ferry boat or ocean tramp;

(19) "ocean freight forwarder" means a person in the United States that—

(A) dispatches shipments from the United States via common carriers and books or otherwise arranges space for those shipments on behalf of shippers; and

(B) processes the documentation or performs related activities incident to those shipments;

(20) "person" includes individuals, corporations, partnerships, and associations existing under or authorized by the laws of the United States or of a foreign country;

(21) "service contract" means a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level—such as, assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party;

(22) "shipment" means all of the cargo carried under the terms of a single bill of lading;

(23) "shipper" means an owner or person for whose account the ocean transportation of cargo is provided or the person to whom delivery is to be made;

(24) "shippers' council" means an association of shippers or their agents;

(25) "through rate" means the single amount charged by a common carrier in connection with through transportation;

(26) "through transportation" means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States point or port and a foreign point or port; and

(27) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and all other United States territories and possessions.

SEC. 3. AGREEMENTS WITHIN SCOPE OF ACT.

(a) OCEAN COMMON CARRIERS.—This Act applies to agreements by or among ocean common carriers to—

(1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of services;

(2) pool or apportion traffic, revenues, earnings, or losses;

(3) allot port or restrict or otherwise regulate the number and character of sailings between ports;

(4) limit or regulate the volume or character of cargo or passenger traffic to be carried;

(5) engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators or nonvessel-operating common carriers; and

(6) control, regulate, or prevent competition among themselves.

(b) MARINE TERMINAL OPERATORS.—This Act applies to agreements among marine terminal operators (to the extent the agreements involve ocean transportation in the foreign commerce of the United States) and to agreements among one or more marine terminal operators and one or more ocean common carriers to—

(1) discuss, fix, or regulate rates or other conditions of service; and

(2) engage in exclusive, preferential, or cooperative working arrangements.

(c) ACQUISITIONS.—This Act does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

SEC. 4. AGREEMENTS.

(a) FILING REQUIREMENTS.—A true copy of every agreement entered into with respect to an activity described in section 3 shall be filed with the Commission, except agreements related to transportation to be performed within or between foreign countries and agreements among common carriers to establish, operate, or maintain a marine terminal in the United States. In the case of an oral agreement, a complete memorandum specifying in detail the substance of the agreement shall be filed. The Commission may by regulation prescribe the form and manner in which an agreement shall be filed and the information and documentary material that is to accompany the agreement.

(b) **CONFERENCE AGREEMENTS.**—Each conference agreement must—

(1) state its purpose;

(2) provide reasonable and equal terms and conditions for admission and readmission to conference membership for any ocean common carrier willing to serve the particular trade or route;

(3) permit any member to withdraw from conference membership upon reasonable notice without penalty;

(4) prohibit a conference from engaging in—

(A) a boycott or any other concerted action resulting in an unreasonable refusal to deal;

(B) conduct that unreasonably conditions or otherwise unreasonably restricts the ability of a shipper to select a common carrier in a competing trade, an ocean tramp, or a bulk carrier;

(C) conduct that discourages the use or development of intermodal services or technological innovations by members; and

(D) any predatory practice designed to eliminate the participation or deny the entry, in a particular trade of a common carrier not a member of the conference, an ocean tramp, or a bulk carrier;

(5) provide for a consultation process designed to promote—

(A) commercial resolution of disputes; and

(B) cooperation with shippers in preventing and eliminating malpractices;

(6) establish procedures for promptly and fairly considering shippers' requests and complaints; and

(7) provide that any member of the conference may take independent action—

(A) on any matter relating to the price of services offered by the conference and resulting in a decreased cost to a shipper, upon not more than two working days' notice to the conference, and that the conference will include the new price as a rate item in its tariff for use by any member, effective no later than two working days after the receipt of such notice; and

(B) on any service item not related to price, upon not more than ten working days' notice to the conference, and that the conference will include the new service item in its tariff for use by any member, effective no later than ten working days after the receipt of such notice;

however, this paragraph does not impair the right of the conference to enforce compliance by its members with respect to contractual commitments undertaken under section 7(c).

(c) **INTERCONFERENCE AGREEMENTS.**—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

(d) **ASSESSMENT AGREEMENTS.**—(1) Assessment agreements shall be filed with the Commission and become effective on filing. The Commission shall thereafter, upon complaint filed within two years of the date of filing of the agreement, disapprove, cancel, or modify any such agreement, or charge or assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in any such proceeding within one year of the date of filing of the complaint. To the extent that an assessment or charge is found in the proceeding to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Com-

mission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. These adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded.

(2) This Act, the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933, do not apply to maritime labor agreements or to assessment agreements, except as provided in paragraph (1). This section does not exempt from this Act, the Shipping Act, 1916, or the Intercoastal Shipping Act, 1933, any rates, charges, regulations, or practices of a common carrier that are or have been required to be set forth in a tariff, whether or not those rates, charges, regulations, or practices arise out of, or are otherwise related to, a maritime labor agreement.

SEC. 5. ACTION ON AGREEMENTS.

(a) **NOTICE.**—Within seven days after an agreement is filed, the Commission shall transmit a notice of its filing to the Federal Register for publication.

(b) **REVIEW STANDARD.**—The Commission shall reject any agreement filed under section 4(a) that, after preliminary review, it finds inconsistent with the requirements of section 4. The Commission shall notify in writing the person filing the agreement of the reason for rejection of the agreement.

(c) **REVIEW AND EFFECTIVE DATE.**—Unless rejected by the Commission under subsection (b), agreements, other than assessment agreements, shall become effective—

(1) on the forty-fifth day after filing, or on the thirtieth day after notice of the filing is published in the Federal Register, whichever day is later; or

(2) if additional information or documentary material is requested under subsection (d), on the forty-fifth day after the Commission receives—

(A) all the additional information and documentary material requested; or

(B) if the request is not fully complied with, the information and documentary material submitted and a statement of the reasons for noncompliance with the request.

The period specified in paragraph (2) may be extended only by the United States District Court for the District of Columbia upon an application of the Attorney General under subsection (i).

(d) **ADDITIONAL INFORMATION.**—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documentary material it deems necessary to make the determinations required by this section.

(e) **REQUEST FOR EXPEDITED APPROVAL.**—The Commission may, upon request of the filing party, shorten the review period specified in subsection (c), but in no event to a date less than fourteen days after the date on which notice of the filing of the agreement is published in the Federal Register.

(f) **TERM OF AGREEMENTS.**—The Commission may not limit the effectiveness of an agreement to a fixed term.

(g) **SUBSTANTIALLY ANTICOMPETITIVE AGREEMENTS.**—If, at any time after the filing or effective date of an agreement, the Commission determines that—

(1) the agreement is likely to result in a harmful reduction in competition in the ocean commerce of the United States; and

(2) the likely harm from the reduction outweighs any likely private or public benefits of the agreement;

it may, after notice to the person filing the agreement, seek appropriate injunctive relief under subsection (h).

(h) **INJUNCTIVE RELIEF.**—The Commission may, upon making the determination specified in subsection (g), request the Attorney General to bring suit in the United States District Court for the District of Columbia to enjoin operation of the agreement. The court may issue a temporary restraining order or preliminary injunction and, upon a showing that—

(1) the agreement is likely to result in a harmful reduction in competition in the ocean commerce of the United States; and

(2) the likely harm from the reduction outweighs any likely private or public benefits of the agreement;

may enter a permanent injunction. In a suit under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene in a suit under this subsection.

(i) **COMPLIANCE WITH INFORMATIONAL NEEDS.**—If any person filing an agreement, or any officer, director, partner, agent, or employee thereof, fails substantially to comply with any request for the submission of additional information or documentary material within the period specified in subsection (c), the United States District Court for the District of Columbia, upon application of the Attorney General at the request of the Commission—

(1) may order compliance;

(2) shall extend the period specified in subsection (c)(2) until there has been substantial compliance; and

(3) may grant such other equitable relief as the court in its discretion determines necessary or appropriate.

(j) **NONDISCLOSURE OF SUBMITTED MATERIAL.**—Except for an agreement filed under section 4, information and documentary material filed with the Commission under section 4 or 5 is exempt from disclosure under section 552 of title 5, United States Code, and may not be made public except as may be relevant to an administrative or judicial action or proceeding. This section does not prevent disclosure to either body of Congress or to a duly authorized committee or subcommittee of Congress.

SEC. 6. EXEMPTION FROM ANTITRUST LAWS.

(a) **IN GENERAL.**—The antitrust laws do not apply to—

(1) any agreement that has been filed under section 4 and is effective under section 4(d) or section 5, or is exempt under section 15 from any requirement of this Act;

(2) any activity or agreement within the scope of this Act, whether permitted under or prohibited by this Act, undertaken or entered into in the reasonable belief that (A) it is pursuant to an agreement on file with the Commission and in effect when the activity took place, or (B) it is exempt under section 15 from any filing requirement of this Act;

(3) any agreement or activity concerning the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

(4) any agreement or activity with a shippers' council organized under the laws of a foreign country and operating exclusively outside the United States, including an agreement or activity that affects cargo transported in a United States import or export trade;

(5) any agreement or activity to provide or furnish wharfage, dock, warehouse, or other

terminal facilities outside the United States; or

(6) subject to section 19(e)(2), any agreement, modification, or cancellation approved by the Commission before the effective date of this Act under section 15 of the Shipping Act, 1916, or permitted under section 14b thereof, and any properly published tariff, rate, fare, or charge, classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

(b) **EXCEPTIONS.**—This Act does not extend antitrust immunity—

(1) to any agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this Act with respect to transportation within the United States;

(2) to any discussion or agreement among common carriers that are subject to this Act regarding the inland divisions (as opposed to the inland portions) of through rates within the United States; or

(3) to any agreement among common carriers subject to this Act to establish, operate, or maintain a marine terminal in the United States.

(c) **LIMITATIONS.**—(1) Any determination by any agency or court that results in the denial or removal of the immunity to the antitrust laws set forth in subsection (a) shall not remove or alter the antitrust immunity for the period before the determination.

(2) No person may recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this Act.

SEC. 7. TARIFFS.

(a) IN GENERAL.—

(1) Except with regard to bulk cargo and forest products, each common carrier and conference shall file with the Commission, and keep open to public inspection, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, common carriers shall not be required to state separately or otherwise reveal in tariff filings the inland divisions of a through rate. Tariffs shall—

(A) plainly indicate the places between which cargo will be carried;

(B) list each classification of cargo in use;

(C) set forth the level of ocean freight forwarder compensation, if any, by a carrier or conference;

(D) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules or regulations that in any way change affect, or determine any part or the aggregate of the rates or charges; and

(E) include sample copies of any loyalty contract, bill of lading, contract of affreightment, or other document evidencing the transportation agreement.

(2) Copies of tariffs shall be made available to any person, and a reasonable charge may be assessed for them.

(b) **TIME-VOLUME RATES.**—Rates quoted in tariffs may vary with the volume of cargo offered over a specified period of time.

(c) **SERVICE CONTRACTS.**—An ocean common carrier or conference may enter into a service contract with a shipper to provide specified services under specified rates and conditions, subject to the requirements of this Act. Each contract entered into under this subsection shall be filed confidentially with the Commission, and a con-

cise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and such essential terms shall be available to all shippers similarly situated. The essential terms shall include—

(1) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

(2) the commodity or commodities involved;

(3) the minimum volume;

(4) the line-haul rate;

(5) the duration;

(6) service commitments; and

(7) the liquidated damages for non-performance, if any.

The exclusive remedy for a breach of contract entered into under this subsection shall be an action in an appropriate court, unless the parties otherwise agree.

(d) **RATES.**—No new or initial rate or change in an existing rate that results in an increased cost to the shipper may become effective earlier than thirty days after filing with the Commission. The Commission, for good cause, may allow such a new or initial rate or change to become effective in less than thirty days. A change in an existing rate that results in a decreased cost to the shipper may become effective upon publication and filing with the Commission.

(e) **REFUNDS.**—The Commission may, upon application of a carrier or shipper, permit a common carrier or conference to refund a portion of freight charges collected from a shipper or to waive the collection of a portion of the charges from a shipper if—

(1) there is an error in a tariff of a clerical or administrative nature or an error due to inadvertence in failing to file a new tariff and the refund will not result in discrimination among shippers, ports, or carriers;

(2) the common carrier or conference has, prior to filing an application for authority to make a refund, filed a new tariff with the Commission that sets forth the rate on which the refund or waiver would be based;

(3) the common carrier or conference agrees that if permission is granted by the Commission, an appropriate notice will be published in the tariff, or such other steps taken as the Commission may require, which gives notice of the rate on which the refund or waiver would be based, and additional refunds or waivers as appropriate shall be made with respect to other shipments in the manner prescribed by the Commission in its order approving the application; and

(4) the application for refund or waiver is filed with the Commission within one hundred and eighty days from the date of shipment.

(f) **FORM.**—The Commission may by regulation prescribe the form and manner in which the tariffs required by this section shall be published and filed. The Commission may reject a tariff that is not filed in conformity with this section and its regulations. Upon rejection by the Commission, the tariff is void, and its use is unlawful.

SEC. 8. CONTROLLED CARRIERS.

(a) **CONTROLLED CARRIER RATES.**—No controlled carrier subject to this section may maintain rates or charges in its tariffs filed with the Commission that are below a level that is just and reasonable, nor may any such carrier establish or maintain unjust or unreasonable classifications, rules, or regulations in those tariffs. An unjust or unreasonable classification, rule, or regulation

means one that results or is likely to result in the carriage or handling of cargo at rates or charges that are below a just and reasonable level. The Commission may, at any time after notice and hearing, disapprove any rates, charges, classifications, rules, or regulations that the controlled carrier has failed to demonstrate to be just and reasonable. In a proceeding under this subsection, the burden of proof is on the controlled carrier to demonstrate that its rates, charges, classifications, rules, or regulations are just and reasonable. Rates, charges, classifications, rules, or regulations filed by a controlled carrier that have been rejected, suspended, or disapproved by the Commission are void, and their use is unlawful.

(b) **RATE STANDARDS.**—For the purpose of this section, in determining whether rates, charges, classifications, rules, or regulations by a controlled carrier are just and reasonable, the Commission may take into account appropriate factors including, but not limited to, whether—

(1) the rates or charges which have been filed or which would result from the pertinent classification, rules, or regulations are below a level which is fully compensatory to the controlled carrier based upon that carrier's actual costs or upon its constructive costs, which are hereby defined as the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade;

(2) the rates, charges, classifications, rules, or regulations are the same as or similar to those filed or assessed by other carriers in the same trade;

(3) the rates, charges, classifications, rules, or regulations are required to assure movement of particular cargo in the trade; or

(4) the rates, charges, classifications, rules, or regulations are required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

(c) **EFFECTIVE DATE OF RATES.**—Notwithstanding section 7(d), the rates, charges, classifications, rules, or regulations of controlled carriers may not, without special permission of the Commission, become effective sooner than the thirtieth day after the date of filing with the Commission. Each controlled carrier shall, upon the request of the Commission, file, within twenty days of request (with respect to its existing or proposed rates, charges, classifications, rules, or regulations), a statement of justification that sufficiently details the controlled carrier's need and purpose for such rates, charges, classifications, rules, or regulations upon which the Commission may reasonably base its determination of the lawfulness thereof.

(d) **DISAPPROVAL OF RATES.**—Whenever the Commission is of the opinion that the rates, charges, classifications, rules, or regulations filed by a controlled carrier may be unjust and unreasonable, the Commission may issue an order to the controlled carrier to show cause why those rates, charges, classifications, rules, or regulations should not be disapproved. Pending a determination as to their lawfulness in such a proceeding, the Commission may suspend the rates, charges, classifications, rules, or regulations at any time before their effective date. In the case of rates, charges, classifications, rules, or regulations that have already become effective, the Commission may, upon the issuance of an order to show cause, suspend those rates, charges, classifications, rules, or regulations on not less than sixty days' notice to the controlled carrier. No period of

suspension under this subsection may be greater than one hundred and eighty days. Whenever the Commission has suspended any rates, charges, classifications, rules or regulations under this subsection, the affected carrier may file new rates, charges, classifications, rules, or regulations to take effect immediately during the suspension period in lieu of the suspended rates, charges, classifications, rules, or regulations—except that the Commission may reject the new rates, charges, classifications, rules, or regulations if it is of the opinion that they are unjust and unreasonable.

(e) **PRESIDENTIAL REVIEW.**—Concurrently with the publication thereof, the Commission shall transmit to the President each order of suspension or final order of disapproval of rates, charges, classifications, rules, or regulations of a controlled carrier subject to this section. Within ten days after the receipt or the effective date of the Commission order, the President may request the Commission in writing to stay the effect of the Commission's order if he finds that the stay is required for reasons of national defense or foreign policy, which reasons shall be specified in the report. Notwithstanding any other law, the Commission shall immediately grant the request by the issuance of an order in which the President's request shall be described. During any such stay, the President shall, whenever practicable, attempt to resolve the matter in controversy by negotiation with representatives of the applicable foreign governments.

(f) **EXCEPTIONS.**—This section does not apply to—

(1) a controlled carrier of a state whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment;

(2) a controlled carrier of a state which, on the effective date of this section, has subscribed to the statement of shipping policy contained in note 1 to annex A of the Code of Liberalization of Current Invisible Operations, adopted by the Council of the Organization for Economic Cooperation and Development;

(3) rates, charges, classifications, rules, or regulations of a controlled carrier in any particular trade which are covered by an agreement effective under section 5, other than an agreement in which all of the members are controlled carriers not otherwise excluded from the provisions of this subsection;

(4) rates, charges, classifications, rules, or regulations governing the transportation of cargo by a controlled carrier between the country by whose government it is owned or controlled, as defined herein and the United States;

(5) a trade served exclusively by controlled carriers; or

(6) a controlled carrier registered in a state that on the effective date of this Act, is among those designated a beneficiary developing country for purposes of the generalized system of preferences, provided for in title V of the Trade Act of 1974 (88 Stat. 2066; 19 U.S.C. 2461 et seq.), and set forth in general headnote 3(c) of the Tariff Schedules of the United States, and that has vessels registered within its jurisdiction that are privately owned and not operated by a controlled carrier.

SEC. 9. PROHIBITED ACTS.

(a) **IN GENERAL.**—No person may—

(1) knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or by any other

unjust or unfair device or means obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise be applicable;

(2) operate under an agreement required to be filed under section 4 that has not become effective under section 5, or that has been rejected, disapproved, or canceled; or

(3) operate under an agreement required to be filed under section 4 except in accordance with the terms of the agreement or any modifications made by the Commission to the agreement.

(b) **COMMON CARRIERS.**—No common carrier, either alone or in conjunction with any other person, directly or indirectly, may—

(1) charge, demand, collect, or receive greater, less, or different compensation for the transportation of property or for any service in connection therewith than the rates and charges that are specified in its tariffs;

(2) rebate, refund, or remit in any manner, or by any device, any portion of its rates except in accordance with its tariffs;

(3) extend or deny to any person any privilege, concession, equipment, or facility except in accordance with its tariffs;

(4) allow any person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff by means of false billing, false classification, false weighing, false measurement, or by any other unjust or unfair device or means;

(5) retaliate against any shipper by refusing, or threatening to refuse, cargo space accommodations, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

(6) engage in any unfair or unjustly discriminatory practice in the matter of—

(A) rates;

(B) cargo classifications;

(C) cargo space accommodations or other facilities, due regard being had for the proper loading of the vessel and the available tonnage;

(D) the loading and landing of freight in proper condition; or

(E) the adjustment and settlement of claims;

(7) employ any fighting ship;

(8) offer or pay any deferred rebates;

(9) use a loyalty contract, except in conformity with the antitrust laws;

(10) demand, charge, or collect any rate or charge that is unjustly discriminatory between shippers or ports;

(11) make or give any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or subject any particular person, locality, or description of traffic to an unreasonable refusal to deal or any undue or unreasonable prejudice or disadvantage in any respect whatsoever; or

(12) knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier without the consent of the shipper or consignee if that information—

(A) may be used to the detriment or prejudice of the shipper or consignee;

(B) may improperly disclose its business transaction to a competitor; or

(C) may be used to the detriment or prejudice of any common carrier.

Nothing in paragraph (12) shall be construed to prevent providing such informa-

tion, in response to legal process, to the United States, or to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this Act. Nor shall it be prohibited for any ocean common carrier that is a party to a conference agreement approved under this Act, or any receiver, trustee, lessee, agent, or employee of such carrier or person, or any other person authorized by that carrier to receive information, to give information to the conference or any person, firm, corporation, or agency designated by the conference, or to prevent the conference or its designee from soliciting or receiving information for the purpose of determining whether a shipper or consignee has breached an agreement with the conference or its member lines or for the purpose of determining whether a member of the conference has breached the conference agreement, or for the purpose of compiling statistics of cargo movement, but the use of such information for any other purpose prohibited by this Act or any other Act is prohibited.

(c) **CONCERTED ACTION.**—No conference or group of two or more common carriers, may—

(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

(2) engage in conduct that unreasonably conditions or otherwise unreasonably restricts the ability of a shipper to select a common carrier in a competing trade, an ocean tramp, or a bulk carrier;

(3) engage in conduct that discourages the use of intermodal services or technological innovations by member carriers;

(4) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a common carrier not a member of the conference, a group of common carriers, and ocean tramp, or a bulk carrier;

(5) negotiate with a nonocean carrier or group of nonocean carriers (for example, truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those nonocean carriers: Provided, That this paragraph does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or an association of ocean common carriers; or

(6) except as otherwise required by the law of the United States or the importing or exporting country, or as agreed to by a shipper in a service contract, allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper.

(d) **MARINE TERMINAL OPERATORS.**—(1) No marine terminal operator may—

(A) fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property; or

(B) agree with any other marine terminal operator or group of two or more common carriers to boycott, or unreasonably discriminate in the provision of terminal services to, any common carrier or ocean tramp.

(2) The prohibitions in subsection (b) (11) and (12) apply to marine terminal operators.

(e) **JOINT VENTURES.**—For purposes of this section, a joint venture or consortium of two or more common carriers but operated as a single entity shall be treated as a single common carrier.

SEC. 10. COMPLAINTS, INVESTIGATIONS, REPORTS, AND REPARATIONS.

(a) **FILING OF COMPLAINTS.**—Any person may file with the Commission a sworn complaint alleging a violation of this Act, other than section 5(g), and may seek reparation for any injury caused to the complainant by that violation.

(b) **SATISFACTION OR INVESTIGATION OF COMPLAINTS.**—The Commission shall furnish a copy of a complaint filed pursuant to subsection (a) of this section to the person named therein who shall, within a reasonable time specified by the Commission, satisfy the complaint or answer it in writing. If the complaint is not satisfied, the Commission shall investigate it in an appropriate manner and make an appropriate order.

(c) **COMMISSION INVESTIGATIONS.**—The Commission upon complaint or upon its own motion may investigate any conduct or agreement that it believes may be in violation of this Act. The Commission may by order disapprove, cancel, or modify any agreement filed under section 4(a) that operates in a manner inconsistent with this Act. With respect to agreements inconsistent with section 5(g), the Commission's sole remedy is under section 5(h).

(d) **CONDUCT OF INVESTIGATION.**—Within ten days after the initiation of any proceeding under this section, the Commission shall set a date on or before which its final decision will be issued. This date may be extended for good cause by order of the Commission.

(e) **UNDUE DELAYS.**—If, within the time period specified in subsection (d), the Commission determines that it is unable to issue a final decision because of undue delays caused by a party to the proceedings, the Commission may enter a decision adverse to the delaying party.

(f) **REPORTS.**—The Commission shall make a written report of every investigation made under this Act in which a hearing was held stating its conclusions, decisions, findings of fact, and order. A copy of this report shall be furnished to all parties. The Commission shall publish each report for public information, and the published report shall be competent evidence in all courts of the United States.

(g) **REPARATIONS.**—For any complaint filed within four years after the cause of action accrued, the Commission shall, upon petition of the complainant and after notice and hearing, direct payment of reparations to the complainant for actual injury (which, for purposes of this subsection, also includes the loss of interest at commercial rates compounded from the date of injury) caused by a violation of this Act plus reasonable attorneys' fees. Upon a showing that the injury was caused by activity that is prohibited by section 9(b) (5) or (7) or section 9(c) (1) or (4), or that violates section 9(a) (2) or (3), the Commission may direct the payment of additional amounts; but the total recovery of a complainant may not exceed twice the amount of the actual injury. In the case of injury caused by an activity that is prohibited by section 9(b)(6) (A) or (B), the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

(h) **INJUNCTION.**—(1) In connection with any investigation conducted under this section, the Commission may bring suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that the Commission has reasonable cause to believe that a violation of this Act has or is about to take place, and that enjoining that conduct is in the interest of the public, and after notice to the defendant,

the court may grant a temporary restraining order or preliminary injunction for a period not to exceed ten days after the Commission has issued an order disposing of the issues under investigation. Any such suit shall be brought in the district in which the defendant resides or transacts business.

(2) After filing a complaint with the Commission under subsection (a), the complainant may file suit in a district court of the United States to enjoin conduct in violation of this Act. Upon a showing that standards for granting injunctive relief by courts of equity are met and after notice to the defendant, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed ten days after the Commission has issued an order disposing of the complaint. Any such suit shall be brought in the district in which the defendant has been sued by the Commission under paragraph (1); or, if no suit has been filed, in any district in which the defendant resides or transacts business.

SEC. 11. SUBPENAS AND DISCOVERY.

(a) **IN GENERAL.**—In investigations and adjudicatory proceedings under this Act—

(1) depositions, written interrogatories, and discovery procedures may be utilized by any party under rules and regulations issued by the Commission which rules and regulations, to the extent practicable, shall be in conformity with the rules applicable in civil proceedings in the district courts of the United States; and

(2) the Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence.

(b) **WITNESS FEES.**—Witnesses shall, unless otherwise prohibited by law, be entitled to the same fees and mileage as in the courts of the United States.

SEC. 12. PENALTIES.

(a) **ASSESSMENT OF PENALTY.**—Whoever violates any provision of this Act, or any regulation issued thereunder, or Commission order is liable to the United States for a civil penalty. The amount of the civil penalty, unless otherwise provided in this Act, may not exceed \$5,000 for each violation unless the violation was willfully and knowingly committed, in which case the amount of the civil penalty may not exceed \$25,000 for each violation. Each day of a continuing violation constitutes a separate offense.

(b) **ADDITIONAL PENALTIES.**—(1) For any violation of section 9(b) (1), (2), (3), (4), or (8), the Commission may suspend any or all tariffs of any common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed twelve months.

(2) For failure to supply information ordered to be produced or compelled by subpoena under section 11, the Commission may, after notice and an opportunity for hearing, suspend any or all tariffs of any common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member.

(3) A common carrier who accepts or handles cargo for carriage under a tariff that has been suspended or after its right to utilize that tariff has been suspended is subject to a civil penalty of not more than \$50,000 for each shipment.

(4) If, in defense of its failure to comply with a subpoena or discovery order, a common carrier alleges that documents or information located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the fail-

ure to comply and of the allegation relating to foreign laws. Upon receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the documents or information are alleged to be located for the purpose of assisting the Commission in obtaining the documents or information sought.

(5) If, after notice and hearing, the Commission finds that the action of a carrier or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it finds appropriate, including the imposition of any of the penalties authorized under paragraphs (1), (2), and (3).

(6) Before any order under this subsection becomes effective, it shall be immediately submitted to the President who may, within ten days after receiving it, disapprove the order if he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(c) **ASSESSMENT PROCEDURES.**—Until a matter is referred to the Attorney General, the Commission may, after notice and an opportunity for hearing, assess each civil penalty provided for in this Act. In determining the amount of the penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree or culpability, history of prior offenses, ability to pay, and such other matters as justice may require. The Commission may compromise, modify, or remit, with or without conditions, any civil penalty.

(d) **REVIEW OF CIVIL PENALTY.**—Any person against whom a civil penalty is assessed under this section may obtain review thereof under chapter 158 of title 28, United States Code.

(e) **FAILURE TO PAY ASSESSMENT.**—If any person fails to pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Attorney General at the request of the Commission may seek to recover the amount assessed in any appropriate district court of the United States. In such an action, the court shall enforce the Commission's order unless it finds that the order was not regularly made or duly issued.

(f) **LIMITATIONS.**—(1) No fine or other punishment may be imposed for criminal conspiracy to violate any provision of this Act, or to defraud the Commission by concealment of any such violation.

(2) Any proceeding to assess a civil penalty under this section shall be commenced within five years from the date the violation occurred.

SEC. 13. COMMISSION ORDERS.

(a) **IN GENERAL.**—Orders of the Commission relating to any violation of this Act or any regulation issued thereunder shall be made, upon sworn complaint or on its own motion, only after opportunity for hearing. Each order of the Commission shall continue in force for the period of time specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

(b) **REVERSAL OR SUSPENSION OF ORDERS.**—The Commission may reverse, suspend, or modify any order made by it, and upon application of any party to a proceeding may grant a rehearing of the same or any matter determined therein. No rehearing shall,

except by special order of the Commission, operate as a stay of such order.

(c) **ENFORCEMENT OF NONREPARATION ORDERS.**—In case of violation of any order of the Commission, or for failure to comply with a Commission subpoena, the Attorney General, at the request of the Commission, or any party injured by the violation, may seek enforcement by a United States district court having jurisdiction over the parties. If, after hearing, the court determines that the order was properly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

(d) **ENFORCEMENT OF REPARATION ORDER.**—(1) In case of violation of any order of the Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in a United States district court having jurisdiction of the parties.

(2) In a United States district court the findings and order of the Commission shall be prima facie evidence of the facts therein stated, and the petitioner shall not be liable for costs, nor for the costs of any subsequent stage of the proceedings, unless they accrue upon his appeal. A petitioner in a United States District Court who prevails shall be allowed a reasonable attorney's fee to be assessed and collected as part of the costs of the suit.

(3) All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in the order may be joined as defendants, in a single suit in any district in which any one plaintiff could maintain a suit against any one defendant. Service of process against a defendant not found in that district may be made in a district in which is located any office of, or point of call on a regular route operated by, that defendant. Judgment may be entered in favor of any plaintiff against the defendant liable to that plaintiff.

(e) **STATUTE OF LIMITATIONS.**—An action seeking enforcement of a Commission order shall be filed within four years after the date of the violation of the order.

SEC. 14. REPORTS AND CERTIFICATES.

(a) **REPORTS.**—The Commission may require any common carrier, or any officer, receiver, trustee, lessee, agent, or employee thereof, to file with it any periodical or special report or any account, record, rate, or charge, or memorandum of any facts and transactions appertaining to the business of that common carrier. The report, account, record, rate, charge, or memorandum shall be made under oath whenever the Commission so requires, and shall be furnished in the form and within the time prescribed by the Commission. Conference minutes required to be filed with the Commission under this section shall not be released to third parties or published by the Commission.

(b) **CERTIFICATION.**—The Commission shall require the chief executive officer of each common carrier and, to the extent it deems feasible, may require any shipper, consignee, consignee, or broker to file a periodic written certification made under oath with the Commission attesting to—

(1) a policy prohibiting the payment, solicitation, or receipt of any rebate that is unlawful under the provisions of this Act;

(2) the fact that this policy has been promulgated recently to each owner, officer, employee, and agent thereof;

(3) the details of the efforts made within the company or otherwise to prevent or correct illegal rebating; and

(4) a policy of full cooperation with the Commission in its efforts to end those illegal practices.

Failure to file a certification shall result in a civil penalty of not more than \$5,000 for each day the violation continues.

SEC. 15. EXEMPTIONS.

The Commission, upon application or on its own motion, may by order or rule exempt for the future any class of agreements between persons subject to this Act or any specified activity of those persons from any requirement of this Act if it finds that the exemption will not substantially impair effective regulation by the Commission, be unjustly discriminatory, result in a substantial reduction in competition, or be detrimental to commerce. The Commission may attach conditions to any exemption and may, by order, revoke any exemption. No order or rule of exemption or revocation of exemption may be issued unless opportunity for hearing has been afforded interested persons and departments and agencies of the United States.

SEC. 16. REGULATIONS.

The Commission may prescribe rules and regulations as necessary to carry out this Act.

SEC. 17. COMMISSION ON THE DEREGULATION OF INTERNATIONAL OCEAN SHIPPING.

(a) **ESTABLISHMENT AND COMPOSITION.**—(1) There is established the Commission on the Deregulation of International Ocean Shipping (hereinafter referred to in this section as the "Commission").

(2) The Commission shall be composed of twenty-two members as follows:

(A) the President or a person designated by him;

(B) the Secretary of State, the Attorney General, the Secretary of Transportation, the Chairman of the Federal Trade Commission, and the Chairman of the Federal Maritime Commission, or a person designated by each official;

(C) four members from the United States Senate appointed by the President, two from the membership of the Committee on Commerce, Science, and Transportation and two from the membership of the Committee on the Judiciary;

(D) four members from the United States House of Representatives appointed by the President, two from the membership of the Committee on Merchant Marine and Fisheries and two from the membership of the Committee on the Judiciary; and

(E) eight members from the private sector appointed by the President, including representatives of ocean common carriers, shippers, maritime labor organizations, nonvessel-operating common carriers, and ports.

(3) The President or his designee shall be the chairman of the Commission.

(4) The majority leader of the Senate and the Speaker of the House shall make recommendations for the appointments of their respective members to be made pursuant to paragraphs (2) (C) and (D) within thirty days after the date of the enactment of this Act.

(5) The President shall make all of the appointments in accordance with paragraph (2) after receiving the recommendations set forth in paragraph (a)(4), but such appointments shall be made no later than sixty days after such date of enactment. The membership of the Commission shall be selected in such a manner as to be broadly representative of the various interests, needs, and concerns which may be affected by deregulation of international shipping.

(6) The first meeting of the Commission shall be called by the President no later than thirty days after the beginning of the first fiscal year occurring after the date of enactment of this Act.

(7) The term of office for members shall be for the term of the Commission.

(8) A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made.

(9) Twelve members of the Commission shall constitute a quorum (but a lesser number may hold hearings).

(10) The Commission shall select a vice chairman from among its members.

(b) **COMPENSATION OF MEMBERS OF THE COMMISSION.**—(1) Officials of the United States Government and Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as officials and Members, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(2) Members of the Commission appointed from the private sector shall each receive compensation not exceeding the maximum per diem rate of pay for grade 18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the performance of the duties vested in the Commission, plus reimbursement for actual travel, subsistence, and other necessary expenses incurred by them in the performance of those duties, notwithstanding the limitations in sections 5701 through 5733 of title 5, United States Code.

(3) Members of the Commission appointed from the private sector are not subject to title II of the Ethics in Government Act of 1978, Public Law 95-521, as amended, or to section 208 of title 18, United States Code. Before commencing service, these members shall file with the Commission a statement disclosing their financial interests and business and other relationships involving or relating to ocean transportation. These statements shall be available for public inspection at the Commission's offices.

(c) **COMMISSION FUNCTIONS.**—The Commission shall conduct a comprehensive study of, and make recommendations concerning, the deregulation of international ocean shipping by common carriers. The study shall specifically address—

(1) various options for deregulation of the international ocean shipping industry, with reference to their ability to promote an efficient, stable, and competitive United States common carrier fleet;

(2) the opportunities for harmonizing United States policy toward international ocean shipping with the policies of our major trading partners;

(3) the system for determining tariffs based on the classification of goods and its role in a future deregulated industry; including the most effective method for eliminating unnecessary cargo classifications as a basis for establishing tariffs and the feasibility of establishing a single tariff by each conference or common carrier for all cargoes shipped in units of comparable size, weight, and handling characteristics;

(4) the role of the antitrust laws in the international shipping industry and their impact upon our relations with foreign nations;

(5) the impact of any rules of competition adopted or being considered by our trading partners and their relationship to the trend

in the developing world toward structured cartelization;

(6) the impact deregulation may have on the growth of State-owned or State-controlled merchant fleets;

(7) the size of the United States liner fleet, by number and cargo capacity, which each of the deregulation options may produce;

(8) the future structure and role of the Federal Maritime Commission in a deregulated international ocean shipping industry;

(9) the need for antitrust immunity for ports and marine terminals in their commercial relations with one another and with conferences of ocean common carriers; and

(10) the continuing need for, and the utility of, the statutory requirement that tariffs be filed with and enforced by the Federal Maritime Commission.

(d) **POWERS OF THE COMMISSION.**—(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out its functions, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or the committee may deem advisable. Subpoenas may be issued to any person within the jurisdiction of the United States courts, under the signature of the chairman or vice chairman, or any duly designated member, and may be served by any person designated by the chairman, the vice chairman, or that member. In the case of the failure of a witness to comply with a subpoena or to testify when summoned under authority of this section, sections 102, 103, and 104 of the Revised Statutes of the United States (2 U.S.C. 192-194) apply to the Commission to the same extent as those sections apply to Congress.

(2) For the purposes of sections 552, 552a, and 552b of title 5, United States Code, the Commission shall not be considered to be an "agency", as that term is defined in sections 551(1) and 552(e) of that title. The Commission is not subject to the Federal Advisory Committee Act, Public Law 92-463, as amended.

(3) Each department, agency, and instrumentality of the executive branch of the government, including independent agencies, shall furnish to the Commission, upon request made by the chairman or vice chairman, such information as the Commission deems necessary to carry out its functions under this section.

(4) Subject to such rules and regulations as may be adopted by the Commission, the chairman may—

(A) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of that title; and

(B) procure temporary and intermittent services in accordance with the provisions of section 3109 of title 5, United States Code.

(5) Persons in the employ of the Commission pursuant to subsection (4) shall be considered to be Federal employees for all purposes.

(6) The chairman may rent office space for the Commission, may utilize the services and facilities of other Federal agencies with or without reimbursement, may accept voluntary services notwithstanding section 1342 of title 31, United States Code, may accept, hold, and administer gifts from non-governmental sources and transfers of funds from other Federal agencies, and may enter into contracts with any public or private person or entity for reports, research, or surveys in furtherance of the work of the Commission.

(e) **FINAL REPORT.**—The Commission shall submit to the President and to the Congress not later than one year after the first meeting of the Commission, a final report containing a detailed statement of the findings and conclusions of the Commission resulting from the study undertaken pursuant to subsection (c), including its recommendations for such administrative, judicial, and legislative action which it deems advisable. Each recommendation made by the Commission to the President and to the Congress must have the majority vote of the Commission present and voting.

(f) **EXPIRATION OF THE COMMISSION.**—The Commission shall cease to exist sixty days after the submission to Congress of the final report under subsection (e).

(g) **AUTHORIZATION OF APPROPRIATION.**—There are authorized to be appropriated such sums as may be necessary to carry out the activities of the Commission.

SEC. 18. OCEAN FREIGHT FORWARDERS.

(a) **LICENSE.**—No person may act as an ocean freight forwarder unless that person holds a license issued by the Commission. The Commission shall issue a forwarder's license to any person that—

(1) the Commission determines to be qualified by experience and character to render forwarding services; and

(2) furnishes a bond in a form and amount determined by the Commission to insure financial responsibility that is issued by a surety company found acceptable by the Secretary of the Treasury.

(b) **SUSPENSION OR REVOCATION.**—The Commission shall, after notice and hearing, suspend or revoke any license if it finds that the ocean freight forwarder is not qualified to render forwarding services or that it willfully failed to comply with any provision of this Act or with any lawful order, rule, or regulation of the Commission. The Commission may also revoke a forwarder's license for failure to maintain a bond in accordance with subsection (a)(2).

(c) **EXCEPTION.**—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without a license.

(d) **COMPENSATION OF FORWARDERS BY CARRIERS.**—(1) A common carrier may compensate an ocean freight forwarder in connection with any shipment dispatched on behalf of others only when the ocean freight forwarder has certified in writing that it holds a valid license and has performed the following services:

(A) engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of that space; and

(B) prepared and processed the ocean bill of lading, dock receipt, or other similar document with respect to the shipment.

(2) No common carrier may pay compensation for services described in paragraph (1) more than once on the same shipment.

(3) No compensation may be paid to an ocean freight forwarder except in accordance with the tariff requirements of this Act.

(4) No ocean freight forwarder may receive compensation from a common carrier with respect to any shipment in which the forwarder has a direct or indirect beneficial interest nor shall a common carrier knowingly pay compensation on that shipment.

SEC. 19. REPEALS AND CONFORMING AMENDMENTS.

(a) **REPEALS.**—The laws specified in the following table are repealed:

Shipping Act, 1916:	
Sec. 13.....	36 Stat. 117
Sec. 14a.....	46 U.S.C. 813
Sec. 14b.....	46 U.S.C. 813a
Sec. 18(b).....	46 U.S.C. 817(b)
Sec. 18(c).....	46 U.S.C. 817(c)
Sec. 26.....	46 U.S.C. 825
Sec. 44.....	46 U.S.C. 841b
Merchant Marine Act, 1920:	
Sec. 20.....	41 Stat. 996
Merchant Marine Act, 1936:	
Sec. 212(e).....	46 U.S.C. 1122(e)
Sec. 214.....	46 U.S.C. 1124
Omnibus Budget Reconciliation Act of 1981:	
Sec. 1608.....	95 Stat. 752

(b) **CONFORMING AMENDMENTS.**—The Shipping Act, 1916 (39 Stat. 728), as amended (46 U.S.C. 801 et seq.), is amended as follows:

(1) in section 1 by striking the definitions "controlled carrier" and "independent ocean freight forwarder";

(2) in sections 14, 15, 16, 20, 21(a), 22, and 45 by striking "common carrier by water" wherever it appears in those sections and substituting "common carrier by water in interstate commerce";

(3) in section 14, first paragraph, by striking "or a port of a foreign country";

(4) in section 14, last paragraph, by striking all after the words "for each offense" and substituting a period;

(5) in section 15, fourth paragraph, by striking "(including changes in special rates and charges covered by section 14b of this Act which do not involve a change in the spread between such rates and charges and the rates and charges applicable to noncontract shippers)" and also "with the publication and filing requirements of section 18(b) hereof and";

(6) in section 15, sixth paragraph, by striking "or permitted under section 14b," and in the seventh paragraph, by striking "or of section 14b";

(7) in section 16, in the paragraph designated "First", by striking all after "disadvantage in any respect" and substituting "whatsoever";

(8) in section 17 by striking the first paragraph, and in the second paragraph, by striking "such carrier and every";

(9) in section 21(b) by striking "The Commission shall require the chief executive officer of every vessel operating common carrier by water in foreign commerce and to the extent it deems feasible, may require any shipper, consignee, consignee, forwarder, broker, other carrier or other person subject to this Act," and substituting "The Commission may, to the extent it deems feasible, require any shipper, consignee, consignee, forwarder, broker, or other person subject to this Act,";

(10) in section 22 by striking subsection (c);

(11) in section 25, at the end of the first sentence, by adding "under this Act";

(12) in sections 30 and 31, after the words "any order of the board", by adding "under this Act,";

(13) in section 29, by striking out "any order of the board," and inserting in lieu

thereof "any order of the board under this Act,"; and

(14) in section 32(c), after the words "or functions," by adding "under this Act,".

(c) **TECHNICAL AMENDMENTS.**—Section 212 of the Merchant Marine Act, 1936 (46 U.S.C. 1122) is amended by—

(1) striking after subsection (d) the following undesignated paragraph:

"The Federal Maritime Commission is authorized and directed—"

and

(2) striking after subsection (e) the following undesignated paragraph:

"The Secretary of Transportation is authorized and directed—"

(d) **EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS.**—All agreements, contracts, modifications, and exemptions previously approved or licenses previously issued by the Commission shall continue in force and effect as if approved or issued under this Act; and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act.

(e) **SAVINGS PROVISIONS.**—(1) Notwithstanding subsection 7(c), each service contract entered into by a shipper and an ocean common carrier or conference before the date of enactment of this Act may remain in full force and effect and need not comply with the requirements of that subsection until fifteen months after the date of enactment of this Act.

(2) This Act and the amendments made by it shall not affect any suit—

(A) filed before the date of enactment of this Act; or

(B) with respect to claims arising out of conduct engaged in before the date of enactment of this Act, filed within one year after the date of enactment of this Act.

SEC. 20. EFFECTIVE DATE.

This Act shall become effective one hundred and eighty days after the date of its enactment, except that sections 16 and 17 shall become effective upon enactment.

SEC. 21. COMPLIANCE WITH BUDGET ACT.

Any new spending authority (within the meaning of section 401 of the Congressional Budget and Impoundment Control Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in advance in Appropriations Acts. Any provision of this Act which authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1983.

SEC. 22. COMMISSION REPORT.

The Commission shall collect and analyze information that will assist in determining the impact of this Act, including data on—

(1) increases or decreases in the level of tariffs;

(2) changes in the frequency or type of common carrier services available to specific ports or geographic regions;

(3) the number and strength of independent carriers in various trades; and

(4) the length of time, frequency, and cost, of major types of regulatory proceedings before the Commission.

The Commission shall report this information, together with an analysis of the impact of this Act, to Congress before December 31, 1988.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments and request a conference with the House, and that the Chair be

authorized to appoint conferees on the part of the Senate, six of whom shall be members of the Commerce Committee and three of whom shall be members of the Judiciary Committee.

The motion was agreed to; and the Chair appointed, from the Committee on Commerce, Mr. PACKWOOD, Mr. GORTON, Mr. STEVENS, Mr. KASTEN, Mr. LONG, and Mr. INOUE; from the Committee on the Judiciary, Mr. THURMOND, Mr. HATCH, and Mr. METZENBAUM.

AMENDMENTS TO CERTAIN INDIAN EDUCATION ACTS

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 726.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 726) entitled "An Act to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. The matter preceding title I of the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325) (hereafter in this Act referred to as the "Act") is amended—

(1) by striking out "DEFINITIONS" and inserting in lieu thereof the following:

"DEFINITIONS

"Sec. 2. (a) For purposes of this Act, the term—"

(2) by striking out "and is eligible to receive services from the Secretary of the Interior" in paragraph (1);

(3) by inserting before the semicolon at the end of paragraph (5) thereof the following: "and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior"; and

(4) by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve.

"(b) For the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a), such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term. Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term. Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours. For such purposes, credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program."

SEC. 2. Section 101 of the Act is amended by inserting immediately before the period at the end thereof the following: ", and to allow for the repair and renovation of the physical resources of such institutions".

SEC. 3. (a) Section 102 of the Act is amended—

(1) by striking out "is authorized to" in subsection (a) and inserting in lieu thereof "shall, subject to appropriations,"; and

(2) by striking out "to defray the expense of activities related to education programs for Indian students" in subsection (b) and inserting in lieu thereof "to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college".

(b) Section 106(a) of the Act is amended by inserting after the second sentence the following new sentence: "Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds."

SEC. 4. (a) The Act is amended—

(1) by redesignating sections 104 through 114 as sections 105 through 115, respectively; and

(2) by inserting after section 103 the following new section:

"PLANNING GRANTS

"Sec. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled community colleges, or to determine the need and potential for the establishment of such colleges.

"(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

"(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than \$15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved."

(b) The Act is further amended—

(1) by striking out "section 106" in section 106 (as redesignated by subsection (a)(1)) and inserting in lieu thereof "section 107";

(2) by striking out "section 105" in section 107 (as so redesignated) and inserting in lieu thereof "section 106"; and

(3) by striking out "section 106(a)" in section 111 (as so redesignated) and inserting in lieu thereof "section 107(a)".

SEC. 5. Section 105 of the Act (as redesignated by section 4(a)(1)) is amended—

(1) by inserting "from a tribally controlled community college which is receiving funds under section 108" after "upon request" in the first sentence thereof; and

(2) by striking out "to tribally controlled community colleges" in such sentence.

SEC. 6. (a) Section 106 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by striking out "FEASIBILITY" in the heading of such section and inserting in lieu thereof "ELIGIBILITY";

(2) by striking out "feasibility" each place it appears in such section and inserting in lieu thereof "eligibility";

(3) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (a) and inserting in lieu thereof "Secretary of Education";

(4) by inserting at the end of subsection (b) the following new sentence: "Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made."; and

(5) by striking out "10 per centum" in subsection (c)(2) and inserting in lieu thereof "5 per centum".

(b) Section 107 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by striking out "feasibility" in subsection (a) and inserting in lieu thereof "eligibility", and

(2) striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (b) and inserting in lieu thereof "Secretary of Education".

Sec. 7. Section 108(a) of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"Sec. 108. (a) Except as provided in section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of—

"(1) the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 2(a)(7) of this Act; and

"(2)(A) \$4,000 for fiscal year 1983,

"(B) \$4,000 for fiscal year 1984,

"(C) \$5,025 for fiscal year 1985,

"(D) \$5,415 for fiscal year 1986,

"(E) \$5,820 for fiscal year 1987,

except that no grant shall exceed the total cost of the education program provided by such college."

Sec. 8. Section 109 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by inserting "(a)" immediately after the section designation; and

(2) by adding at the end thereof the following new subsections:

"(b)(1) The amount of any grant for which tribally controlled community colleges are eligible under section 108 shall not be altered because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

"(2) No tribally controlled community college shall be denied funds appropriated under such Act of November 2, 1921, because of the funds it receives under this Act.

"(c) For the purposes of section 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965, any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act."

Sec. 9. Section 110 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"APPROPRIATION AUTHORIZATION

"Sec. 110. (a)(1) There is authorized to be appropriated, for carrying out section 105, \$3,200,000 for each of the fiscal years 1985, 1986, and 1987.

"(2) There is authorized for carrying out section 107, \$30,000,000 for each of such fiscal years.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out section 112(b) for each of such fiscal years.

"(b)(1) For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

"(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1)."

Sec. 10. Section 111 of the Act (as redesignated by section 4(a)(1) of this Act) is amended by redesignating subsection (b) as subsection (c) and by striking out subsection (a) and inserting in lieu thereof the following:

"Sec. 111. (a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to the product of (i) the per capita payment for the preceding fiscal year, and (ii) such applicant's Indian student count for the current fiscal year;

"(B) the Secretary shall next allocate an amount equal to the product described in subparagraph (A) to applicants who did not receive funds under such section for the preceding fiscal year, in the order in which such applicants have qualified for assistance in accordance with such section, and no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

"(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B) the Secretary shall allocate such funds by ratably increasing the amounts of the grant determined under such subparagraphs.

"(2) For purposes of paragraph (1) of this subsection, the term 'per capita payment' for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled community colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.

"(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A), the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.

"(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under

paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total amounts.

"(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1982, be deemed to refer to section 106 as in effect at the beginning of such fiscal year."

Sec. 11. Section 112 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"REPORT ON FACILITIES

"Sec. 112. (a) The Administrator of General Services shall provide for the conduct of a study of facilities available for us by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or under utilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than September 30, 1984. Such report shall also include an identification of property (1) on which structurally sound buildings suitable for use as educational facilities are located, and (2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

"(b) The Administrator of General Services, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

"(c) For the purposes of this section, the term 'reconstruction' has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B))."

Sec. 12. Section 113 of the Act (as redesignated by section 4(a)(1) of this Act) is repealed.

Sec. 13. Section 5(a)(1) of the Navajo Community College Act is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1984".

Sec. 14. In promulgating any regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community colleges.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments and request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. ANDREWS, Mr. GOLDWATER, Mr. GORTON, Mr. MURKOWSKI, Mr. MELCHER, Mr. INOUE, and Mr. DECONCINI conferees on the part of the Senate.

SENATE JOINT RESOLUTION 188—NATIONAL CHRISTMAS SEAL MONTH—PLACED ON CAL- ENDAR

Mr. BAKER. Mr. President, I have a Senate joint resolution (S.J. Res. 188) by the distinguished minority leader, Senator BYRD, Senator THURMOND, Senator BIDEN, and myself, to designate the month of November 1983 as "National Christmas Seal Month."

I ask unanimous consent that the joint resolution be placed on the calendar.

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

NATIONAL SCHOOL LUNCH ACT AND CHILD NUTRITION ACT OF 1966

Mr. BYRD. Mr. President, I understand that there is a message from the House on H.R. 4091 which has come over today.

The PRESIDING OFFICER. There is.

Mr. BYRD. Mr. President, I ask that the first reading be had of that bill.

The PRESIDING OFFICER. The clerk will read.

The assistant legislative clerk read as follows:

A bill (H.R. 4091) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve the operation of programs authorized under such Acts, and for other purposes.

Mr. BYRD. Mr. President, I ask for the second reading of the bill.

Mr. BAKER. Mr. President, I object to further consideration of the bill.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, may I say for the RECORD, for the benefit of those who may read the RECORD and who may hear these proceedings and not understand, that the procedure we have just gone through is an established procedure under the rules of the Senate, specifically, rule XIV.

Mr. BYRD. Mr. President, I cannot hear the majority leader. I can hear him, but I cannot understand what he is saying.

The PRESIDING OFFICER. The Chair respectfully asks Senators to please take their conferences into the cloakrooms.

Mr. BYRD. Mr. President, I do not see all conferences moving to the cloakroom.

The PRESIDING OFFICER. The Chair does not, either.

Mr. BAKER. Mr. President, I respectfully ask that our colleagues either talk louder or lower. (Laughter.)

The PRESIDING OFFICER. The majority leader may proceed.

Mr. BAKER. Mr. President, I apologize to my friends at the rear of the Chamber.

I was about to explain that what happened just now was that, pursuant to a rule of the Senate, rule XIV, a method is provided, under certain circumstances, for placing a matter directly on the calendar and circumventing the usual procedure of referring the bill or resolution to a committee.

The reason I make this explanation is so that Members and others may understand that I am not objecting to this measure as such but, rather, facilitating the move, under rule XIV, to place the matter directly on the calendar.

Mr. BYRD. Mr. President, anent the rule XIV matter which the majority leader has referred to, I should like the RECORD to show that I made the request for the reading at the request of another Senator.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I have certain items on the Executive Calendar that are cleared for action on this side. I inquire of the distinguished minority leader if he is prepared to consider all or any portion of the nominations on today's Executive Calendar.

Mr. BYRD. Mr. President, in response to the question of the majority leader, it was with respect to the Consent Calendar, am I correct?

Mr. BAKER. Yes. Will the minority leader bear with me one moment?

Mr. BYRD. Surely.

Mr. BAKER. Mr. President, the request I wish to put to the minority leader is whether he is in position to consider all or any part of the nominations on today's Executive Calendar.

Mr. BYRD. Yes.

Mr. President, this side is ready to proceed with certain nominations on the Executive Calendar.

Mr. BAKER. Mr. President, I would be most pleased to hear the nominations that are cleared on the other side and will say in advance that those will be the only nominations that we will take up since there is no objections on this side.

Mr. BYRD. I thank the majority leader.

Mr. President, the minority is ready to proceed with all nominations on the calendar beginning with page 1 and ending with page 5 inclusive, with the exceptions of the following calendar orders numbered 312, 351, 352, and 355.

Mr. BAKER. I thank the minority leader.

Mr. BAKER. Mr. President, I assume that the minority leader is also clearing those nominations on the Secretary's desk in the Army, Foreign Service, and Navy. Is that correct? That would be on page 5.

Mr. BYRD. Yes. I am looking at them. I will just take a second to look at all these and see if anyone is on here from West Virginia.

Mr. BAKER. I admire the caution and care and wisdom of the minority leader. I must say in looking over this if there is a name from Tennessee, it jumps out at me like a flash of light.

Mr. BYRD. I see none from West Virginia.

I am ready to proceed as the majority leader suggested.

Mr. BAKER. I thank the Senator.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session now to consider the nominations on today's Executive Calendar with the exceptions of the calendar order numbers just recited by the minority leader.

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

The PRESIDING OFFICER. The nominations will be stated.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

The legislative clerk read the nomination of Susan E. Phillips, of Virginia, to be Director of the Institute for Museum Services.

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

NATIONAL INSTITUTE OF BUILDING SCIENCES

The legislative clerk read the nominations of MacDonald G. Becket, of California, and Kyle Clayton Boone, of North Carolina, to be Members of the Board of Directors of the National Institute of Building Sciences.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

ARMY

The legislative clerk read nominations of Brig. Gen. Vernon J. Andrews, Army National Guard of the United States.

Brig. Gen. Luis E. Gonzalez-Vales, Army National Guard of the United States.

Brig. Gen. Gray W. Harrison, Jr., Army National Guard of the United States.

Brig. Gen. John W. Kiely, Army National Guard of the United States.

Brig. Gen. Alexis T. Lum, Army National Guard of the United States.

Brig. Gen. Willard A. Shank, Army National Guard of the United States to be major generals.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

The legislative clerk read the nomination of Col. Edward G. Pagano,

Army National Guard of the United States, to be brigadier general.

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

NAVY

The legislative clerk read the nomination of Rear Adm. Albert J. Baccocco, Jr., to be vice admiral, and the nomination of Rear Adm. Thomas J. Hughes, Jr., to be vice admiral.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

ENVIRONMENTAL PROTECTION AGENCY

The legislative clerk read the nomination of John C. Martin, of Virginia, to be Inspector General.

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

DEPARTMENT OF THE TREASURY

The legislative clerk read the nomination of John C. McGraw, of Pennsylvania, to be Assayer of the Mint of the United States at Philadelphia, Pa.

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

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

The legislative clerk read the nomination of Henry F. Cooper, Jr., of Virginia, to be an Assistant Director of U.S. Arms Control and Disarmament Agency.

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

DEPARTMENT OF STATE

The legislative clerk read the nomination of Richard W. Murphy, of Maryland, a career member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State.

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The legislative clerk proceeded to read sundry nominations in the Army, Foreign Service, and Navy placed on the secretary's desk.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc.

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

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, to demonstrate the influence that I have in the Senate, I move to lay the majority leader's motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Would that the observation of the minority leader were correct.

Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

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

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

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

Mr. BAKER. Mr. President, that is all I have. I yield to the minority leader.

REPLACEMENT OF THE MULTINATIONAL PEACEKEEPING FORCE IN LEBANON

Mr. BYRD. Mr. President, I send to the desk a resolution which I ask to have printed and also appear in the RECORD. I ask that it be appropriately referred. I offer this resolution on behalf of myself and Senators BAUCUS, BENTSEN, BIDEN, BINGAMAN, BUMPERS, CHILES, CRANSTON, DIXON, DODD, EAGLETON, EXON, FORD, HART, INOUE, JOHNSTON, KENNEDY, LAUTENBERG, LEAHY, LEVIN, MATSUNAGA, MELCHER, METZENBAUM, MITCHELL, MOYNIHAN, NUNN, PELL, PROXMIRE, RANDOLPH, RIEGLE, SARBANES, SASSER, TSONGAS, and ZORINSKY.

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

The resolution is as follows:

S. RES. 253

Whereas 219 Marines, and possibly more, were killed in Lebanon on October 23, 1983, as the result of a terrorist attack on our headquarters at the Beirut Airport;

Whereas the United States Marine contingent of the Multinational Peacekeeping Force was, and continues to be, deployed in exposed positions in and around the Beirut Airport, that Marines occupying sentry positions reportedly were not allowed to carry loaded weapons; and the security for the Marines was obviously inadequate;

Whereas the assassination of Lebanese President elect Bashir Gemayel, the destruction of the U.S. Embassy in Beirut which resulted in 17 Americans being killed, and acts of violence of a similar nature using similar methods have been characteristic of the internal situation in Lebanon particularly since the 1975-1976 Civil War in that country;

Whereas the history of similar acts of violence in Lebanon presented strong evidence of the necessity to provide the most strin-

gent security safeguards for our Marine contingent;

Whereas the United States is not perceived as a neutral participant in the peacekeeping force;

Whereas warring factions in Lebanon, aided by external forces, have used, and continue to use, violence as a means to settle inter-confessional disputes;

Whereas the various members of the Multinational Peacekeeping Force have been, and will continue to be, targets of violence from those elements involved in, and contributing to, the internal conflict in Lebanon;

Whereas a broadly-based peacekeeping force in Lebanon would be a more appropriate demonstration of the vital interest of the international community in a stable Middle East;

Whereas S.J. Res. 159, extending by 18 months the participation of the Marines in the Multinational Peacekeeping Force which passed by a vote of only 54-46 in the United States Senate, demonstrated a strong divergency of opinion regarding the mission and role of U.S. Marines in Lebanon; Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) provide immediate, maximum protection and security for U.S. forces in Lebanon; and

(2) vigorously pursue, in coordination with our allies in the Multinational Peacekeeping Force, every possible avenue to facilitate the orderly transferral of the peacekeeping responsibilities in Lebanon to a United Nations peacekeeping presence, or to other forces from neutral countries, in order to hasten the withdrawal of U.S. ground forces.

(3) prepare and transmit to the Congress a report setting forth the measures he has taken to carry out paragraphs (1) and (2).

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. BYRD. Mr. President, the Democratic conference took action on two major issues today—one dealing with the situation in Lebanon and the other relating to the invasion of Grenada.

In the case of Lebanon, the caucus endorsed, without opposition, a sense of the Senate resolution which calls upon the President to:

First, provide immediate, maximum protection and security for U.S. forces in Lebanon; and

Second, vigorously pursue, in coordination with our allies in the multinational peacekeeping force, every possible avenue to facilitate the orderly transferral of the peacekeeping responsibilities in Lebanon to a U.N. peacekeeping presence, or to other forces from neutral countries, in order to hasten the withdrawal of U.S. ground forces.

What we Democrats did today in conference was the next logical step in responding to the recent events in Lebanon. We are offering the President a constructive alternative to that of maintaining the status quo which would allow us to accommodate an or-

derly withdrawal of U.S. forces from Lebanon.

There are deeply-held concerns on the part of all of us that the mission and role of U.S. participation in the MNF has changed dramatically over the course of the last year. We originally participated in the MNF as a peacekeeping force. However, peacekeeping implies a neutral presence.

Unfortunately, we are not perceived as a neutral participant in a peacekeeping force.

For this reason, it is our belief that a more broadly based peacekeeping force, which can be perceived as being neutral, would be a more appropriate demonstration of the vital interest of the international community in a stable Middle East.

We do call for any action we take to be taken in cooperation and coordination with our allies in the multinational peacekeeping force.

As Senators recall, the legislation authorizing the continued participation of U.S. forces in the multinational force for another 18 months, passed by a vote of only 54-46. This represents sharply divergent views in the Senate as to the administration's justification for our continued presence in Lebanon.

Therefore, this action today reflects the deep concerns expressed by the Senate in its September 29, 1983 vote on Senate Joint Resolution 159.

As to the issue of Grenada, the Democratic conference, without opposition, reported a conference resolution which states:

(1) That the provisions of section 4(a)(1) and 5(b) of the War Powers Resolution had been triggered by the introduction of U.S. troops in Grenada; and

(2) That the President's letter to the Senate, dated October 25, 1983, did not fulfill the requirements of the War Powers Resolution.

Mr. President, I ask unanimous consent to include in the RECORD an action that was taken by the Democratic conference with reference to Grenada.

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

RESOLUTION OF THE SENATE DEMOCRATIC CONFERENCE ON THE APPLICABILITY OF THE WAR POWERS ACT TO THE SITUATION IN GRENADA

The Democratic Conference without opposition concludes: (1) that the provisions of sections 4(a)(1) and 5(b) of the War Powers Resolution have been triggered by the introduction of U.S. troops into a situation in Grenada where "imminent involvement in hostilities [was] clearly indicated by the circumstances"; and (2) that the President's letter to the Senate, dated October 25, 1983, does not fulfill the requirements of the War Powers Resolution.

Mr. BYRD. Mr. President, the last item I referred to is a resolution from the Senate Democratic conference on

the applicability of the War Powers Act to the situation in Grenada.

Mr. President, I ask unanimous consent, in connection with these matters, to also insert into the RECORD at this point a copy of the letter which was sent by the President to the President pro tempore of the Senate on October 25, 1983. I am sure that letter has been made public.

Mr. BAKER. Mr. President, if the Senator will yield, I have distributed copies of it. The President pro tempore placed it into the RECORD. I appreciate the minority leader also doing it.

Mr. BYRD. Mr. President, even though it was placed in the RECORD this morning, I think it should be placed in the RECORD again in connection with my own remarks so as to be there for verification purposes.

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

THE WHITE HOUSE,
Washington, October 25, 1983.

DEAR MR. PRESIDENT: On October 12, a violent series of events in Grenada was set in motion, which led to the murder of Prime Minister Maurice Bishop and a number of his Cabinet colleagues, as well as the deaths of a number of civilians. Over 40 killings were reported. There was no government ensuring the protection of life and property and restoring law and order. The only indication of authority was an announcement that a barbaric shoot-to-kill curfew was in effect. Under these circumstances, we were necessarily concerned about the safety of innocent lives on the island, including those of up to 1,000 United States citizens.

The Organization of Eastern Caribbean States (OECS) became seriously concerned by the deteriorating conditions in the member State of Grenada. The other members of the OECS are Antigua, Dominica, Montserrat, St. Kitts/Nevis, Saint Lucia, and Saint Vincent and the Grenadines. We were formally advised that the Authority of Heads of Government of Member States of the OECS, acting pursuant to the Treaty establishing the OECS, met in emergency session on October 21. The meeting took note of the anarchic conditions and the serious violations of human rights and bloodshed that had occurred, and the consequent unprecedented threat to the peace and security of the region created by the vacuum of authority in Grenada. The OECS determined to take immediate, necessary steps to restore order in Grenada so as to protect against further loss of life, pending the restoration of effective governmental institutions. To this end, the OECS formed a collective security force comprising elements from member States to restore order in Grenada and requested the immediate cooperation of a number of friendly countries, including the governments of Barbados, Jamaica, and the United States, in these efforts. In response to this call for assistance and in view of the overriding importance of protecting the lives of the United States citizens in Grenada, I have authorized the Armed Forces of the United States to participate along with these other nations in this collective security force.

In accordance with my desire that the Congress be informed on this matter, and consistent with the War Powers Resolution,

I am providing this report on this deployment of United States Armed Forces.

Today at about 5:00 AM Eastern Daylight Time, approximately 1,900 United States Army and United States Marine Corps personnel began landing in Grenada. They were supported by elements of the United States Navy and the United States Air Force. Member States of the OECS along with Jamaica and Barbados are providing approximately 300 personnel. This deployment of United States Armed Forces is being undertaken pursuant to my constitutional authority with respect to the conduct of foreign relations and as Commander-in-Chief of the United States Armed Forces.

Although it is not possible at this time to predict the duration of the temporary presence of United States Armed Forces in Grenada, our objectives in providing this support are clear. They are to join the OECS collective security forces in assisting the restoration of conditions of law and order and of governmental institutions to the island of Grenada, and to facilitate the protection and evacuation of United States citizens. Our forces will remain only so long as their presence is required.

Sincerely,

RONALD REAGAN.

PROGRAM

Mr. BAKER. Mr. President, on tomorrow the Senate will convene at 9 a.m. After the recognition of the two leaders under the standing order, there will be a brief period for the transition of routine morning business until 9:30 a.m. in which Senators may speak for not more than 2 minutes each.

At 9:30 a.m., the Senate will resume consideration of the supplemental appropriations bill. It is anticipated that votes will occur on that measure. It is hoped that the measure can be completed and taken to final passage during the morning hours, meaning by 11 or 11:30 tomorrow.

After that, Mr. President, the leadership on this side will try very hard, one way or the other—I hope by unanimous consent—to get to the debt limit bill, since the debt limit expires at midnight Monday next and all sorts of grave consequences would flow were we not to do that. So I hope by noon tomorrow, or even by 11 a.m., that we are able to reach the debt limit bill. I genuinely hope we can do so by mutual consent.

I will say, for the benefit of all Senators, but the minority in particular, that things look better on this side. We may be able to clear unanimous consent to do that on this side of the aisle. I will have a further report to make to the Senate in that respect some time tomorrow.

Mr. President, we will spend whatever time we need to spend on the debt limit. Tomorrow is Thursday, and the regular late evening. I would like to avoid a late evening, if possible. But we can do so only if we can finish the debt limit bill.

Mr. President, if we finish the supplemental and the debt limit, it will not be the intention of the leadership on this side to ask the Senate to remain in on Saturday. If we do finish the debt limit bill and the supplemental tomorrow, it would be the intention of the leadership on this side to ask the Senate to turn to the Natural Gas Act. I expect a rather lengthy debate on that measure and a fair amount of controversy. I would not be so bold as to suggest that we will finish that either this week or perhaps well into next week. But that is the next order of business.

I had hoped earlier to be able to get to the defense appropriations bill next week, Mr. President, and I had announced that would be the desire of the leadership on this side. However, it appears now that we will not have the defense appropriations bill from the House of Representatives in time to consider it on this side of the Capitol next week. If that situation changes, then the schedule may change.

But, for the moment, the schedule for the next few days is the completion of the supplemental, the completion of the debt limit bill, and the consideration of the Natural Gas Act. There may be other matters, Mr. President, that can be taken up and disposed of routinely and in minimum time. Of course, conference reports as they are received will be taken up and considered, along with other privileged matters.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. BAKER. Mr. President, notwithstanding the fact that the staff on both sides of the aisle do show an eagerness to continue this evening, it seems to me that the better part of discretion calls for us to recess.

Therefore, Mr. President, I move, in accordance with the order previously entered, that the Senate stand in

recess until the hour of 9 a.m., tomorrow morning.

The motion was agreed to and the Senate, at 6:49 p.m., recessed until Thursday, October 27, 1983, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 26, 1983:

DEPARTMENT OF THE TREASURY

John C. McGraw, of Pennsylvania, to be Assayer of the Mint of the United States at Philadelphia, Pa.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Henry F. Cooper, Jr., of Virginia, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

NATIONAL INSTITUTE OF BUILDING SCIENCES

MacDonald G. Becket, of California, to be a member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1984.

Kyle Clayton Boone, of North Carolina, to be a member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1984.

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Susan E. Phillips, of Virginia, to be Director of the Institute for Museum Services.

DEPARTMENT OF STATE

Richard W. Murphy, of Maryland, a career member of the Senior Foreign Service, class of Career Minister, to be an Assistant Secretary of State.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

ENVIRONMENTAL PROTECTION AGENCY

John C. Martin, of Virginia, to be Inspector General, Environmental Protection Agency.

IN THE ARMY

The following officers for appointment as Reserve Commissioned officers in the Adjutant Generals Corps, Army National Guard of the United States, Reserve of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Vernon J. Andrews, xxx-xx-xxxx
xxx-x... Army National Guard of the United States.

Brig. Gen. Luis E. Gonzalez-Vales, xxx-xx-x...
xxx-x... Army National Guard of the United States.

Brig. Gen. Gray W. Harrison, Jr., xxx-xx-x...
xxx-x... Army National Guard of the United States.

Brig. Gen. John W. Kiely, xxx-xx-xxxx
Army National Guard of the United States.

Brig. Gen. Alexis T. Lum, xxx-xx-xxxx
Army National Guard of the United States.

Brig. Gen. Willard A. Shank, xxx-xx-xxxx
Army National Guard of the United States.

To be brigadier general

Col. Edward G. Pagano, xxx-xx-xxxx
Army National Guard of the United States.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Albert J. Baciocco, Jr., xxx-xx-x...
xxx-x... 1120, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Thomas J. Hughes, Jr., xxx-xx-x...
xxx-x... 1110, U.S. Navy.

Navy nominations beginning Robert E. Riera, Jr., and ending Geoffrey E. Schwartz, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 3, 1983.

FOREIGN SERVICE

Foreign Service nominations beginning Thomas D. Boyatt, and ending James L. Ward, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 4, 1983.

IN THE ARMY

Army nominations beginning William A. Abel, and ending Patricia L. Wyatt, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 17, 1983.