In late 1970, John B. Oakes, editor of the editorial page of The New York Times, responded to a new query on another use of the "plan" by citing the same quotation and asking: "How could he make such a pledge if he didn't have a plan?" The Times editor argued: "It seems obvious that Mr. Nixon implied that he had a plan when he gave his pledge. But, as I say, it was doubtless an error to put the words in quotes and if that is what you want me to admit, I am glad to do so, and to state that it won't appear that way in this context again." Nor did it—in The Times.

Not everyone was willing to stop using the phrase when its unreliability was pointed out. N.B.C.'s Edwin Newman replied: "When I spoke of a secret plan, I did not mean it as a quotation. It was shorthand, which is sometimes unavoidable, for a plan that the President said he had and the particulars sometimes unavoidable, *for a plan that the President said he had* and the particulars of which he said he could not divulge without impairing the plan's chance of success." (Italics mine.)

Did Mr. Nixon ever say he had a "plan," secret or otherwise? He did not; nobody who has been challenged on the use of a direct quotation on this has ever come up with the citation of time or place. Mr. Nixon never said it; the use of quotation marks is inaccurate, unfair and misleading. But it continues, error feeding on error, as a myth becomes accepted as truth. The question then becomes—if he did not actually say it, did he imply that he had a secret plan? His remarks on March 5, 1968, in Nashua, N.H., were a pledge "to end the war and win the peace." He continued he had no "pushbutton technique" in mind, but would "mobilize our economic and diplomatic and political leadership."

Not surprisingly, both press and political opponents came back with the question "How?" Newsmen pressed for details, and when no plan was set forth, its absence was noted. The first use of the word "plan" that I could find was in the March 11, 1968, New York Times subhead: "Nixon Withholds His Peace Ideas. Says to Tell Details of Plan Would Sap His Bargaining Strength If He's Elected." The Associated Press lead three days later added to the idea of a specific plan, necssarily cloaked in secrecy: "Richard M. Nixon says the reason he is not ready to spell out the details of his plan to end the war in Vietnam is because he is reserving his 'big guns' for use against President Johnson if he wins the Republican Presidential nomination."

In that A.P. story, Mr. Nixon stressed that he had "no magic formula, no gimmick. If I had a gimmick I would tell Lyndon Johnson." The furthest he would be drawn into a discussion of a "plan" was this: "But I do have some specific ideas on how to end the war. They are primarily in the diplomatic area."

That's as much as the clips I have seen shown about the "plan." Would a fairminded person say they constitute the basis for an inference that the candidate possessed a detailed, and necessarily secret, panacea for the conflict? I think not—no more than one would infer that Senator McGovern has a "secret plan" to fulfill his pledge to bring back the prisoners in ninety days.

Throughout the campaign and on into the years ahead, we can expect to hear some orators and commentators use a little inflection around "secret plan" that makes it sound like a quotation. The quotation thereof is no dark media conspiracy, just an example of how some writers and cartoonists, too lazy to check source materials, casually pick up and perpetuate an error. A small but hardy band of newsmen, with no constituency but objectivity, will wince when they see the nonquote quoted.

TRIBUTE TO THE HON. DURWARD G. HALL

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 14, 1972

Mr. DANIELS of New Jersey. Mr. Speaker, I would like to add my voice to those who have paid tribute to my good friend from Missouri, Dr. HALL, on his 62d birthday, the last which he will enjoy as a Member of this House. Very rarely have the good doctor and I agreed on legislative matters, but we have shared a common love for this country and a common desire to make America a better place. Our only differences have come on the means to arrive at these goals.

For many years, Dr. HALL has carefully scrutinized legislation and caused all of us who advocate a larger role for the Federal Government to make sure that all our "i's" are dotted and our "t's" crossed, because if we fall short in this area we are sure to hear about it from Dr. HALL and my good friend from Iowa, the other half of the Hall-Gross team. But in this role the gentleman from Missouri like the gentleman from Iowa, has made a significant contribution to the legislative process.

Mr. Speaker, I for one will miss Dr. HALL and I know I speak for all of my colleagues on this side of the aisle and I wish him all the best in the years ahead. He is a very great American and this House and this Nation are better for having him come this way.

SENATE—*Tuesday, September 19, 1972*

The Senate met at 8:30 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

PRAYER

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

Our Father God, we thank Thee for the freshness of the morning, for the promise of the new day, and for the hope of high accomplishment in so many areas of need. In the heat and burden of these anxious days, which drain our strength and demand our best, we remember Thy Word, "in quietness and confidence shall be our strength." While we work for the things which must be done now, keep ever before us the vision of Thy eternal kingdom. With the benediction of the morning prayer upon us may we face the toil of the day with zeal for the truth, with honor held bright, with hatred of all deceit and hypocrisy, and with the knowledge that all great and noble service is based on magnanimity, patience, and self-giving. Thus may we have a part in bringing a redeemed world into the fullness of Thy kingdom.

We pray in His name who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 19, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ALLEN thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, September 18, 1972, be dispensed with.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the calendar.

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

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

The ACTING PRESIDENT pro tempore. The clerk will please state the first nomination on the Executive Calendar.

The second assistant legislative clerk read the nomination of Antonin Scalia, of Virginia, to be Chairman of the Administrative Conference of the United States.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK — IN THE COAST GUARD

The second assistant legislative clerk read as follows:

Routine nominations placed on the Secretary's desk, in the Coast Guard.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The ACTING PRESIDENT pro tempore. Without objection, the nominations will be considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

(The remarks Mr. MANSFIELD made at this point when he introduced S. 4001 are printed in the routine morning business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Idaho (Mr. CHURCH) for not to exceed 15 minutes.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CHURCH. I yield.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Pamela Duffy may be on the floor to assist me during the time through the morning hour.

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

Mr. ROBERT C. BYRD. Mr. President, what was the request?

The ACTING PRESIDENT pro tempore. That a person named by the Senator from California be allowed to stay on the floor during the morning hour.

Mr. ROBERT C. BYRD. The Chair means through the period for the transaction of morning business?

The ACTING PRESIDENT pro tempore. Through morning business.

Mr. ROBERT C. BYRD. I have no objection.

MISLEADING THE PUBLIC ABOUT SOCIAL SECURITY

Mr. CHURCH. Mr. President, an administration should be criticized whenever it attempts to mislead the public.

And, when it plans to use public funds for such a purpose, it should be prevented from doing so.

Today I intend to offer a resolution dealing with just such a situation.

The resolution is prompted by the Nixon administration's intentions to cloud the facts surrounding the enactment of a 20-percent social security increase this summer.

Social security checks now scheduled for delivery on October 3 will incorporate that 20-percent increase.

But, along with the checks, the social security beneficiaries will receive a printed notice which will say:

HIGHER SOCIAL SECURITY PAYMENTS

Your social security payment has been increased by 20 percent, starting with this month's check, by a new statute enacted by the Congress and signed into law by President Richard Nixon on July 1, 1972.

The President also signed into law a provision which will allow your social security benefits to increase automatically if the cost of living goes up. Automatic benefit increases will be added to your check in future years according to the condition set out in that law.

This message is a shameless attempt to create the impression that somehow the 20-percent increase is the result of Presidential leadership.

Actually, the 20-percent increase was enacted over vigorous and persistent administration opposition.

I see no reason at all why social security recipients should be misled and I urge the Senate to prevent this deception upon the 28 million social security beneficiaries who will receive the announcement.

Throughout 1972 the Nixon administration persisted in attempts to keep a lid of 5 percent on social security increases, despite growing congressional sentiment for a raise that would deal more adequately with the rising cost of living.

The resistance of the administration hardly came as a surpise. It was in complete harmony with the administration's record on social security. Instead of pursuring realistic goals for adequate retirement income, the administration has consistently tried to prevent sensible social security increases from being passed.

In 1969, his very first year, President Nixon threatened to veto the 15-percent boost in social security which Congress enacted. He was willing, at first, to settle for only 7 percent.

In 1971 Congress was again concerned about the widening gap between social security and the cost of living. Its members voted for a 10-percent increase, even though the Nixon administration insisted that 5 percent was enough.

And so the stage was set for 1972. Would the Nixon administration finally acknowledge the following facts:

That one out of every four older Americans live in poverty?

That the cost of living has gone up by more than 17 percent during the last 3½ years?

That among the worst increases in living costs are goods and services vitally needed by the elderly? Medical care, for example, has gone up by 21 percent since 1969, and medicare now covers only 42 percent of all health care costs. And property taxes—which hit so hard at the incomes of those 70 percent of the elderly who own their own homes—have gone up by 32 percent.

That the number of elderly living in poverty actually increased by 100,000 during the first 2 years of the Nixon administration?

No, the Nixon administration shut its eyes on such harsh realities. It kept insisting that a mere 5-percent increase would be enough.

But in Congress, a different evaluation of the situation was developing.

We knew that in 1971 an Advisory Council on Social Security had looked closely into the funding of our social security system. That council, incidentally, was chaired by Arthur Flemming, now special adviser on aging to President Nixon.

The council took a fresh look at the actuarial assumptions upon which the payment system was based and they saw that those assumptions were outdated.

It soon became evident that an increase of at least 20 percent could be enacted without a major increase in the payroll tax and with no ill-effects upon the soundness of the social security trust fund.

With that information in hand—and with the vigorous support of national organizations concerned about the Nation's elderly—I introduced legislation calling for the 20-percent increase. Senators of both parties joined me in this effort. In all, 17 Republican Senators and 43 Democrats cosponsored an amendment of mine originally meant to be added to H.R. 1.

When it became evident, however, that action on H.R. 1 would be delayed or even deferred beyond 1972, I decided to offer the 20-percent increase as an amendment to the debt ceiling bill, considered by the Senate late in June. Here again, Republicans joined the effort. The final vote of 82 to 4 included 34 Republican votes. The House vote was 302 to 35.

In the face of such congressional response, what was the administration's role? Outright opposition and misleading arguments. The administration tried almost to the moment of passage, to defeat the amendment.

That emissary was Clark McGregor, then director of congressional liaison. He now heads up the committee to reelect the President.

Even after passage, the President apparently could not accept the fact that Congress had acted to make social security more adequate. He even went so far as to charge that the money for the 20-percent increase would have to be taken from other Government programs. He ignored the fact that Congress had displayed sound fiscal responsibility in enacting my proposal. The amendment contained not only the 20-percent increase, but also the necessary adjustments in social security taxes to pay for that increase.

Why, then, did he pretend that Congress had acted irresponsible? And if he so disapproved our action, why does he now attempt to claim credit for it—

through 28 million announcements now ready for mailing?

In fairness, I would point out that the practice of enclosing a Presidential notice with raised social security checks began in 1968, during the Johnson administration. Perhaps, objection should have been voiced then.

But there was neither deception nor hypocrisy involved in President Johnson's case, for he had requested the increase covered by the notice. Unlike President Nixon, Lyndon Johnson was not attempting to claim credit for a raise he opposed.

Still, no one benefits—least of all the elderly—when the social security mailing process is used for narrow, partisan advantage. And this practice should stop immediately to prevent social security from becoming a political football.

President Nixon has no entitlement whatever to try and grab the credit for increases in social security benefits approved by Congress. The truth is that nearly 1.5 million older Americans would have added to the poverty rolls if the Nixon policies on social security had prevailed over the past 3½ years.

Mr. President, the following resolution speaks for itself. It offers a means for dealing with the present deception, while preventing similar hypocrisy in the future. The resolution reads:

S. RES. 367

Whereas the Social Security system now protects workers and their families from loss of earnings because of retirement, death, or disability;

Whereas 28 million individuals receive Social Security benefits, including 18 million individuals age 65 or older;

Whereas the Social Security system helps 10 million Americans, who would otherwise live in poverty, to live above the poverty threshold;

Whereas 19 out of 20 Social Security beneficiaries would be unable to achieve a moderate standard of living without their Social Security payments;

Whereas 94 million workers are engaged in employment that is covered under the Social Security system;

Whereas 28 million Social Security beneficiaries will receive a 20 percent increase in their cash benefits payable under the Social Security Act as a result of the enactment of Public Law 92-336, which was enacted on July 1, 1972;

Whereas a notice of such increase in monthly cash benefits will be included with the October 3, 1972 payment;

Whereas the inclusion in the notice of the name of any candidate for public elective office is likely to inject partisan politics into the Social Security system;

Whereas the incumbent president strongly opposed the passage of the 20 percent Social Security cash benefit increase;

Whereas any notice of such increase that makes mention of the incumbent president, who is a candidate for public office, will result in an erroneous impression that he supported the enactment of such increase; Now, therefore, be it

Resolved, That it is the sense of the Senate that: Whenever any official notice is given to any Social Security beneficiary which announces or explains any increase in the amount of cash benefits payable under the Social Security Act as the result of enactment of Public Law 92-336, or any subsequent law, such notice shall not contain the name of, or refer to—

(1) any individual who is a candidate for public elective office at the time such notice is given;

(2) any individual who holds a public elective office at the time such notice is given; or

(3) any public elective office.

Mr. President, I send the resolution to the desk.

The ACTING PRESIDENT pro tempore. The resolution will be received.

Mr. CHURCH. Mr. President, I ask unanimous consent that a statement by the Senator from Texas (Mr. BENTSEN), in support of the resolution, be printed in the RECORD.

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

STATEMENT BY SENATOR BENTSEN

I am pleased that we are having this discussion this morning to set the record straight on Social Security.

The Social Security checks to be mailed in October will reflect a 20% increased voted overwhelmingly by the Congress. Attached to these checks the Administration plans to have a message, signed by the President, revealing to the recipients that Richard M. Nixon signed that increase into law, as well as the earlier 15% increase also voted overwhelmingly by the Congress. The implication is that the President, through forceful advocacy, has succeeded in channeling a more adequate retirement income into the pockets of millions of Americans.

The Republicans hope that message will be translated into millions of votes for their party in November.

What are the facts? Has the Republican Party been the champion of the elderly in their efforts to achieve a standard of living which at least approaches the poverty line? The answer must be a resounding "No."

The Administration record on Social Security, as on a myriad of issues confronting the elderly, has been to oppose, oppose, oppose, and then to take credit when the Congress acts.

On June 25, 1971, President Nixon declared that "the generation over 65 is a very special group which faces very special problems—it deserves very special attention. That is why we have been moving to insure that our older citizens get that special attention that they deserve."

Mr. Nixon's leadership in providing "special attention" led him to oppose a 15% increase in Social Security in the last Congress. In fact, he threatened to veto the increase, suggested only 7%, and then signed the bill into law only because the Congress made it a part of the Tax Reform bill, which he badly wanted.

When over 60 members of the Senate joined as co-sponsors of a 20% increase in benefits this year, Mr. Nixon promptly labeled it "irresponsible." Was that the "special attention" he referred to in 1971?

Now, of course, the President is trying to sell the idea that he was behind the 20% increase, but the American people are not going to buy that kind of showmanship.

Getting adequate Social Security increases from Mr. Nixon is like pulling teeth; he kicks and screams during the operation and then after it's over, he brags how good he feels.

And of course, Social Security is not the only field affecting the elderly which has received the Administration's hand of "special attention."

It took three years for the President to send Congress his message on the aging.

It took three years for the Administration to end its opposition to major funding increases needed for the Administration on Aging.

It took two years for the Administration to drop its opposition to nutrition for the elderly legislation.

And the Administration opposes to this day my bill outlawing discrimination in Government employment despite an 86-0 vote for it in the Senate.

Indeed, Mr. President, the advances we have made over the last several years for elderly Americans have been achieved largely through constant prodding from the Congress with the Administration supplying the rhetoric and then stepping in to claim credit for measures it has originally opposed.

Older Americans are too intelligent to be deceived by maneuvers like these.

They want to see action, and they are seeing it from the Congress—from men like Senator Church and Senator Eagleton and Senator Williams—men who have not been satisfied to reply with words but who have produced meaningful legislation.

And no amount of Madison Avenue press agentry can obscure that fact.

The Congress enacted a 20% hike in Social Security benefits because we recognized some hard facts.

We recognized that benefits, even with the 10% rise enacted in March 1971, continued to fall some $300 below the poverty threshold for a single aged person.

We recognized that 25% of the 20 million older Americans are living in poverty.

We recognized that the ravages of inflation had fallen most severely on people over 65 living on fixed incomes.

Furthermore, we knew that the 20% increase would not be substantially inflationary. In fact, the actuarial assumptions behind the increase had the unanimous support of the 1971 Social Security Advisory Council, including Dr. Arthur Flemming (Chairman of the Social Security Advisory Council and the President's Special Consultant on Aging).

No, Mr. President, the 92nd Congress owes no apology to older Americans for its persistent efforts to improve the lives of our elderly citizens.

But this Administration owes 20 million Americans an explanation as to why it has been so tardy to embrace initiatives by the Democratic Party to give our elderly a decent standard of living.

Mr. CHURCH. Mr. President, I ask unanimous consent to have a statement by Sargent Shriver on the same subject printed in the RECORD.

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

SHRIVER STATEMENT ON SOCIAL SECURITY

For more than 18 million older Americans, October 3 is going to be an important day. It is going to be a day of hope.

For 18 million older Americans, October 3 is the day they will receive their monthly Social Security checks. It is going to be the day their benefits will contain 20 percent more than the month before. It is going to mean $161 a month for the average retired worker who received only $100 a month in 1969. It is going to mean $270 a month for the typical retired couple who received only $170 in 1969. And it is going to mean that almost 1½ million persons over the age of 65 will be lifted out of poverty.

Unfortunately, October 3 Social Security checks will also contain very misleading message; that message has been printed and is now being inserted for mailing.

"Your Social Security payment has been increased by 20 percent, starting with this month's check, by a new statute enacted by the Congress and signed into law by President Richard Nixon on July 1, 1972.

"The President also signed into law a provision which will allow your Social Security benefits to increase automatically if the cost of living goes up. Automatic benefit increases will be added to your check in future years according to the conditions set out in that law."

With this single piece of paper, Richard Nixon is trying to make millions of the nation's elderly think that he is responsible for bringing them the income security which they have needed for so long. He is claiming credit for hard-fought Congressional battles on which he has consistently been on the other side.

This message, paid for by the taxpayers, is nothing more than one more misleading piece of Republican campaign literature.

Let's look at the record.

When Richard Nixon took office he had an unparalleled opportunity to review landmark legislation for the elderly which a responsive Congress had enacted over the years, to improve on what had already been done, and to strike out in new directions.

He had the chance to give a powerful push to the kind of new actions needed not only to assure a secure old age but a satisfying old age for 20 million Americans now 65 years and older—and many millions more to come.

Instead, Richard Nixon missed the boat. In fact, it looks as if he wanted to sink it.

In 1969 he proposed a 7 percent increase in Social Security. The Democratic Congress enacted a 15 percent increase over Richard Nixon's vigorous opposition and threatened veto.

In 1971 the Administration again proposed only a 5 percent increase while Congress voted 10 percent.

For 1972 he proposed a 5 percent increase in Social Security. The Democratic Congress enacted a 20 percent increase. And Richard Nixon reluctantly signed the bill calling it "fiscally irresponsible" and "inflationary." Mr. Nixon falsely implied that the rise in benefits would necessarily draw funds from other programs. The fact, of course, is that Congress provided for adequate funding with a modest increase in payroll taxes and new accounting techniques.

At the same time, Richard Nixon pointed out that Social Security benefits have gone up a total of 51 percent since he took office. That is true when all the increases are compounded together. But if Richard Nixon had his way the compounded total would have been only 18 percent. The cost of living has also gone up 18 percent under Richard Nixon.

If Richard Nixon had gotten his way there would have no increase in real retirement income for the elderly at all.

The Social Security increases enacted by the Congress have meant $400 more per year for the average retired worker than Richard Nixon wanted him to have.

Yet now Richard Nixon has sent a message to every Social Security beneficiary trying to take the lion's share of the credit for the 20 percent increase. It certainly is strange that the message doesn't list Senator Church's name, or Senator Long's, or Congressman Mills', or the name of any other Senator or Congressman who labored so long for this landmark bill!

Older Americans should not—must not—be used as a political device. The elderly in America resent that attitude.

They know that it was the Congress which fought for their dignity and self-respect.

The Congress has consistently stood ready to backup its promises with performance while the White House refused to meet its responsibilities.

Partisan politics has found its place in everyone's Social Security envelope this month.

It does not belong there.

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

Mr. RIBICOFF. Mr. President, will the Senator yield for a few questions?

Mr. CHURCH. I yield.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the time be taken from the 15 minutes allocated to me.

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

Mr. RIBICOFF. Do I correctly understand the distinguished Senator from Idaho that some 28 million social security beneficiaries will be receiving notices this October crediting President Nixon with this 20-percent increase?

Mr. CHURCH. The Senator is correct. The clear inference is that the increase not only was signed but also approved by the President, when the facts are to the contrary.

Mr. RIBICOFF. I wonder whether I could ask a series of questions of the Senator from Idaho. Is it not true that in 1968 the President, who was then a candidate, promised to give priority to the problems of poverty among the aging and to generate solutions which are thoughtful, workable, and effective? Does the Senator recall him making that statement?

Mr. CHURCH. I recall the statement very well. It figured very prominently in the campaign.

Mr. President, in order that the resolution be not referred to committee at this time, I ask unanimous consent for its immediate consideration.

Mr. SAXBE. Mr. President, I object.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 367) to prohibit any notice of an increase in Social Security payments from referring to any individual who is a candidate for public elective office.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

Mr. SAXBE. I object.

The ACTING PRESIDENT pro tempore. Objection is heard. The resolution will go over under the rule.

Mr. RIBICOFF. Is it not true that in 1970 the Democrats in Congress sponsored a 15-percent social security increase?

Mr. CHURCH. That is true.

Mr. RIBICOFF. Is it not true that the administration opposed this increase, arguing instead for a 7-percent increase?

Mr. CHURCH. That is also true.

Mr. RIBICOFF. And later agreed to raise it to 10 percent, which would have been outstripped by rising prices at that time because of inflationary pressures?

Mr. CHURCH. That is an accurate statement of what happened.

Mr. RIBICOFF. Is it not true that the President threatened to veto, but later, even in spite of the threat, signed the bill for a 15-percent increase in 1970?

Mr. CHURCH. Yes. It was something of a shotgun wedding.

Mr. RIBICOFF. Is it not correct that in 1971 the Nixon administration urged Congress not to upset the delicate balance by approving a social security increase exceeding 5 percent?

Mr. CHURCH. The Senator is correct.

Mr. RIBICOFF. And did Congress again reject the President's suggestion?

Mr. CHURCH. Yes. Congress ultimately enacted an increase of 20 percent.

Mr. RIBICOFF. But in 1971 it was a 10-percent increase.

Mr. CHURCH. Yes, in 1971.

Mr. RIBICOFF. In 1972 we had the same situation prevailing, with the President recommending a 5-percent increase and Congress recommending and actually passing a 20-percent increase. Is that not correct?

Mr. CHURCH. That is also an accurate statement.

Mr. RIBICOFF. Is it not correct that the President then labeled the action of Congress highly inflationary and fiscally irresponsible?

Mr. CHURCH. Yes. He made that statement at the time he signed the bill, clearly indicating that he still opposed it, even as he signed it. Yet, he signed it anyway, while castigating Congress for taking action that he complained was inflationary and fiscally irresponsible. I found it hard to follow the President's reasoning in labeling the measure fiscally irresponsible, because it contained adjustments in the social security tax that paid for the increase. So it contributed in no way to enlarging the Federal deficit and amounted to scrupulous fiscal responsibility, as that term has always been used in the past, and therefore the President's statement made no sense to me.

Mr. RIBICOFF. If the President's position had prevailed, is it not true that an additional 1.5 million older Americans would now be on the poverty rolls in this country?

Mr. CHURCH. Yes. The Senator states the proposition correctly. If, during the last 3½ years, since President Nixon became the Chief Executive, Congress had followed his lead on social security, the effect of the continuing inflation would have enlarged the number of elderly people living beneath the poverty line by 1.5 million persons.

Mr. RIBICOFF. In other words, because of the Democratic leadership in this Congress, the average social security beneficiary will receive $400 more per year to buy food, medicine, and other necessities. Is not that figure correct?

Mr. CHURCH. That figure is correct. We actually have been able to improve the relative financial status of the elderly by a modest amount, by virtue of the refusal of the Democratic Congress to follow the President's lead on social security.

Mr. RIBICOFF. So the purpose of the resolution offered by the distinguished Senator from Idaho and joined in by many others, including myself, is to make it clear that a President who does everything that he possibly can to keep social security payments down, who actually opposed the increased social security payments authored by the Democratic Congress, should not be entitled to take credit for that increase.

Mr. CHURCH. That is the purpose of the resolution. I think the Nixon case is particularly flagrant. It may have been a bad practice in the past for any President to enclose a notice of this kind. It did not really become objectionable, however, until a President did so who actually opposed the increase and therefore lacked any entitlement whatever to the credit he seeks to grab.

I think the element of hypocrisy here is so shameless that it calls out for a

resolution of this kind to stop the practice, not only for the incumbent President, but for future Presidents as well.

Mr. RIBICOFF. I commend the distinguished Senator from Idaho, who has always been in the forefront of congressional efforts to aid the elderly. It would seem to me that the senior citizens in this country, some 28 million social security beneficiaries, owe a debt of gratitude and appreciation to the Senator from Idaho for his continued leadership, understanding, and compassion for the problems of the elderly of America. As one Senator, I pay tribute to the Senator and thank him for all he has done over the years.

Mr. CHURCH. I thank the Senator from Connecticut for his kindness. He joins as a cosponsor of the resolution. He, of course, has been consistent in his support for more adequate social security payments through the years.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished senior Senator from California (Mr. CRANSTON) for not to exceed 15 minutes.

Mr. CRANSTON. Mr. President, as an original cosponsor of the 20-percent social security increase passed by Congress in June, I should like to add my support to the comments and actions taken today by the distinguished Senator from Idaho; and I should like to join the distinguished Senator from Connecticut in praising the Senator from Idaho for the leadership he has provided over so long a period of time on this and related issues.

Evidence of the duplicity of the administration is seen by Members of Congress every day and its effects are increasingly felt by the American people. How many times have we been told by representatives of the Nixon administration that the President will not support this employment program, or that poverty bill, or that legal assistance agency—only to pick up the paper the next day and read fallacious rhetoric about what the President allegedly has done for unemployed Americans, for poverty-stricken Americans, and for law and order in America.

The statement to be mailed to social security beneficiaries, in which the President seeks to take credit for something which, in fact, he opposed, is the latest and perhaps most transparent example.

It is evident that Mr. Nixon's America is one in which only the needs of the favored few are represented. There seems to be no place in Mr. Nixon's America for the poor, the aged, the ill, the lonely, and the hungry.

Men and women who are eager to work and well qualified to work but who cannot find work, because of an inflated, jobless economy; people who cannot break out of the recurring cycle of poverty, because of the distorted priorities of this administration; the aged who have given their productive lives to the Nation's economy—all these people seem not to exist in Mr. Nixon's America.

This administration is very responsive to ITT and corporate finance, but not to the needs of ordinary people.

Congress has tried again and again to convince the present administration to be responsive to the needs of Americans—all Americans—and again and again Nixon has refused to act.

It is incredible that the present administration, which called this 20 percent social security increase "inflationary" and said that it would endanger the "integrity of the trust fund" should now try to dupe the public into believing that this increase is the result of the President's efforts. In point of fact, this increase had to be pressed upon him by Congress.

Two and a half months ago, while Senator CHURCH was arduously pursuing the 20 percent increase in benefits, administration representatives were walking the Halls of Congress telling Members that the President would not support more than a cost of living increase of 5 percent. When we pointed out that property taxes alone have risen 14.3 percent in the last year, food prices and medical care have risen nearly 6 percent and 4.7 million elderly persons live in poverty with a median income of about $37 a week, the President nonetheless said he would oppose anything over 5 percent because, he said, it would be inflationary. Now he wants to claim credit for a 20 percent increase. The American people will not be fooled by this administration sleight-of-hand.

It is fortunate for social security recipients that this increase was enacted by Congress before the election. Otherwise, it might well have been still another item on the long list of positive, responsible, legislation enacted by Congress which was vetoed by President Nixon.

This same administration indifference to the interests of the elderly is reflected in other capital cities, notably in Sacramento. Only after hundreds of elderly citizens threatened to march to the very doors of the Executive Office did the Governor of California begrudingly sign legislation—enacted by a Democratic State legislature—to pass along $12 of this social security increase to recipients of old age pensions. The Governor's representative in Washington has informed Senator TUNNEY and me that under no circumstances would the Governor support either of the bills we have offered to ensure that social security beneficiaries receive the increase intended for them by the Congress.

As chairman of the Subcommittee on Railroad Retirement, I filed on September 14 the report of the Committee on Labor and Public Welfare recommending a similar 20 percent increase in railroad retirement benefits—an increase which will undoubtedly be enacted by Congress. Based on his behavior in the case of social security, I suspect that the President may well try to take credit for this increase as well.

I would like to clear the record now.

At no time, as railroad retirement bill proceeded through Congress, did the Nixon administration lend any support whatever to the 20 percent increase in annuities for railroad retirees. In fact, in an August 9 letter to the committee while we were considering a 20-percent increase, the Executive Office of Management and Budget stated.

We would recommend: that the Congress provide a 5 percent cost of living increase.

The same position the administration took on social security.

Mr. President, I urge my colleagues in the Senate to join with me in support of the resolution offered by Senator CHURCH which would prohibit partisan misrepresentation in social security announcements.

Mr. HART. Mr. President, will the distinguished Senator from California yield to me?

Mr. CRANSTON. I am delighted to yield to the Senator from Michigan.

TRUTH IN SOCIAL SECURITY

Mr. HART. Mr. President, on October 3 more than 27 million persons will receive social security checks reflecting a 20-percent increase in payments.

They may well receive in the same envelope a notice reporting that President Nixon signed the law granting this increase.

The notice probably will not reflect the fact that the administration opposed the 20-percent increase, just as it had opposed other increases in the past 3½ years.

For the record, let us compare the administration's positions and congressional action on social security.

In 1969, the President asked for a 7-percent increase and threatened to veto, but did not, the 15-percent increase voted by Congress.

In 1971, the administration, ignoring the sharp increase in the cost of living, advocated only a 7-percent raise in social security. The Congress voted a 15-percent increase.

And in 1972, the President pressed to limit the increase to 5 percent and then, in signing the bill, charged that the 20-percent increase was "fiscally irresponsible."

Of course, no such warning will be included in the notice accompanying the October social security checks, and for good reason. Congress made the necessary changes in social security taxes to cover the added costs.

If the President's positions over the past 3 years had prevailed, almost 1.5 million older persons would have been added to the welfare rolls.

The unhappy fact is that as of this year, one out of four older Americans live in poverty.

The unhappy fact is that while the cost of living has risen 17 percent in the past 3½ years, the costs of food, medical care, and property taxes, items which hit older citizens particularly hard, have risen even faster.

It is the unhappy fact that the number of older citizens living in poverty increased by 100,000 in the first 2 years of the present administration.

No wonder the administration is not anxious to publicize those figures and its record on social security.

But that record and what the administration may try to indicate in the notice to accompany the October social security checks should remind all of us of the advice from a former high official of this administration:

One would be better informed, if instead of listening to what we say, watch what we do.

That is turning out to be better advice than anyone feared.

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

The ACTING PRESIDENT pro tempore. At this time the distinguished Senator from California (Mr. TUNNEY) is to be recognized.

Mr. MONDALE. Mr. President, I ask unanimous consent that I be recognized out of order.

The ACTING PRESIDENT pro tempore. What disposition will be made of the time of the Senator from California (Mr. TUNNEY)?

Mr. MONDALE. That the Senator from California follow me.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

The Chair recognizes the distinguished Senator from Minnesota (Mr. MONDALE) for not to exceed 15 minutes.

Mr. MONDALE. Mr. President, I ask unanimous consent that the distinguished Senator from New Mexico (Mr. MONTOYA) be added as a cosponsor of the pending resolution.

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

Mr. MONDALE. Mr. President, I am pleased to join the distinguished Senator from Idaho (Mr. CHURCH) and other Senators in supporting the Senate resolution to keep narrow partisan politics out of the social security program. I have long served on the Subcommittee on Aging under the chairmanship of the Senator from Idaho (Mr. CHURCH). It is typical of his leadership that he successfully guided the 20-percent social security increase through Congress and secured its adoption on June 29, 1972. I was privileged to be a cosponsor of that much-needed social security increase. Without this long overdue increase, elderly Americans would continue to see their standard of living decline in the face of inflation.

Unfortunately, the President is using public funds to create the misleading impression that this 20-percent increase is the result of his leadership.

For when the first social security checks containing this increase are delivered to 28 million beneficiaries on October 3, 1972, they will be accompanied by the following printed notice:

Your Social Security payment has been increased by 20 percent, starting with this month's check, by a new statute enacted by the Congress and signed into law by President Richard Nixon on July 1, 1972.

The President also signed into law a provision which will allow your Social Security benefits to increase automatically if the cost of living goes up. Automatic benefit increases will be added to your check in future years according to the conditions set out in that law.

Mr. President, if we had a Federal Political Commission as we have a Federal Trade Commission, it would be forced to issue a restraining order on this statement because it is false and misleading: The President not only had nothing to do with the 20-percent increase but, in fact, opposed it. He supported an increase so much lower that it would hardly have been enough to cover the inflation which had eroded the incomes of senior citizens since the previous social security increase in 1971.

No one political leader should claim credit for the 20-percent increase. It was strongly supported by a bipartisan coalition of 82 Senators and 302 Representatives. But even more important, it is extremely misleading for the same President who vigorously opposed this vital legislation to claim credit for its enactment now.

The record is clear. President Nixon fought against a 20-percent increase, holding out until the end for a mere 5 percent; in doing so, he opposed his own White House Council on the Aging.

When he reluctantly signed this legislation on July 1, 1972, he described the 20-percent increase as "inflationary" and "fiscally irresponsible"—despite congressional provision for adequate funding with only a modest increase in payroll taxes.

That is consistent with his economics. His idea is that a dollar spent for health, for education, for adequate social security, or for legal services for the poor, is always inflationary, but a dollar spent in Vietnam or on a space shuttle or on an unneeded aircraft carrier or on a completely and wholly inexcusable tax loophole for the rich is sound and fiscally responsible. And I think the people of this country will see that as this campaign goes on.

In 1969, the President proposed only a 7-percent social security increase and strongly opposed the 15-percent increase enacted by Congress.

In 1971 the administration proposed only a 5-percent increase while Congress approved a 10-percent increase. It has been the consistent view of this administration that it is somehow "fiscally irresponsible" to make life decent and bearable for millions of elderly Americans.

In light of this record, there is no justification for President Nixon claiming credit for the increase they will find in their social security envelopes in October. I hope, therefore, that the Senate will support Senator CHURCH's resolution. In doing so, it will show that it finds misleading partisanship unacceptable in connection with the social security program.

Mr. President, there are other aspects of this social security matter which need clearing up at this time. The way the social security increase is working the Congress is voting an increase for social security recipients who are desperately in need, but the money is being taken away from them at the local level. This is happening particularly in public housing and much of the responsibility for what is happening lies at the doorstep of the President.

As the Senators know, there is a ceiling on the amount which public housing authorities can charge public housing tenants: It is 25 percent of their income.

When the increase in social security was adopted, social security recipients throughout the country, who are public housing tenants, assumed they would get the full 20 percent as an addition to their incomes. This is what Congress intended. Instead, public housing tenants started to receive notices within a few weeks from housing authorities saying that their rents would go up, taking as much as 25 percent of the increase.

Mr. Nixon is largely responsible for the public housing authorities raising rents in this manner. This is so because Congress has appropriated $130 million to help the local public housing authorities reduce the cost of operating their housing projects. But Mr. Nixon refuses to spend that money. Instead of spending the money, he encourages the local public housing authorities to take 25 percent of the increase. These moneys have been appropriated by Congress, and he has refused to spend them.

This is an inexcusable strategy which gives social security recipients money with one hand and takes it away with the other.

Another problem is that in most States, those who receive old age assistance will lose dollar for dollar any increase they receive in their social security benefits. For example, a widow getting $100 a month from social security and $60 a month in old age assistance benefits will get no benefit from this increase. Since the 20-percent increase in social security will add $20 to her social security income, her old-age assistance in these States will be reduced by the full $20.

For others, the social security increase will mean that they are no longer eligible for old-age assistance. Losing this eligibility is critical, because it will mean that these senior citizens will also lose all or part of their medicaid and food stamp benefits.

In Minnesota, the terrible problems I have just described are not limited to a few. Sixty percent of the 23,000 elderly citizens who receive old-age assistance—about 14,000 senior citizens—will be in danger of losing all of their social security increase. These are the poorest of the poor—living in small apartments, often alone, faced by soaring inflation which hits them much harder than it does other people.

Another 2,000 elderly Minnesotans will lose all entitlement to old-age assistance as a result of the 20-percent social security increase—and will thereby lose all or part of their medicaid and food stamp benefits.

As I have said, rolling back increases in public housing rents the President can do himself by simply using the money which Congress has appropriated. But Congress itself must act to make it mandatory for the States to pass through the 20-percent social security increase by preventing cuts in old-age assistance, medicaid, and food stamp programs.

Mr. President, two recent articles by Robert T. Smith, of the Minneapolis Tribune, point out the poignant human side of the problem I have just been discussing.

Mr. Smith describes what happened a year ago when the last social security increase was passed. A man in Minneapolis received a $9 per month increase—only to see his rent for public housing go up $6, his medicare jump $1.40, and his old-age assistance decrease by $5 a month. Thus, he actually lost

$2.40 instead of receiving any social security increase.

Both the Congress and the President must act now to insure that this 20-percent increase will not be illusory for millions of Americans.

Mr. President, I ask unanimous consent that two articles by Mr. Robert T. Smith appearing in the Minneapolis Tribune on September 8, 1972, and September 15, 1972, be inserted at this point in the RECORD.

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

EDITORIALS

(By Robert T. Smith)

You say you live in a high-rise apartment for the elderly operated by the Minneapolis housing and Redevelopment Authority.

You say that you and the others in the apartment house were all excited over the 20-percent rise in Social Security benefits that is to begin with your Oct. 3 check.

You say that the other day you went to your mailbox and found a note from the Housing and Redevelopment Authority announcing your rent will be raised—Oct. 3.

You say you watched the faces turn to gloom as others came for their mail and their little anouncement.

You say you now are going to have to pay 5 percent more for the same apartment and you add: "What kind of a deal is it when they give you a raise and then take part of it back?"

Well, lady, that's just the kind of deal it is.

The Housing Authority people are surprised that you are surprised. They feel you should have known this all along. But after trying to get the information from the local Social Security people and the Housing Authority folks, I understand why you might not have known. I called the Department of Housing and Urban Development (HUD), a federal agency, and nobody answered the phone.

The buck-passing is wondrous. "I know, but you'll have to call Charlie," was the usual response. And Charlie is out of town.

I contacted the Social Security headquarters in Baltimore, Md., and was told that there is no rent raise involved with the new law increasing your money. "That's a local option," the spokesman said.

A man with the local Housing Authority, who said he wasn't supposed to talk, said it is mandatory that you and the others in public housing pay 25 percent of your income for rent. Thus if you get a raise in Social Security your rent is automatically raised.

The agency that made this rule is HUD, he said, and the local Housing Authority has nothing to say about it.

Of course, the reason you're in public housing is that you didn't have much money. And therefore you need a raise more than most. Along with the other increases in the cost of living, you will find the 20-percent Social Security raise may disappear quickly.

But, what the heck, that winter coat with the hole in it ought to last another year.

An elderly Minneapolis man received a $9 a month raise in Social Security benefits about a year ago. And then:

Because he lives in public housing his rent went up $6 a month.

His Medicare cost rose $1.40 a month.

The Old Age Assistance people gave him $5 less a month. They would have eaten the whole $9 but for the "pass-through" law that prevented them from taking the first $4 of the raise.

It didn't prevent the other from taking it, however.

Thus John Stenen, 82, of 1920 4th Ave. S., ended up paying $2.40 more than the $9 raise for the same benefits. And this doesn't count three years of the rising cost of living.

So don't talk to Senen about a raise in Social security. And that goes for many, many of the elderly in this area, the ones classified as "disadvantaged." That includes an estimated 80 percent of the aged.

This year's 20-percent raise in Social Security will cost Stenen again. He will get $6.40 more a month, and because the "pass-through" law no longer applies. Old Age Assistance will give him $6.40 less a month.

Since he will have no gain in income his rent will not rise, but there's that cost-of-living increase for another year to cope with.

"It's a cruel hoax for our senior citizens who are the most disadvantaged," said Daphne Krause, executive director of the Minneapolis Age and Opportunity Center. She urges that something be done to awaken public indignation. Amen.

Sen. Walter Mondale this week sent a letter to President Nixon urging the federal government to quit taking back "with one hand what we have given with the other." Specifically, Mondale called for release of $130 million authorized by Congress to meet the operating costs of public housing. The delay in releasing such funds has forced local public housing agencies to raise the rent of housing for the elderly.

But the biggest problem is lack of coordination among the agencies that are nibbling away at the elderly. Medicare, Old Age Assistance, the Minneapolis Housing Authority, the U.S. Department of Housing and Urban Development, state medical assistance, all are more or less operating as if the others didn't exist.

It's a terribly complicated mess, and there's no wonder that the elderly are confused and disappointed when they see their raises eaten up before they can buy an extra can of soup.

Mr. MONDALE. Mr. President, These two impressive articles from the Minneapolis Tribune by Mr. Smith, describe what it is like to be a recipient of public housing and social security benefits and who sees his long awaited increase taken away. I think this whole problem could be expressed most honestly by the President if the letter he sends recipients reads as follows:

DEAR RECIPIENT: Your social security has been increased 20 percent over my dead body. However, a good deal of it will be taken away from you anyway by the local housing authority because I have refused to spend the money which has been appropriated for Congress.

I wish you a Merry Christmas.

Mr. CHURCH. Mr. President, I ask unanimous consent that the distinguished assistant majority leader's name (Mr. ROBERT C. BYRD) be added to the list of cosponsors of the resolution I submitted today.

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

Under the previous order, the Chair recognizes the distinguished junior Senator from California (Mr. TUNNEY) for not to exceed 15 minutes.

Mr. TUNNEY. Mr. President, I could not help but listen with amusement to my very distinguished colleague as he was talking about the message that would be in the envelopes of the social security recipients. If it were not so tragic, it would be clearly hilarious. However, it is tragic. And one of the most tragic aspects of all is the ability of the administration to twist reality. The theory of relativity in science suggests that time bends through space. Our theory of relativity in the current administration suggests that truth bends through time.

It is unbelievable to me that truth could be so blatantly distorted. I think it is increasingly apparent that the administration twists the truth in order to alter reality.

First we had the situation in Vietnam in which they describe as a realinement of forces the pulling out of our troops. When the South Vietnamese at various times have proved themselves incapable of handling the battle in the field and are forced to retreat, press releases emanating from Saigon follow saying that this was a realinement of forces.

When there is a bombing attack against North Vietnam, it becomes protective reaction strikes. Apparently when the United States sent drones in against North Vietnam which were thereafter the object of attack on these drones, we would move in and bomb whatever targets were originally planned to be bombed. Apparently this was a protective reaction.

The Commander in Chief's secret plan for ending the war becomes, instead, a plan for escalating it.

A former Attorney General denies knowledge of the ITT $400,000 pledge to the Republicans. However, according to the Republican Lieutenant Governor of California, he did know about it. The Justice Department whitewashed a U.S. attorney for failing to report a bribe offer.

Then the Watergate bugging affair broke in the news. The Republicans denied any knowledge of this, even though two former White House aides are under indictment.

Now we have another example of the administration's blatant double-think. And that is the remarkable attempt by the administration to take credit for the 20-percent social security increase that it, in fact, opposed.

Once again, the administration is attempting to mislead the American people.

And it is attempting to do so in the most cynical and provocative way.

It is trying to capitalize on the expectation of our senior citizens for an increase in their social security benefits.

The increase becomes effective with the checks that will be mailed to 18 million social security recipients on October 3. Incredibly enough, inserted in those envelopes is a misleading message about how the social security increase was signed into law by the President.

Inferentially, he tries to take credit for the increase. It appears to the reader that if it had not been for the President of the United States, the increase would not have been forthcoming.

The fact is that the President did everything within his considerable power to kill the increase.

He opposed the legislation as it went through Congress every step of the way.

Even in signing the legislation, the President attacked it as "fiscally irresponsible" and "inflationary."

The distinguished Senator from Idaho (Mr. CHURCH) was working on that legislation and fighting for that increase. He knows how he had to battle every inch

of the way to get the legislation approved by the Senate.

But there is a far more significant problem here than partisan attempts to claim credit for the recent social security increases. For the fact is that many of our elderly are not going to get this 20-percent increase unless Congress and the President take further action.

As an aside, I wonder how much it will cost the taxpayers to put that little message from the President in with each of the 18 million social security checks. I do not suppose it is very much. I would not blame the President for sending such a message if he had supported the social security increase. But to call the measure fiscally irresponsible and then to use more taxpayer dollars to trumpet inferentially his own support of the increase is, in my mind, more unbelievable than we would have reason to suspect even from this most unbelievable administration.

The President proposed only a 5-percent increase for social security for 1972. In 1969, he proposed a 7-percent increase crease. In 1971, he suggested a 5-percent increase and Congress voted a 10-percent increase.

In total, the increases he has proposed since taking office would not even offset the 18-percent increase in the cost of living since 1968.

Under his policies our senior citizens would have been spared the opportunity to have an increase commensurate with the cost of living. In fact, they would have been speared on his policies if Congress had not taken bold incentives to increase it substantially above what the President requested.

I am amazed to see a man run for reelection as a fiscal conservative and at the same time, be responsible for approximately 20 percent of the total debt that this country has. Since President Nixon has been in office, our debt has gone up almost $100 billion, which is approximately 20 percent of the total debt we have. And yet, he is running as a fiscal conservative.

As I have indicated, we have suffered an 18-percent depreciation in the value of the dollar since he has gone into office. Based upon this record, if the President's policies had been followed by other administrations since World War II, we would probably have a debt of a couple of trillion dollars hanging around our necks, and the value of the dollar would probably be worth 3 or 4 cents compared to what it was in 1940.

Thank the Lord we had administrations, both Republican and Democrat, that did not follow these irresponsible fiscal policies. I just do not know how we are going to be able to take another 4 years of the same. The people who are going to suffer the most are the senior citizens.

It was fortunate we did have a surplus in our social security trust fund so that we were able to give the 20-percent increase this year, and it was fiscally responsible to do so. However, if we continue with the kind of inflation that this administration has allowed to be perpetrated on the American people, it is possible that we will not have the surplus in the social security fund in another 2 or 3 years to enable us to give the kind of increases necessary for senior citizens to live on.

I am deeply concerned about this state of affairs. It should be of considerable concern to senior citizens who are looking toward the November election to determine who they are going to vote for.

Just since the last increase was voted in 1971, prices have increased agonizingly. The cost of medical care has gone up 5.7 percent. In part, that means that for fiscal 1971 the elderly paid almost as much in average, out-of-pocket expenses for medical care—$225—as they had in the year before the medicare program went into effect—$234.

Food prices increase 5.9 percent for the year.

For those senior citizens who owned their homes, property taxes increased an average of 14 percent.

Presently one out of every four older Americans lives in poverty. Is that not a great thing for this rich Nation of ours to be able to say at this point in our development.

I have toured a number of California nursing homes housing senior citizens. I have not been proud of what I have seen. I realized as I visited those homes that life is a movable feast, and every single one of us, if we are not hit by a car or die of a heart attack, will, in all probability, end up in some form of nursing home. I hope the citizens of our country, the executive officials and legislators, will have a sense of charity in future years that extends beyond what is now extant by the time I end up in a nursing home because, frankly, conditions there are pretty terrible.

We have a President who is making an appeal to senior citizens. Yet, if he just took a tour of nursing homes in his own State of California, he would realize how desperate their need is, not only for this 20-percent increase—which, thank the Lord, Congress mercifully enacted—but for a whole panoply of necessary services.

If he had had an opportunity to take that tour I cannot see how he could have opposed this 20-percent increase.

If the President's opposition had prevailed, senior citizens who live in little walk-up apartments would have had to reduce their diets further—maybe one hot meal a day. Fortunately, the President did not prevail; Congress did when it increased social security 20 percent.

In so many ways this administration has been as progressive as a dinosaur. It has stood as a barrier to needed assistance to our senior citizens.

The present administration has never taken the lead to improve social security, housing, medical care, and other initiatives clearly imperative for older Americans. The incentive invariably has been with Congress. The Senate particularly has been the crucible of concern for the problems of the elderly. It has spurred a wide range of actions.

Personally, I have sensed the abiding commitment in the Senate, and I have been very pleased to join the distinguished Senator from Idaho (Mr. CHURCH), the Senator from Minnesota (Mr. MONDALE), and others who have introduced legislation to improve the lot of senior citizens. Their courageous leadership, I think, has been an example to us all of what can be done. Certainly there are millions of senior citizens who go to bed at night deeply appreciative of the leadership they have shown. But why is it necessary for the leadership to occur in the Congress? Why cannot this same leadership be demonstrated by the Executive branch?

I personally find it very difficult to believe that in this day and age the American people are going to be gullible enough to swallow double-think of the 1984 variety in 1972. I sit in front of my television set; I read my newspaper, baffled at the campaign style of the administration. The idea apparently is not to go out to the hustings; to sit in Washington, to send administration officials out for speechmaking. This is done, apparently, because the administration does not want to have to answer the very tough questions that Americans, not only senior Americans but all Americans, should be asking and will be asking.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

At this time the distinguished senior Senator from Pennsylvania (Mr. SCOTT), will be recognized for 15 minutes.

Mr. MANSFIELD. Mr. President, due to the fact that the distinguished Republican leader is not here because of a leadership meeting at the White House, I ask unanimous consent that the acting minority leader be recognized at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Chair recognizes the distinguished Senator from Ohio (Mr. SAXBE).

Mr. SAXBE. Mr. President, some time ago in this body a group of Senators, of which I was one, working with cooperative leadership on both sides of the aisle, dissatisfied with some of the proceedings on the floor, pushed, for the consideration of the body, certain changes which had to do with the utilization of our time. It resulted in allotting 15 minutes to be reserved for speeches at the beginning of the session, so that it would not interfere with the business of the day; permitting, however, at the end of the day unlimited time for those who wished to talk.

In hearing the speeches this morning, I cannot but reflect on how sensible we were to do this, because in the final days of a political campaign I can see—and this is my first time to be here during the final days of a national political campaign—where we would have Senators from both sides of the aisle trying out their campaign speeches on the floor of the Senate.

Regardless of the merits of the speeches from either side, I can see also how this would take up most of the time of the Senate, which was trying to complete its business, and receive, I would assume, the attention from the press that would be allotted to any other campaign speech.

So this morning in hearing these statements—and I am sure that there are ready replies to all of these that will be given at an appropriate time in political meetings where they belong—I see how wise we were in setting these rules, because these political speeches can be in-

troduced in the RECORD as the various Senators wish them to, without unduly interfering with the work of this Senate.

I yield back the balance of my time.

Mr. BIBLE. Mr. President, I commend the distinguished Senator from Idaho for submitting his resolution.

I supported the 20-percent increase in social security benefits and am pleased to associate myself with the remarks he has made here this morning.

The only thing consistent about this administration's approach to social security benefits has been its consistent resistance to improving the lot of the millions of our senior citizens who depend on their social checks for the bare necessities of life.

I think it entirely appropriate that President Nixon's sorry record on this score be kept absolutely clear.

I was particularly interested to note the administration's plan to include a printed notice with each of the increased benefit checks scheduled to go out October 3.

Such a reminder that the President signed the legislation providing the benefit increase could surely create the impression that the President supported the increase—and would be grossly misleading.

The President opposed the Congress on the measure with all the resources at his command. And the social security recipients should not have to suffer this kind of electioneering at Government expense.

The administration's plan recalls an experience I had recently with the Social Security Administration over this matter of "check stuffing."

Earlier this year the fraud detail of the Reno, Nev., Police Department called my attention to a serious fraud being perpetrated against some of our senior citizens by persons posing as bank examiners.

As reported to me, this bunco scheme usually follows a pattern. The intended victim receives a phone call from someone representing himself to be a bank examiner or a police officer.

The caller states that examiners have found bank account irregularities and asks the victim to read over the phone the correct balance in his bank account.

The con man then tells the person he will check the records and call back.

In the second phone call the victim is told that someone is stealing from his account, and the person is asked to cooperate with the authorities in apprehending the thief.

If the unsuspecting citizen agrees, he is asked to make a withdrawal of funds and to turn them over to a bank examiner who calls at his home.

Secrecy is stressed. And the end result is that a bogus bank examiner or bogus police officer takes and absconds with the money.

The indication is that older people—many of whom are on social security—are prime targets and likely to be easy prey for this kind of fraud.

I was informed that not too long ago in Reno four such victims—all over 66 years of age—were bilked for more than $46,000.

Such phony schemes can rob their victims of a lifetime of savings.

In an effort to combat this sort of thing—and at the suggestion of the Reno police—I contacted the Social Security Administration to explore the possibility of having warning notices included periodically with social security checks. An effective way, I think, to alert our senior citizens to the hazards.

By way of response, the Social Security Commissioner deplored such frauds. But he cited a number of administrative problems—including stringent staff limitations and the increased workload such a "check-stuffing" operation would entail.

In fairness to the Commissioner, he did indicate that other means are available for publishing such fraud warnings.

But the suggestion that printed warnings accompany the social security checks was clearly resisted—and went for naught.

Now, Mr. President, how does the administration justify stuffing the recipients' checks with the kind of notice now being planned. A notice that is likely to create a completely erroneous impression concerning the President's real attitude of opposition to the recent increase in benefits?

Have they suddenly found new staff?

How have they overcome the administrative and workload problems?

Or is this a conscious effort to make it appear to many of our senior citizens—in this election year—that the President supported the benefit increase?

I submit, Mr. President, that if notices are to accompany social security checks the taxpayers' money would be better spent by warning our senior citizens of the hazards of the kind of bunco scheme and con men I have just described. If they are a problem in Reno, Nev., I daresay they are a problem all across the Nation.

This resolution serves a highly worthwhile purpose, and I am pleased to give it my support.

NIXON ATTEMPTS TO DEFEAT DRUGS UNDER MEDICARE BILL

Mr. MONTOYA. Mr. President, much has been said here today about the Nixon performance versus the Nixon rhetoric as it relates to social security and the aged.

Just last week, Mr. President, I was informed of a communication from the Nixon administration to the members of the Finance Committee requesting that several new social security benefits now included in the Welfare Reform Bill (H.R. 1) be dropped. Specifically, the administration requested the dropping of the amendment which I introduced, and which was modified by the committee, to medicare provisions to cover outpatient drugs.

As the Members of this Body well know, this proposal has been in the mill since 1965 and has been studied and restudied. In 1969, the administration suggested yet another study, so Secretary Finch of HEW appointed a task force on prescription drugs, the so-called Dunlop committee.

Mr. President, every single recommendation made by this task force was included in the proposal which I introduced and which became S. 936.

To further appease the administration, the Finance Committee modified my proposal by limiting the coverage to "maintenance drugs," or those drugs used in the treatment of chronic conditions.

This modification has resulted in the cost of the proposal being reduced to $700 million, thus eliminating the administration's main argument that the cost was too high.

It seems clear, Mr. President, that this latest effort of the Nixon administration to torpedo this outpatient drugs proposal is but another example of how Nixon rhetoric is not matched by Nixon performance. The concern which he expresses for the plight of our country's aged is not matched by efforts or performances aimed at alleviating the many economic problems faced by the elderly who, more than anyone else, feel the brunt of rising cost-of-living figures.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Do all Senators reserving time yield back their time? All reserved time is yielded back.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. In accordance with the previous order, there will be a period of not to exceed 15 minutes for the transaction of routine morning business, with speeches by Senators limited to 3 minutes each.

Is there morning business to be transacted at this time?

ORDER FOR ADJOURNMENT TODAY, WEDNESDAY, THURSDAY, AND FRIDAY

Mr. ROBERT C. BYRD. Mr. President, with the approval of the distinguished majority leader, I ask unanimous consent that when the Senate completes its business today, and Wednesday, Thursday, and Friday, it stand in adjournment until 9 a.m. on tomorrow, and Thursday, Friday, and Saturday, respectively.

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

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

The legislative clerk proceeded to call the roll.

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

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

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services; the Subcommittee on Small Business of the Committee on Banking, Housing and Urban Affairs; the Committee on Foreign Rela-

tions; the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs; the Subcommittee on Labor of the Committee on Labor and Public Welfare; the Committee on Finance; the Committee on Government Operations; the Subcommittee on Aging of the Committee on Labor and Public Welfare; the Committee on Public Works; the Ad Hoc Subcommittee of the Committee on the Judiciary; and the Subcommittee on the Judiciary may be authorized to meet during the session of the Senate today.

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

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDERS FOR RECOGNITION OF SENATORS BENTSEN, HUMPHREY, MONTOYA, EAGLETON, AND SCOTT TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, in the following order, after the leadership has been recognized, the Senators whose names I will mention be recognized for 15 minutes each under the rules of the Senate tomorrow:

The distinguished Senator from Texas (Mr. BENTSEN).

The distinguished Senator from Minnesota (Mr. HUMPHREY).

The distinguished Senator from New Mexico (Mr. MONTOYA).

The distinguished Senator from Missouri (Mr. EAGLETON).

I also ask unanimous consent that the distinguished Republican leader, the Senator from Pennsylvania (Mr. SCOTT), be recognized tomorrow for not to exceed 15 minutes.

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

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further morning business?

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

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT EXTENDING TIME FOR DEBATE ON S. 632

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 1 additional hour allotted to the time for debate on S. 632, a bill to amend the Water Resources Planning Act, with the time to be equally divided and controlled as under the previous order.

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

QUORUM CALL

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

The ACTING PRESIDENT pro tempore. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1072 and 1073.

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

LAND HELD IN TRUST FOR THE LAC DU FLAMBEAU BAND OF LAKE SUPERIOR CHIPPEWA INDIANS

The bill (H.R. 2185) to declare that certain federally owned land is held by the United States in trust for the Lac du Flambeau Band of Lake Superior Chippewa Indians was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1129), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 2185 is to convey to the Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin the beneficial interest in 40 acres of Federal land. The land was purchased by the United States in 1932 for $500, and it has a present value of $2,100. Although the conveyance will be made without the payment of a consideration, the value of the land will be considered for setoff purposes in any future claim allowed by the Indian Claims Commission.

The land is located within the reservation, is no longer needed by the Department of the Interior in connection with the administration of Indian affairs, and is desired by the band for use in connection with its forest management plan and its recreational development plan.

COST

The enactment of the bill will require no Federal appropriation, but will require the conveyance of Federal property worth $2,100, subject to possible recoupment in future claims litigation.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs in executive session on September 6, 1972, unanimously recommended enactment of H.R. 2185.

PROVISION WITH RESPECT TO INHERITANCE OF INTERESTS WITHIN THE NEZ PERCE INDIAN RESERVATION

The bill (H.R. 10436) to provide with respect to the inheritance of interests in restricted or trust land within the Nez Perce Indian Reservation, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1130), explaining the purposes of the measure.

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

PURPOSE

H.R. 10436 limits the right to receive by devise or inheritance any interest in other trust or restricted property on the Nez Perce Reservations to persons who are enrolled members of the tribe with one-fourth degree or more blood of the tribe. The limitation will not apply, however, unless the person who is precluded from inheriting is paid by the tribe the fair market value of the interest in the land.

NEED

The bill is an exact parallel of the statute enacted by the 91st Congress for the Yakima Reservation (act of December 31, 1970; 84 Stat. 1874). The purpose in both cases is to keep as much of the reservation as possible in the ownership of tribal members, and to preclude the transfer of reservation lands by devise or descent to nonmembers of the tribe. As a matter of fairness, however, if an heir or device is precluded from taking an interest in reservation land he must be paid for its fair market value. If he is not paid he may inherit. In other words, the nonmember is entitled either to the land or its value in money, and the choice rests with the tribe.

The enactment of H.R. 10436 is also needed to correct an inequity by the Yakima statute. Many members of the Yakima and Nez Perce Tribes are intermarried and have property on both reservations. A Yakima member may inherit land on the Nez Perce Reservation, but a Nez Perce member may not inherit land on the Yakima Reservation. H.R. 10436 will make the same rule of law apply to both groups.

The amendments recommended by the Department of the Interior were not adopted because the committee felt that they were not necessary, and because the language in H.R. 10436 should be kept the same as the language in the statute for Yakima. The Secretary of the Interior may by regulation fix the time for making appraisals, identify the life estate inherited by a surviving spouse, and provide for recording the trust title created by section 1 of the bill.

COST

Enactment of the bill will involve no additional Federal expenditure.

COMMITTEE RECOMMENDATIONS

Open hearings were held by the Subcommittee on Indian Affairs on S. 2449, the Senate companion measure sponsored by Senators Church and Jordan of Idaho, and H.R. 10436 on July 28, 1972, and the Committee on Interior and Insular Affairs in executive session on September 6, 1972, unanimously recommended the enactment of H.R. 10436.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now

proceed to the consideration of Calendar No. 1081 and succeeding items on the Calendar in sequence.

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

FEDERAL SHIP FINANCING ACT OF 1972

The Senate proceeded to consider the bill (H.R. 9756) to amend the Merchant Marine Act, 1936, as amended, which had been reported from the Committee on Commerce with amendments;

On page 2, line 15, after the word "instruction", insert "or pollution treatment, abatement or control";

On page 3, line 7, after the word "paid", insert "by or for the account of the obligor";

At the beginning of line 9, strike out "obligated to be paid" and insert "which the obligor is then obligated to pay";

On page 7, at the beginning of line 6, strike out "trade;" and insert "trade as defined in section 905 of this Act for purpose of title V of this Act;";

On page 9, line 12, after the word "repaid,", strike out "and is to be carried on a vessel,".

And, on page 24, after line 4, insert a new section, as follows:

SEC. 8. This Act may be cited as the "Federal Ship Financing Act of 1972".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1137), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to amend Title XI of the Merchant Marine Act, 1936, as amended (the "Act") relating to vessel mortgage guarantees to expedite procedures, simplify paperwork, and better meet the current needs for investment capital necessary to revitalize the American Merchant Marine.

BACKGROUND AND NEED FOR LEGISLATION

Title XI authorizes the insurance by the Secretary of Commerce of mortgages and loans made to finance the construction, reconstruction and reconditioning of vessels. Before Title XI became an effective method of financing and because of the historical uncertainty and inherent risks involved in investments in shipping, the Government was granting aid to ship construction in the form of direct mortgages. This program was effectively abandoned in 1954 and Title XI substantially amended to replace direct Government financing with private financing, backed by Government insurance.

The Maritime Administration program of financing ship construction under Title XI has grown steadily. Total outstanding obligations under this program as of December 31, 1971 were in excess of $1,280 billion on 1316 vessels, including 820 barges to be carried aboard ship. Applications were being processed, as of December 31, 1971, with respect to the construction of 1168 vessels, including 955 barges to be carried aboard ship, including an additional $702 million. During calendar year 1971, the total of insured construction loans and ship mortgages increased by $280 million. Total outstanding obligations administered by the National Marine Fisheries Service as of December 31, 1971 were in excess of $17.4 million and involved approximately 171 fishing vessels.

In response to the anticipated increased financing requirements associated with new vessel construction under the current 10-year maritime program, Congress included in the 1970 amendments to the Act an increase from $1 billion to $3 billion in the aggregate amount authorized to be insured under Title XI. This authorization is not increased by the bill.

By way of background, it should be noted that before the Title XI program could realize the degree of success indicated by the above figures, several additions to the original statute of 1938 were necessary in order to make it workable. In the course of this gradual evolution of Title XI many of the restrictions and limitations which in practice proved unrelated to the Government's security or the needs of the industry remained in the statute. It has long been recognized by persons in Government, the shipping industry, and financial community that revision and updating of the law was desirable but it was the unusually high interest rates in the recent past and the limitations on refinancing in the present statute which brought into focus the need for changes in the statute to provide more flexibility in the program.

Simplification of the Title XI program has also become an increasingly desirable objective. The form of the present Title XI statute requires the purchaser of ship financing bonds, or his trustee, party to a number of security arrangements, such as the mortgage, in which he has no business interest since the mortgage is assigned to the Government upon default by the borrower. Purchasers of Title XI obligations rely on the government insurance and look to the insurance in event of default by shipowner. However, because of the present statute they must become mortgagees of the ship with the resultant complexity and paper work which being a party to the ship mortgage involves. This discourages many potential purchasers and makes the development of a secondary market for such bonds difficult. The lack of an effective secondary market further discourages primary investment in ship mortgage bonds. Simplification of Title XI transactions from the standpoint of purchasers of these obligations is necessary in order to attract, on the best possible terms, the capital needed to revitalize the American Merchant Marine as is contemplated by the current 10-year maritime program.

GENERAL EXPLANATION

The proposed legislation is a technical statute to amend Title XI of the Merchant Marine Act, 1936, as amended (the "Act"), to improve its responsiveness and flexibility. It would also simplify the mechanics of issuing and marketing obligations under Title XI to improve their reception in the financial community. The proposed legislation would not increase the aggregate unpaid principal amount of the mortgages and loans insured under Title XI and outstanding at any one time above the currently authorized amount of $3 billion. It contains no obligational authority or authorization for appropriations.

CHANGE FROM GOVERNMENT INSURANCE OF A LOAN OR MORTGAGE TO GOVERNMENT GUARANTEE OF THE OBLIGATION ITSELF

One of the primary changes the bill would make is in the Government's role in the financing transaction. Whereas existing law provides that the Government insures a loan or mortgage, which, by their nature, require many complicated documents involving the borrower, the lender, the trustee, and the Government, the bill provides that the United States will guarantee the payment of the principal of and interest on the obligation itself. All security, including any mortgage, would be held by the Government as security for its guarantee. The lender's primary concern in the transaction would be with the terms of the bond or other financial instrument which is the case with most bonds or debentures available on the market. The terms of the security arrangements would be left primarily to the borrower and United States, represented by the Secretary of Commerce. The security arrangements between the borrower and the Secretary will incorporate provisions for the protection of the interests of the Government similar to those which are contained in the present contract of insurance. This eliminates the requirement under the existing statute for the purchaser of merchant marine bonds or his agent to be a party to the ship mortgage. Under present procedure the managing underwriters, their counsel, all members of the underwriting syndicate, and frequently the purchasers themselves, are weighed down with legal documents often running into hundreds of pages. This complexity discourages investors, and underwriters who must undertake the explanation of such a transaction to prospective customers. This same reluctance to become involved in the mortgage transaction also evidences itself in secondary market transactions, thereby reinforcing the burdensome effect of documentation on the primary sale. The bill will substantially reduce these impediments and should broaden and deepen the market for ship financing bonds.

BROADENING THE TIME LIMITS UPON FINANCING UNDER THE PROGRAM

H.R. 9756 makes an important change in the existing program by broadening the time limits on the use of Government assisted financing. Presently a mortgage can only be insured: (1) to finance the construction, reconstruction or reconditioning of the vessel being mortgaged if the mortgage is placed on the vessel either upon completion of the construction, reconstruction or reconditioning or within one year thereafter; (2) to finance the construction of another vessel if a commitment has been obtained prior to laying the keel of the vessel which will be mortgaged. The bill retains the first provision mentioned above, but with respect to the mortgaging of a vessel to provide funds for additional vessel construction or other marine purposes it eliminates the requirement that a commitment be obtained prior to laying the keel of the vessel which will be mortgaged and expands the uses to which proceeds of mortgages may be devoted. Thus, under the bill the proceeds of obligations guaranteed under section 1104(a)(1) of the Act, as amended by the bill, shall be used to (1) finance construction, reconstruction, or reconditioning of vessels, including reimbursement to the owner, either during construction, reconstruction or reconditioning, or within one year thereafter; (2) to finance the construction, reconstruction or reconditioning of vessels with the proceeds of obligations relating to existing vessels; or (3) to finance the construction, reconstruction or reconditioning of facilities or equipment pertaining to marine operations with the proceeds of obligations relating to existing vessels. The proceeds could not be used as working capital. Examples of permissible uses covered by (3) above would be cranes, containers, chassis or other cargo handling equipment, or facilities or equipment pertaining to commercial fishing operations. Uses which are permissible under present law are retained. Every loan under the amended program must pass the test of economic soundness as under present law.

REFINANCING EXISTING OBLIGATIONS

Section 1106 of the present statute requires that an insured mortgage for the purpose of refunding a previously insured mortgage shall not bear interest at a rate higher than the original interest rate. This has been an impediment to flexibility in financing, particularly to the use of short term financing coupled with refinancing at a time when more favorable long term rates may be available. If, during the term of the original mortgage, interest rates rise instead of fall, Title XI financing is not available when the interim financing must be paid. The proposed legislation would authorize refinancing of obligations at any time of amounts outstanding on existing obligations subject to the requirement that the interest rate shall not exceed such rate as the Secretary of Commerce determines to be reasonable.

This refinancing authority would be extended to include amounts outstanding on obligations not previously insured or guaranteed, to the extent that they had been issued for a purpose or purposes contained in Title XI. Previously uninsured construction loans could be refinanced under Title XI, but generally not uninsured mortgages.

In many segments of the industry, particularly domestic shipping many vessels have been financed with bank loans repayable over as little as seven or eight years, despite the fact that the related vessels have a useful life of 18 to 25 years. In addition, many of these loans were contracted for during tight money markets and consequently bear high interest rates. By enabling these vessel operators to convert to Title XI financing, with longer maturities and frequently lower interest rates, additional resources would be made available for the modernization and expansion of the domestic fleet.

OTHER SIGNIFICANT PROVISIONS

The proposed legislation would permit financing of certain vessels, including barges and similar vessels of at least 25 gross tons. Previously, these vessels could be financed only if they were 200 gross tons or over. The design of some barges and barge carrying ships is presently limited by the necessity to design around barges of 200 gross tons or more, if Government assisted financing is to be used. All barges financed under this new provision will be documented under the laws of the United States and subject to ship mortgages under the Ship Mortgage Act, 1920.

The present statute provides that any contract of insurance or commitment to insure entered by the Secretary of Commerce shall be incontestable "except for fraud, duress, or mutual mistake of fact." This language has caused difficulties in the past because investors and their counsel are unsure of its meaning and its effects upon the Government insurance. While the Committee expects that these exceptions would never have been effective against an innocent holder of a Title XI insured obligation, this language of the present statute obviously affects the marketability of merchant marine bonds. The bill would delete this language, as was done in the case of similar language with respect to the financing of new communities by the Housing and Urban Development Act of 1970. The Government would retain the rights under renumbered Section 1106 (Section 1108 of the current statute) to take action against the parties involved in the fraud as provided therein. Title XI securities should bear language as to the incontestability of guarantees that is as certain and unequivocal as the language of Government guaranteed obligations of other agencies.

The bill changes the Government guarantee language from "the faith of the United States is solemnly pledged" to "the full faith and credit of the United States is pledged". Your Committee understands that the language of the bill is more commonly accepted and understood by investors than the present language. No substantive change in the nature of the Government's obligation is intended by this provision.

The proposed legislation would empower the Secretary of Commerce to determine the useful life of the vessel, subject to the present maximum of 25 years, except where vessels have been reconstructed or reconditioned so as to extend their useful lives. The arbitrary maximum of 20 years for liquid bulk carriers contained in the present statute would be eliminated for Title XI purposes and the determination left to the discretion of the Secretary. This is advisable in view of technological improvements in the ability of such vessels to withstand corrosion and similar effects.

EXPLANATION OF AMENDMENTS

The committee adopted seven amendments to the legislation, most of which are technical, clarifying or conforming in nature. For example, the first committee amendment merely clarifies that pollution abatement or control vessels are "vessels" for purposes of the Act and qualify for assistance under Title XI if they meet other applicable requirements.

Two committee amendments to section 1 of the bill clarify that only amounts paid or to be paid by or for the account of the obligor for construction, reconstruction or reconditioning of a vessel are included in the definition of "actual cost" contained in section 1101(f) of the Act, as revised by the bill. This conforms to the present statute and makes clear that, for example, amounts paid for construction-differential subsidy by the Government are not included in "actual cost". Maritime Administration policy with respect to including in actual cost and tracing payments made by or for the account of an obligor's predecessor in interest would also be continued.

A committee amendment to revised section 1104(a)(1) clarifies that the words "foreign trade" are used in the more expansive sense of the section 905 definition with respect to title V relating to construction-differential subsidy. Thus, any vessel engaged in a foreign trade eligible for construction-differential subsidy under title V would also be eligible for financing guarantees under title XI.

A substantive amendment was made by the committee to revised section 1104(b)(2) with respect to barges. As passed by the House of Representatives, the bill would have authorized title XI guarantee of up to 87.5% of the actual cost or depreciated actual cost of barges to be carried on a vessel, but only 75% of the actual cost or depreciated actual cost of other barges. The committee could find no persuasive reason in policy for this distinction. Further, representatives of inland waterway operators argued that such a distinction would result in a competitive disadvantage for inland waterway barges in instances where they are in competition with barges carried on vessels. The committee therefore amended the bill to eliminate the distinction and to put all such barges on an equal footing at the 87.5 percent level. The Maritime Administration estimated that 850 to 1,000 barges are built per year and that less than one-half of these would be built under the title XI program. Total capital investment as of 1972 in barges was estimated at $230 million. The committee amendment would not increase the number of barges eligible for title XI financing, but would permit guarantees of obligations with respect to a higher percentage of the actual cost or depreciated actual cost of a barge i.e. 87.5 percent, as in the case of barges carried on a vessel. The amendment would not increase the aggregate amount authorized to be guaranteed under the Title XI program.

The final committee amendment is a new section 8 providing the Act may be cited as the "Federal Ship Financing Act of 1972".

CACHE NATIONAL FOREST

The bill (S. 2762) to authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein within the boundaries of the Cache National Forest in the State of Utah, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, to promote in a timely and adequate manner the protection of the culinary and municipal water supply of Ogden city and other Weber County areas, the control of floods, the minimizing of soil erosion and stream pollution through the maintenance of adequate vegetative cover, and the conservation of the scenic beauty, wildlife habitat, and natural environment of certain non-federally-owned lands within the Cache National Forest in the State of Utah, and to provide for their management, protection, and public use and enjoyment as national forest lands under the provisions of the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215), the Secretary of Agriculture is authorized and directed to acquire, at not to exceed the fair market value, as of the time of such acquisition, as determined by him after appraisal, much of the non-federally-owned land, not to exceed in the aggregate 23,000 acres, in the area described in section 2 of this Act as he finds suitable to accomplish the purposes of this Act.

SEC. 2. This Act shall be applicable to lands within the boundary of the Cache National Forest in the watershed of the Middle Fork of the Ogden River, being portions of townships 6, 7, and 8 north, ranges 2 and 3 east, Salt Lake base and meridian.

SEC. 3. There is hereby authorized to be appropriated for the purposes of this Act not to exceed $3,450,000, to remain available until expended.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1138), explaining the purposes of the measure.

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

PURPOSE

S. 2762 would authorize the Secretary of Agriculture to acquire certain lands in the watershed of the Middle Fork of the Ogden River in Utah. The acquisition would be made to maintain and conserve the water quality, scenic beauty, wildlife habitat, and other natural environmental values of the area through multiple-use management. The Secretary of Agriculture would be authorized and directed to acquire by purchase, condemnation, or other lawful means at not to exceed fair market value such nonfederally owned land, not to exceed 23,000 acres.

BACKGROUND

Recent concern about the Middle Fork watershed originated when plans were proposed to subdivide and develop privately owned watershed lands for residential use. Subdivision development was seen as adversely affecting the capability of the watershed to produce water of acceptable quality for Ogden City and the Weber County areas as well as being detrimental to other environmental values.

COST

The bill authorizes that a maximum of $3,450,000 be appropriated for the purposes of this act.

COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs in executive session unanimously recommended enactment of S. 2762.

WASATCH NATIONAL FOREST

The Senate proceeded to consider the bill (S. 1144) to authorize and direct the acquisition of certain lands within the boundaries of the Wasatch National Forest in the State of Utah by the Secretary of Agriculture, which had been reported from the Committee on Interior and Insular Affairs with an amendment. On page 2, line 12, after the word "exceed", insert "$2,000,000"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to promote in a timely and adequate manner control of floods, the reduction of soil erosion and stream pollution through the maintenance of adequate vegetative cover, and the conversion of their scenic beauty and the natural environment, and to provide for their management, protection, and public use as national forest lands under programs of multiple use, the Secretary of Agriculture is authorized and directed to acquire, at not to exceed the fair market value as determined by him, such of the nonfederally owned land, not to exceed three thousand acres, in the area described in section 2 hereof as he finds suitable to accomplish the purposes of this Act.

SEC. 2. This Act shall be applicable to lands within the boundary of the Wasatch National Forest in the watersheds of Mill Creek, Big Cottonwood Creek, and Little Cottonwood Creek, being portions of townships 1, 2, and 3 south, ranges 1, 2, and 3 east, Salt Lake base and meridian.

SEC. 2. There is hereby authorized to be appropriated for the purposes of this Act not to exceed $2,000,000, to remain available until expended.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1139), explaining the purposes of the measure.

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

PURPOSE

S. 1144, as amended, would authorize and direct the Secretary of Agriculture to acquire non-federally owned land, not to exceed 3,000 acres, located within the boundary of the Wasatch National Forest in the watersheds of Mill Creek, Big Cottonwood Creek, and Little Cottonwood Creek. The Secretary of Agriculture would acquire the lands in order to protect their watershed and other environmental values under a program of multiple-use management.

BACKGROUND

This bill is directed at efforts, which were first made in 1966, toward development of year-round residential subdivisions on private lands in Little Cottonwood Canyon, within the Wasatch National Forest. The development proposals have resulted in a continuing public concern over the management of private lands in the three drainages since the developments would directly affect the water supply of Metropolitan Salt Lake City.

The Department of Agriculture now has adequate authority to purchase the lands involved in this legislation. From 1967 to 1971, the Forest Service acquired about 2,000 acres of recreation tracts for about $2 million in Big Cottonwood and Little Cottonwood Canyons on the Wasatch National Forest with funds available from the land and water conservation fund.

AMENDMENT

The committee amended S. 1144 to limit the cost of land acquisition to $2 million.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs in executive session unanimously recommended enactment of S. 1144.

AUTHORIZATION FOR STUDY OF A SEGMENT OF COLORADO FOR POSSIBLE INCLUSION IN THE WILD RIVERS SYSTEM

The Senate proceeded to consider the bill (S. 2901) to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah as a component of the national wild and scenic rivers system, which had been reported from the Committee on Interior and Insular Affairs with amendments;

On page 1, at the beginning of line 5, strike out "(9)" and insert "(28)";

In the same line, after the word "The", strike out "thirteen and one half miles" and insert "thirty-six mile";

In line 7, after the word "point", where it appears the first time, strike out "1052½" and insert "1063";

In the same line, after the word "point", where it appears the second time, strike out "1039" and insert "1027";

In line 8, after the word "begins", strike out "approximately six miles from" and insert "at";

On page 2, line 1, after the word "westward", insert "to the junction of the Delores River with the Colorado River";

In line 2, after the word "of", strike out "Utah); to be administered by the Secretary of the Interior."."; and insert "Utah).";

And, after line 3, strike out:

SEC. 2. The Secretary of the Interior shall, within one year following the date of the enactment of this Act, take, with respect to the segment included as a component of the national wild and scenic rivers system by this Act, such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act; except that, the reference in such subsection to the "date of this Act" shall be construed to refer to this Act.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Wild and Scenic Rivers Act is amended by adding at the end thereof the following:

"(28) COLORADO RIVER, UTAH.—The thirty-six mile segment which flows from mile point 1063 to mile point 1027 (such segment being the segment which begins at the boundary between the State of Utah and Colorado and runs westward to the junction of the Delores River with the Colorado River in the State of Utah)."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1140), explaining the purposes of the measure.

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

PURPOSE

S. 2901, as amended, would designate for study for possible inclusion in the national wild and scenic rivers system a 36-mile segment of the Colorado River in the State of Utah. The segment flows from mile point 1063 to mile point 1027, or from the Utah-Colorado border downstream to the junction of the Delores River with the Colorado River in Utah. The study would be authorized by amending section 5(a) of Public Law 90–542, the Wild and Scenic Rivers Act.

AMENDMENTS

Originally, S. 2901 called for a 13½-mile segment of the Colorado River (from mile point 1052½, downstream to mile point 1039) to be designated as part of the wild and scenic rivers system. This was changed to provide for a study of the longer 36-mile segment as a potential addition to the system, conforming to a suggestion from the administration.

DESCRIPTION

Of this reach of the river, the segment called Granite Canyon is most widely known. This is 13½ miles of exciting water. The canyon has rapids with such colorful names as Sock-It-To-Me, Wildhorse, Marble Canyon, Funnel Falls, Skull, and Last Chance. Scenic side canyons are numerous. Many people visit and boat this white water stretch each year. Wildlife includes deer, cougar, snowy egrets, Canadian geese, beaver, blue herons, and golden eagles. Massive red sandstone cliffs rise along the river. There is black rock of schist and gneiss, intruded by granite, and capped by red and purple shales.

COST

Enactment of the bill will involve no Federal expenditure.

The amendments were agreed to.

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

The title was amended, so as to read: "A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Colorado River in the State of Utah for study as a potential component of the national wild and scenic rivers system."

BRIDGEPORT INDIAN COLONY

The Senate proceeded to consider the bill (S. 3113) to declare that the United States holds in trust for the Bridgeport Indian Colony certain lands in Mono County, Calif., which had been reported from the Committee on Interior and Insular Affairs with amendments.

On page 1, line 3, after the word "United", strike out "States" and insert "States, except all minerals including oil and gas which are hereby withdrawn from appropriation under the public land laws including the mining and mineral leasing laws,";

And in line 9, after the word "the" where it appears the first time, insert "Indians of the"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all of the right, title, and interest of the United States, except all minerals including oil and gas which are hereby withdrawn from appropriation under the public land laws including the mining and mineral leasing laws, in the following described public domain land located in Mono County, California, are hereby declared to be held by the United States in trust for the Indians of the Bridgeport Indian Colony:

The south half of the southeast quarter of the northeast quarter of section 28, township 5 north, range 25 east, Mount Diablo base and meridian, Mono County, California, containing twenty acres more or less.

Provided further, That said parcel shall be subject to the easement to the Bridgeport Public Utility District for a sewer main.

The amendments were agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1141), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of S. 3113 is to declare that 20 acres of public domain in Mono County, Calif., are held in trust for the Bridgeport Indian Colony, subject to an easement to the Bridgeport Public Utility District for a sewer main.

BACKGROUND

The Bridgeport Indian Colony, a group of approximately 65 Indian people from 20 families, living near the town of Bridgeport, Calif., is not a federally recognized Indian entity. However, the colony members are descendants of Indian groups which originally occupied the Bridgeport Valley.

Although these Indians do not constitute a federally recognized tribe, band, or group, there are a few who meet the qualifications set forth in section 19 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as Indians eligible to receive benefits under that act.

On September 4, 1969, the colony members adopted Articles of Association of the Bridgeport Indian Colony to lend organizational support to the members' efforts to improve their social and economic advancement. The purposes of the association as stated in article I of the articles are set forth as follows:

ARTICLES OF ASSOCIATION OF THE BRIDGEPORT INDIAN COLONY

ARTICLE I—PURPOSES AND POWERS

1. The primary purposes of the Association are to obtain and hold land and housing in order to provide each family in the Association with adequate housing. These purposes include the obtaining of benefits incidental to housing: water, electricity, sanitation and other utilities.

2. Other purposes of the Association are to promote the education, health, economic advancement, recreation and general welfare of the Association members.

The complete Articles of Association of the Bridgeport Indian Colony have been made a part of this report.

NEED

The colony members live in several substandard dwellings on approximately 5 acres of a 160-acre privately owned tract. This tract was patented to a non-Indian in 1914, as a desert land entry. Over the years, the patent owners have threatened to evict the Indians many times. The heads of the Indian families are concerned over the ever-present threat of being evicted from their homes. However, their financial conditions are such that they cannot purchase building sites and construct new homes for their families.

In the event that the 20-acre tract of public domain is made available for the use and occupancy of the colony as proposed, the Owens Valley Indians who have formed a housing authority have offered to extend the assistance of their agency to the trust lands of the Bridgeport community.

On March 5, 1972, the members of the colony adopted a resolution requesting that the 20-acres described in S. 3113 be acquired as the site of a permanent home for the colony.

COST

No additional expenditure of Federal funds will result from the enactment of S. 3113.

AMENDMENTS

The committee amended S. 3113 on page 1, line 6, by inserting the words "the Indians of the" after the word "for". This amendment was adopted to make clear the intent of the committee that the conveyance of land provided for in this bill would be only for the benefit of the Indians of the Bridgeport Indian Colony. The Committee also amended the bill to reserve minerals to the United States and to withdraw them from appropriation under the public land laws including the mining and mineral leasing laws.

Committee recommendations

The Committee on Interior and Insular Affairs in executive session on September 6, 1972, unanimously recommended that S. 3113, as amended, be enacted.

LONE PEAK WILDERNESS AREA, UTAH

The Senate proceeded to consider the bill (S. 3466) to establish the Lone Peak Wilderness Area in the State of Utah which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That (a) the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892), relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, the area (or any portion thereof) located partially in Wasatch National Forest and partially in Uinta National Forest, containing approximately twenty thousand acres, lying generally southwest of Salt Lake City, Utah, and commonly referred to as the Lone Peak Area, and shall report his findings to the President on or before the expiration of the two-year period following the date of the enactment of this Act. The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation of such area or portion thereof as "wilderness", together with maps and a definition of boundaries. Any recommendation of the President to the effect that such area or portion thereof should be designated as "wilderness" shall become effective only if so provided by an Act of Congress.

(b) During the review period provided by this Act and for a period of three years after his recommendations are submitted, the Secretary shall manage and protect the resources of the Lone Peaks study area in such a manner as to assure that the suitability of all or any part of the area now suitable for potential wilderness designation is not impaired.

(c) The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 2. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1142), explaining the purposes of the measure.

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

PURPOSE

This bill, S. 3466, as amended, would provide for a study of 20,000 acres in the Wasatch and Uinta National Forests in Utah as a possible addition to the national wilderness preservation system.

AMENDMENTS

In its original form, S. 3466 would have established 13,000 acres in these two forests as the Lone Peak Wilderness Area. The amendments authorize, instead, a study of 20,000 acres, similar to that applicable to national forest primitive areas, and as recommended by the Department of Agriculture. The review would be completed and findings made to the President within a 2-year period.

The Secretary of Agriculture would be required to manage the area during the review period and for 3 years after his recommendations in a manner to assure that its potential as wilderness would not be impaired.

DESCRIPTION

The area is within a few minutes drive of Salt Lake City and the boundaries would include the land surrounding Lone Peak in the rugged Wasatch range of mountains. It is a beautiful wild area and is adjacent to the heavily populated towns and cities of the Wasatch front where 70 percent of Utah's population resides. The area is timbered with evergreens, and marked by rushing, clear water streams. At hearings in Salt Lake City in July of this year, many witnesses testified in favor of a Lone Peak Wilderness.

COMMITTEE RECOMMENDATIONS

The Committee on Interior and Insular Affairs in executive session unanimously recommended enactment of S. 3466.

The title was amended, so as to read: "A bill to authorize the Secretary of Agriculture to review as to its suitability for preservation as wilderness the area commonly known as the Lone Peak Area in the State of Utah."

CASS COUNTY, N. DAK.

The Senate proceeded to consider the bill (S. 3483) for the relief of Cass County, N. Dak., which had been reported from the Committee on the Judiciary with an amendment on page 1, line 4, after the word "pay", strike out "out of any money in the Treasury not otherwise appropriated," and insert "under the provisions of section 125 of title 23, United States Code"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury is authorized and directed to pay, under the provisions of section 125 of title 23, United States Code to Cass County, North Dakota, the sum of $85,000 for expenses incurred by the Cass County, North Dakota, in reconstructing the Wild Rice Bridge across the Red River between Clay County, Minnesota, and Cass County, North Dakota, such amount representing the difference between the amount paid by the United States as emergency disaster relief and the amount the United States would have paid for the reconstruction of such bridge after it was destroyed by a flood in April 1969, if the access road from Stanley Township in Cass County had been designated a Fed-

eral aid secondary road at the time such flood destroyed such bridge.

(b) No part of the amount appropriated in this Act shall be paid or delivered by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any amount not in excess of $1,000.

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1143), explaining the purposes of the measure.

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

PURPOSE OF AMENDMENT

As explained in the letter from the Department of Transportation, the amendment clarifies the funds from which the claim is to be paid since the bridge in question has been integrated into the Federal Aid Secondary Road System.

PURPOSE OF LEGISLATION

The purpose of the proposed legislation is to authorize and direct the Secretary of Transportation to pay, out of money in the Highway Emergency Relief Fund, to Cass County, N. Dak., the sum of $85,000 for expenses incurred in reconstructing the Wild Rice Bridge across the Red River between Clay County, Minnesota, and Cass County, N. Dak.

STATEMENT

In its report to the committee, the Department of Transportation stated that they had no objection to enactment of this legislation as amended.

The Wild Rice Bridge spans the Red River between Clay County, Minn., and Cass County, N. Dak. The bridge was destroyed in April 1969, as a result of heavy flooding. The cost of reconstructing the bridge is estimated at $332,000, to be shared equally by each county.

At the time of the flood, the Minnesota half of the bridge was a part of the Federal aid system. As a result, Clay County will be reimbursed for its entire cost of rebuilding the structure. This money comes from the emergency relief funds provided by the Federal Highway Administration.

As a part of its aid to disaster areas, and in accordance with Public Law 91–79, the Office of Emergency Preparedness is financing one-half of Cass County's share of the reconstruction. This leaves 25% of the total cost, or $85,000, to be paid by Cass County.

In September 1971, the North Dakota portion of the bridge was designated a part of Federal Aid Secondary Route 639. Had this been the case prior to the flood Cass County would have been reimbursed by the Federal government for the entire cost of its share of rebuilding the bridge. Now, however, Cass County is in the anomalous situation of having to use its own funds to reconstruct a bridge that is a part of the Federal Aid Secondary Road System.

In view of the inequities created by this situation, and the fact that the Department of Transportation has no objection to the relief proposed, the committee feels that Cass County should be reimbursed for the remaining 25% of the cost of rebuilding the bridge.

The committee believes that the bill is meritorious and recommends it favorably.

JUROR QUALIFICATION FORMS

The bill (H.R. 2589) to amend section 1869 of title 28, United States Code, with respect to the information required by a juror qualification form, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1144), explaining the purposes of the measure.

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

STATEMENT

H.R. 2589 proposes to amend the Federal Jury Selection Act of 1968 so information as to the race and occupation of prospective jurors is readily available for use in enforcing the nondiscriminatory policy of that act. The purpose of that legislation was to ensure trial by a jury selected from a fair cross section of citizens and to eliminate racial or other discrimination in the selection of jurors for Federal courts.

Under current law, an individual is not required to indicate his race when filling out a juror qualification form (28 U.S.C. Sec. 1869(h)). Although this information is requested, studies show that it is omitted by up to 30 percent of the respondents. The result is that there is little reliable information that can be used to determine if discrimination exists.

H.R. 2589 will require prospective jurors to whom juror qualification forms are sent to respond to questions as to their race and occupation. Under existing law this information is requested but not required to be given. Questions as to race and occupation appear on the forms with a notice that they need not be answered by a person who "finds it objectionable to do so."

Stating it to be "the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes" and that "all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States." Congress enacted the Jury Selection and Service Act of 1968, consisting of section 1861 through 1874 of title 28, United States Code. In doing so, it prescribed that "No citizen shall be excluded from service as a grand or petit juror in the district courts of the United States on account of race, color, religion, sex, national origin, or economic status." (28 U.S.C. 1862).

The act establishes a procedure for the selection of Federal jurors. In pertinent part, the procedure entails the execution by prospective jurors of a juror qualification form. Some of the questions on the form must be answered; others may, but need not, be answered. Questions as to race and occupation fall in the latter category.

H.R. 2589 has the support of the Judicial Conference of the United States, the Department of Justice, and the Civil Rights Commission. All of the witnesses agreed that unless prospective jurors were required to respond to questions as to race, it was impossible effectively to monitor and enforce nondiscrimination in the selection of Federal jurors. This view was fully supported by a unique systems analysis conducted by the American University under the direction of Dr. Alan D. Morris. Similarly, surveys in the Fourth and Fifth Judicial Circuits, to which committee attention was called, indicated that from 10 to 30 percent of the recipients of juror qualification forms failed to respond to the question as to race. With this number failing to respond, it is virtually impossible to detect discriminatory practices under the existing law. One cannot accurately determine whether litigants in the Federal courts are having their matters considered by jurors who represent a "fair cross section of the community" as required by the Jury Selection Act.

In addition to requiring prospective jurors to indicate their race and occupation on the juror qualification form, H.R. 2589 would add an explanation on the form that the information is needed to enforce nondiscrimination and has no bearing on any individual's qualifications for jury duty.

There appears to be no constitutional objection to the requiring of racial identification if the purpose is valid. In *Hamm* v. *Virginia State Board of Elections*, 230 F. Supp. 156, 158 (E.D. Va.), aff'd per curiam, 379 U.S. 19 (1964), the district court held invalid Virginia statutes that established separate lists of white and Negro names on tax and voting records. The court, however, upheld a statute that required racial designation on divorce forms on the grounds that such information served the State's interest in keeping vital statistics. In its opinion, the court said:

"* * * the designation of race, just as sex or religious denomination, may in certain records serve a useful purpose, and the procurement and compilation of such information by State authorities cannot be outlawed per se. For example, the securing and chronicling of racial data for identification or statistical use violates no constitutional privilege. If the purpose is legitimate, the reason justifiable, then no infringement results."

The clear purpose of H.R. 2589 is to end discrimination and to provide a method of enforcing the objectives of the Federal Jury Selection Act. This bill seeks to guarantee racial neutrality in the jury selection process.

The recent Supreme Court decision in *Alexander* v. *Louisiana*, 405 U.S. 625 (1972), is not in conflict with this bill. There the Court found prima facie evidence of discrimination in jury selection. A panel of jury commissioners in Louisiana selected 400 potential jurors from more than 7,000 questionnaires, each of which noted the race of the respondent. The proportion of Negroes in the pool was decreased from 14 to 7 percent after the panel's supposedly random selection, and the Court cited statistical evidence to show that the probability of this occurring was 1 in 20,000.

Although racial identification on jury questionnaires may have contributed to the discrimination found in *Alexander*, the fact that such information was available enabled the selection panel's actions to be challenged. It is to insure the random selection process that the requirements of H.R. 2589 need to be imposed. The sole object of such identification is to fulfill the policy objectives of the Federal Jury Selection Act.

LISTING JURORS OCCUPATION

All witnesses before the House Judiciary Committee also recommended that the present law be changed so that the submission of information as to occupation be mandatory rather than optional. Attention was called to the facts that certain occupational groups, such as military personnel on active duty, police and firemen, and certain public officials, are exempt from jury duty while other classes of persons may be exempted (28 U.S.C. 1863(b)(6)). Still others may be excused from service (28 U.S.C. 1863(b)(5)). To assure the expeditious determination of whether a prospective juror falls in an exempt or excusable category, it is essential that he be required to respond as to his occupation.

COSTS

The only costs to the United States as a result of the enactment of H.R. 2589 would be those incidental to the revision of the

existing supply of juror qualification forms. These are estimated by the Administrative Office of the U.S. Courts to be approximately $3,000 to $5,000 in the first year, and to be nonrecurring.

BILL PASSED OVER

The bill (S. 3943) to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes, was announced as next in order.

Mr. MANSFIELD. I ask that the bill go over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

COMPENSATION OF THE FEDERAL REPRESENTATIVES ON THE SOUTHERN AND WESTERN INTERSTATE NUCLEAR BOARDS

The bill (H.R. 14974) to amend certain provisions of law relating to the compensation of the Federal representatives on the Southern and Western Interstate Nuclear Boards, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1146), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 14974 is to equalize the provisions for compensating the Federal representatives on the Southern Interstate Nuclear Board and on the Western Interstate Nuclear Board, respectively, and to impose new and identical upper limits on their compensation.

STATEMENT

In its favorable report on the bill, the Committee on the Judiciary of the House of Representatives said:

"By Public Law 87–563, approved July 31, 1962, Congress gave consent to the Southern Interstate Nuclear Compact. Section 3 of Public Law 87–563 provided that there should be a nonvoting Federal representative on the Southern Interstate Nuclear Board, to be appointed by the President, with compensation (if not otherwise an employee of the United States) such as the President shall specify but not in excess of $100 per day or $15,000 per calendar year.

"By Public Law 91–461, approved October 16, 1970, Congress gave consent to the Western Interstate Nuclear Compact. Section 3 of Public Law 91–461 provides that there shall be a nonvoting Federal representative on the Western Interstate Nuclear Board, to be appointed by the President, with compensation (if not otherwise an employee of the United States) such as the President shall specify. Public Law 91–461 omits the limitations to $100 per day and $15,000 per calendar year found in Public Law 87–563.

"The committee is advised that notwithstanding this disparity in statutory authorizations both Federal representatives are being paid at the $100 per day rate which is the upper limit authorized by Public Law 87–563 for compensating the Federal representative on the Southern Board. Neither representative has in any year reached the $15,000 per annum limitation prescribed for the Southern representative. The most earned by either representative in 1 year was $12,543, which, the committee is advised, was paid to the Southern representative for 1970. The largest total payment for a single year occurred in 1971 when the representative on the Southern Board received $9,737.50 and the representative on the Western Board received $6,625.

"H.R. 14974 as introduced would repeal the present limitations on compensation payable to the Southern representative, both as to rate and as to maximum amount payable in any year, and would provide a new rate identically applicable to both representatives who would be compensated for every day of service at the daily equivalent of the maximum rate for grades GS–18. At present this amounts to $138.40.

The committee's amendments to H.R. 14974 would retain the proposed new rate as a maximum but permit the President to specify a lesser rate if he sees fit.

"COMMITTEE VIEWS

"The committee believes that enactment of H.R. 14974 as herein proposed to be amended is warranted for two reasons. First, there seems to be no rational basis for the existing disparity between the compensation provisions affecting the two Federal representatives. Both are presidential appointments; both serve the United States in identical connection with interstate boards approved by Congress to cooperate in dealing with atomic energy. What is more, although free of any restraint with respect to the compensation of the representative on the Western Board, the President has specified identical compensation for both representatives. There is really no reason why the compensation provisions for the two jobs should differ.

"Second, the committee believes it appropriate to recognize the lag implicit in the $100 per day compensation now being paid these Federal representatives. In this connection the committee adopts an observation made by the Atomic Energy Commission in reporting on a predecessor bill (H.R. 7705) which dealt with the present problem. H.R. 7705 would simply have repealed the limitations on compensation found in Public Law 87–563, bringing its provisions in line with Public Law 91–461, and leaving the President without any limitation or guide in specifying the rate of compensation for either Federal representative. The Atomic Energy Commission said in part:

"'At the time of approval of the Southern Interstate Nuclear Compact, the amount which the Government was paying its highest level of special employee was within the $100 rate, and that amount was deemed to be adequate to attract personnel to suitable caliber. The Government wage and salary structure has since advanced substantially, and to the extent that it continues to advance, rates fixed in one year are likely to become inadequate in another year to attract appropriate personnel."

"In its report, the Atomic Energy Commission recommended that both Public Law 87–563 and Public Law 91–461 should be amended to provide the daily equivalent of the GS–18 rate for both representatives. The committee is advised that the Atomic Energy Commission, itself, is paying its qualified consultants at the GS–18 rate, while continuing to compensate both Federal representatives at the lesser $100 daily rate.

"The committee is of the opinion that the GS–18 rate should be adopted as a maximum and that the annual limit of $15,000 should be repealed. It sees no reason, however, for preventing the President from fixing a lower rate of compensation if he sees fit. The committee amendments would permit him to do so.

"COST

"It is too late for enactment of H.R. 14974 to entail any cost in fiscal year 1972. For each of the 5 fiscal years following, the bill provides a potential maximum increase in daily compensation amounting to $38.40 for each of the two Federal representatives. The committee estimates that the cost of the measure in each of these years will be in the neighborhood of $10,000. This estimate is based on the following assumptions:

"(1) That in each year both Federal representatives will work 125 days,

"(2) That the President will fix their compensation at the maximum daily equivalent of GS–18, and

"(3) That this rate will continue to pay $138.40 per day.

"On these assumptions each of the two representatives would be paid $17,300 in each year, as compared to $12,500 under existing arrangements, a difference of $4,800 for each in each year."

DANIEL H. ROBBINS

The bill (S. 2501) for the relief of Daniel H. Robbins was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 151 of title 35, United States Code, or any other provision of law, the Commissioner of Patents is authorized and directed to accept delayed payment of the final fee (prescribed in section 41(a) of title 35, United States Code) in the application for United States Letters Patent of Daniel H. Robbins of Rochester, New York, serial number 475,638, filed July 29, 1965, and allowed July 24, 1968, for a Graphic Printer, assigned to Itek Corporation, Lexington, Massachusetts, as though no abandonment or lapse had ever occurred, if such final fee is paid within three months after the date of enactment of this Act. Upon payment of such fee, the Commissioner is authorized to issue to the said Daniel H. Robbins the patent for which application was so made. No patent granted on said application shall be held invalid on the ground that the final fee was not paid within the period specified in title 35, United States Code.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1147), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to authorize and direct the Commissioner of Patents to accept late payment of the final issue fee in the application for U.S. Letters Patent of Daniel H. Robbins, serial No. 475,-638, filed July 29, 1965, and allowed July 24, 1968, for a graphic printer, as though no abandonment or lapse had occurred, and to authorize the Commissioner to issue the patent if such fee is paid within 3 months from the date of this legislation is enacted.

STATEMENT

S. 2501 is identical to S. 3168 of the 91st Congress. That bill was passed by the Senate on December 8, 1970, but no further action was taken by the House of Representatives due to the adjournment of the 91st Congress.

Information submitted to the committee indicates that on July 29, 1965, Daniel H. Robbins filed a patent application relating to a graphic printer. The application was assigned to the Itek Corp. On June 18, 1968, the Patent Office mailed a "Notice of Allowability" and on July 24, 1968, a formal "Notice of Allowance" was mailed.

Information furnished to the committee further indicates that on December 20, 1968, there was received in the Patent Office a

letter from the Itek Corp. inquiring as to the status of the application. The Patent Office failed to make any reply to this communication. On March 4, 1969, the Patent Office mailed to Itek a notice that the application had become abandoned for failure to pay the issue fee. The Itek Patent Department, without referring to the March 4 notice, again inquired about the status of the patent application in correspondence received by the Patent Office on June 27, 1969. The Patent Office replied on July 29 that the application was abandoned.

On August 4, 1969, Itek filed a petition to revive the abandoned application. The petition was denied by the Patent Office because of the limited authority of the Patent Office to accept late payment of the issue fee. The only statutory authorization for the acceptance of such a late payment is contained in section 151 of title 35 which permits the Commissioner to accept a late payment of the fee only if it is submitted within 6 months from the Notice of Allowance.

Itek's first inquiry concerning the status of the application, to which the Patent Office did not reply, was received slightly less than 5 months after the formal Notice of Allowance was mailed. The committee is satisfied that the Itek Corp. had proper procedures for the processing of mail relating to patent applications and that apparently the Itek Corp. did not receive either the Notice of Allowance or the Notice of Abandonment.

The Department of Commerce has advised the committee that "the abandonment appears to have resulted from a series of unfortunate and regrettable circumstances." The committee has been further advised that as to those circumstances "for which the Patent Office was responsible, appropriate procedures have been instituted to prevent reoccurrence."

As a general rule the committee is opposed to special legislation providing for private relief from the general revisions of the patent law. However, this committee and the Congress have approved such relief when unusual circumstances have been established, such as Private Law 90–211 for the relief of Jack L. Good. In that instance the Congress approved a private bill to authorize the Commissioner of Patents to accept late payment of the issue fee because of the presence of extraordinary circumstances. Likewise, the committee feels that the information submitted in connection with this legislation justifies a special exception to the time limit established by 35 U.S.C. 151.

The Department of Commerce in its report on this legislation states that it has no objection to its enactment.

BILL PASSED OVER

The bill (H.R. 6204) for the relief of John S. Attinello was announced as next in order.

Mr. MANSFIELD. I ask that the bill go over.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

AMENDMENT OF THE TRADEMARK ACT OF 1946

The Senate proceeded to consider the bill (S. 3452) to amend the Trademark Act to extend the time for filing oppositions, to eliminate the requirement for filing reasons of appeal in the Patents Office, and to provide for awarding attorney fees, which had been reported from the Committee on the Judiciary with an amendment on page 2, after line 6, strike out:

So as to make the bill read:

"(2) When an appeal is taken to the United States Court of Customs and Patent Appeals, the appellant shall notify the Commissioner in writing within sixty days or such longer time as the Commissioner appoints.

And, in lieu thereof, insert:

"(2) Such an appeal to the United States Court of Customs and Patent Appeals shall be taken by filing a notice of appeal with the Commissioner, within sixty days after the date of the decision appealed from or such longer time after said date as the Commissioner appoints. The notice of such appeal shall specify the party or parties taking the appeal shall designate the decision or part thereof appealed from, and shall state that the appeal is taken to said court.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 13 of the Trademark Act of 1946 (60 Stat. 427), as amended, is amended by deleting the second sentence and substituting therefor: "Upon written request prior to the expiration of the thirty-day period, the time for filing opposition shall be extended for an additional thirty days, and further extension of time for filing opposition may be granted by the Commissioner for good cause. The Commissioner shall notify the applicant of each extension of the time for filing opposition."

SEC. 2. Section 21 of the Trademark Act of 1946 (60 Stat. 427), as amended, is amended by deleting subsections (2), (3), and (4) from paragraph (a) and substituting therefor:

"(2) Such an appeal to the United States Court of Customs and Patent Appeals shall be taken by filing a notice of appeal with the Commissioner, within sixty days after the date of the decision appealed from or such longer time after said date as the Commissioner appoints. The notice of such appeal shall specify the party or parties taking the appeal, shall designate the decision or part thereof appealed from, and shall state that the appeal is taken to said court.

"(3) The court shall, before hearing such appeal, give notice of the time and place of the hearing to the Commissioner and the parties thereto. The Commissioner shall transmit to the court certified copies of all the necessary original papers and evidence in the case specified by the appellant and any additional papers and evidence specified by the appellee, and in an ex parte case the Commissioner shall furnish the court with a brief explaining the grounds of the decision of the Patent Office, touching all the points involved in the appeal.

"(4) The court shall decide such appeal on the evidence produced before the Patent Office. The court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office and govern further proceedings in the case."

SEC. 3. Section 35 of the Trademark Act of 1946 (60 Stat. 427), as amended, is amended by adding the following sentence at the end thereof: "The court in exceptional cases may award reasonable attorney fees to the prevailing party."

SEC. 4. This Act shall become effective upon enactment but shall not affect any suit, proceeding, or appeal then pending.

The amendment was agreed to.

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

BILLS PASSED OVER

The bills (S. 3598) to strengthen and improve the protections and interests of participants and beneficiaries of employee pension and welfare benefit plans; (S. 2373) to authorize the merger of two or more professional basketball leagues, and for other purposes, were announced in sequence as next in order.

Mr. MANSFIELD. Mr. President, I ask that these two bills go over.

The ACTING PRESIDENT pro tempore. The bills will be passed over.

UNIFORM MOTOR CARRIER STANDARDS ACT

The Senate proceeded to consider the bill (S. 1911) to amend the Interstate Commerce Act to expedite the making of amendments to the uniform standards for evidencing the lawfulness of interstate operations of motor carriers which had been reported from the Committee on Commerce with an amendment on page 2, line 9, after the word "time,", insert "subsequent to promulgation by the Commission,"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Uniform Motor Carrier Standards Act".

SEC. 2. Paragraph (2) of subsection (b) of section 202 of the Interstate Commerce Act, as amended (49 U.S.C. 302(b)(2)), is hereby further amended by striking the period at the end of the second sentence and inserting in lieu thereof the following: ": *Provided*, That any amendments of the standards determined by the national organization of the State commissions and promulgated by the Commission prior to the initial effective date of such standards shall become effective on such initial effective date: *And provided* further, That after the standards become effective initially any amendments thereof subsequently determined by the national organization of the State commissions shall become effective at the time, subsequent to promulgation by the Commission, of promulgation or at such other time as may be determined by such organization.".

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1152), explaining the purposes of the measure.

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

BACKGROUND

Public Law 89–170, approved September 6, 1965, amended section 202(b) of the Interstate Commerce Act (49 U.S.C. 302(b)(2)) to authorize the National Association of Regulatory Utility Commissioners (NARUC)[1] to determine standards, and amendments thereto, evidencing the lawfulness of interstate operations of motor carriers, and to require the Interstate Commerce Commission to promulgate same into law to become effective 5 years from the date of promulgation. Any State laws not in accord with the standards are deemed to be an undue burden on interstate commerce.

[1] The NARUC is a quasi-governmental nonprofit organization founded in 1889. Within its membership are the governmental bodies of the 50 States and of the District of Columbia, Puerto Rico, and the Virgin Islands engaged in the regulation of carriers and utilities.

The NARUC on November 17, 1966, adopted a resolution determining such standards, and the ICC promulgated them into law on December 14, 1966.[2] Accordingly, the standards became effective on December 14, 1971.

The basic purpose of these uniform standards is to assist the States in detecting and prosecuting illegal operations by interstate motor carriers.

PURPOSE AND EXPLANATION OF THE BILL AS PREPARED

S. 1911 was introduced at the request of the NARUC for the purpose of amending Public Law 89–170. S. 1911 is similar to S. 1923 introduced in the 91st Congress at the request of the NARUC.

The NARUC points out that the 5-year delay between adoption and effectiveness applies to both the initial standards and any amendments thereto. It analogizes this with a Federal agency having to wait 5 years before it can amend its regulations.

The NARUC believes that the existing national regulatory program established by the standards cannot function efficiently if the NARUC and the ICC cannot expeditiously make needed amendments to the standards.

S. 1911 proposes to amend Public Law 89–170 to provide that the amendments of the standards which were adopted during the initial 5-year period (December 1966 to December 1971) shall become effective at the end of such period, and that amendments thereafter adopted shall become effective at the time of promulgation or at such other time as may be determined by the NARUC.

Since S. 1911 is merely intended to cure a technical problem in the amendment process authorized by Public Law 89–170, the committee by letter of July 31, 1972, requested the Secretary of Transportation and the ICC to furnish it with any comments they may have on S. 1911 by August 14, 1972.

The ICC, in its comments, pointed out that S. 1911 would provide that amendments to the standards promulgated subsequent to the effective date of the standards themselves would become effective at the time of their promulgation "or such other time as may be determined by such organization" (that is, by NARUC). It is conceivable that this provision could be read as allowing the NARUC to set an effective date prior to the publication of an amendment by the commission, and we suggest that the language just quoted be modified to read "or at such other time, subsequent to promulgation by the Commission, as may be determined by such organization."

With this minor modification, the ICC endorsed S. 1911 and recommended prompt approval by the committee. The NARUC supports the modification. Accordingly the committee adopted the ICC amendment.

The Secretary of Transportation did not respond to the committee's request for comments and accordingly the committee assumes he has no objection to S. 1911.

The motor carrier industry recommends approval of S. 1911.

COSTS

The enactment of this legislation will result in no cost to the Federal Government.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar up to this time.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

[2] Federal Register, Dec. 28, 1966, pp. 16567–16575; 49 C.F.R., secs. 1023.1, et seq. The standards have been amended on three occasions: Federal Register: Dec. 25, 1968, p. 19250; Feb. 4, 1970, p. 2524; and Feb. 24, 1971, pp. 3417–3418.

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

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

EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time for the transaction of routine morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for routine morning business be extended for an additional 3 minutes.

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

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 236. Joint resolution to authorize and request the President to proclaim the week beginning October 15, 1972, as "National Drug Abuse Prevention Week" (Rept. No. 92–1176);

H.R. 9135. An act to amend the act of August 19, 1964, to remove the limitation on the maximum number of members of the board of trustees of the Pacific Tropical Botanical Gardens (Rept. No. 92–1178);

H.J. Res. 135. Joint resolution to authorize the President to issue a proclamation designating the week in November of 1972 which includes Thanksgiving Day as "National Family Week" (Rept. No. 92–1179);

H.J. Res. 1193. Joint resolution to provide for the designation of the week which begins on September 24, 1972, as "National Microfilm Week" (Rept. No. 92–1180);

H.J. Res. 1232. Joint resolution designating, and authorizing the President to proclaim, February 11, 1973, as "National Inventors' Day" (Rept. No. 92–1181); and

S. Con. Res. 90. Concurrent resolution commemorating the 200th anniversary of Dickinson College (Rept. No. 92–1177).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

H.J. Res. 1263. A joint resolution authorizing the President to proclaim October 30, 1972, as "National Sokol U.S.A. Day." (Rept. No. 92–1184).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with an amendment:

H.R. 16029. An act to amend the Foreign Assistance Act of 1961, and for other purposes (Rept. No. 92–1182).

Mr. MAGNUSON, from the Committee on Commerce, with additional amendments:

S. 2567. A bill to facilitate prosecutions for certain crimes and offenses committed aboard aircraft, and for other purposes (Rept. No. 92–1183).

By Mr. MANSFIELD (for Mr. LONG), from the Committee on Commerce, without amendment:

H.R. 10486. An act to make the basic pay of the Master Chief Petty Officer of the Coast Guard comparable to the basic pay of the senior enlisted advisers of the other Armed Forces, and for other purposes (Rept. No. 92–1185); and

H.R. 13697. An act to amend the provisions of title 14, United States Code, relating to the flag officer structure of the Coast Guard, and for other purposes (Rept. No. 92–1186).

By Mr. MANSFIELD (for Mr. LONG) from the Committee on Commerce, with amendments:

H.R. 14891. An act to amend title 14, United States Code, to authorize involuntary active duty for Coast Guard reservists for emergency augmentation of regular forces (Rept. No. 92–1187).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Marion H. Smoak, of South Carolina, Acting Chief of Protocol for the White House, for the rank of Ambassador; and

Christopher Van Hollen, of Virginia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Sri Lanka, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to the Republic of Maldives.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. MANSFIELD (for himself, Mr. AIKEN, Mr. SAXBE, Mr. CHURCH, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. JACKSON, Mr. METCALF, Mr. HART, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. TUNNEY, Mr. BAYH, Mr. RANDOLPH, Mr. INOUYE, Mr. MONTOYA, Mr. COOK, Mr. PASTORE, Mr. MUSKIE, Mr. MAGNUSON, Mr. SPONG, Mr. BROOKE, Mr. CASE, Mr. PEARSON, Mr. BIBLE, Mr. MATHIAS, Mr. HATFIELD, Mr. WILLIAMS, Mr. NELSON, Mr. CHILES, Mr. EASTLAND, Mr. BENTSEN, Mr. ANDERSON, Mr. GRIFFIN, Mr. STAFFORD, Mr. STEVENS, Mr. WEICKER, Mr. EAGLETON, Mr. MONDALE, Mr. STEVENSON, Mr. GAMBRELL, Mr. PROXMIRE, Mr. HUMPHREY, Mr. SYMINGTON, Mr. KENNEDY, Mr. GURNEY, Mr. MCINTYRE, Mr. MCGOVERN, Mr. BEALL, Mr. HARRIS, Mr. PERCY, Mr. BURDICK, Mr. HARTKE, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. SCOTT, Mr. BOGGS, Mr. TOWER, Mr. THURMOND, Mr. BAKER, Mr. ROTH, Mr. PELL, Mr. JAVITS, Mr. PACKWOOD, Mr. CANNON, Mr. MOSS, Mr. HUGHES, Mr. GRAVEL, and Mr. MCGEE):

S. 4001. A bill to amend title II of the Social Security Act to provide for the liberalization and automatic adjustment (in accordance with rising wage levels) of the earnings test, thereunder, which provides for deductions in monthly benefits on account of excess earnings. Referred to the Committee on Finance.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 4002. A bill to establish the Pennsylvania Avenue Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PROXMIRE:

S. 4003. A bill for the relief of the estate of James J. Caldwell. Referred to the Committee on the Judiciary.

By Mr. HARTKE (for himself and Mr. SCOTT):

S. 4004. A bill to prohibit the transportation or shipment within the United States of gas cylinders not inspected in the United States. Referred to the Committee on Commerce.

By Mr. INOUYE:

S. 4005. A bill to designate the Federal office building to be constructed in Albany, N.Y., as the "Leo W. O'Brien Federal Building." Referred to the Committee on Public Works.

By Mr. HARTKE (for himself and Mr. THURMOND):

S. 4006. A bill to amend title 38 of the United States Code increasing income limitations relating to payment of disability and death pension, and dependency and indemnity compensation. Referred to the Committee on Veterans' Affairs.

By Mr. GRIFFIN:

S. 4007. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption for television blackouts of games within the home territory of a club on a day when such club is playing a game at home. Referred to the Committee on the Judiciary.

S. 4008. A bill to amend the Internal Revenue Code of 1954 to provide that in the case of certain corporations net losses from farming shall not be deductible. Referred to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MANSFIELD (for himself, Mr. AIKEN, Mr. SAXBE, Mr. CHURCH, Mr. ROBERT C. BYRD, Mr. CRANSTON, Mr. JACKSON, Mr. METCALF, Mr. HART, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. TUNNEY, Mr. BAYH, Mr. RANDOLPH, Mr. INOUYE, Mr. MONTOYA, Mr. COOK, Mr. PASTORE, Mr. MUSKIE, Mr. MAGNUSON, Mr. SPONG, Mr. BROOKE, Mr. CASE, Mr. PEARSON, Mr. BIBLE, Mr. MATHIAS, Mr. HATFIELD, Mr. WILLIAMS, Mr. NELSON, Mr. CHILES, Mr. EASTLAND, Mr. BENTSEN, Mr. ANDERSON, Mr. GRIFFIN, Mr. STAFFORD, Mr. STEVENS, Mr. WEICKER, Mr. EAGLETON, Mr. MONDALE, Mr. STEVENSON, Mr. GAMBRELL, Mr. PROXMIRE, Mr. HUMPHREY, Mr. SYMINGTON, Mr. KENNEDY, Mr. GURNEY, Mr. MCINTYRE, Mr. MCGOVERN, Mr. BEALL, Mr. HARRIS, Mr. PERCY, Mr. BURDICK, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. HARTKE, Mr. COOPER, Mr. DOLE, Mr. YOUNG, Mr. SCOTT, Mr. BOGGS, Mr. TOWER, Mr. THURMOND, Mr. BAKER, Mr. ROTH, Mr. PELL, Mr. JAVITS, Mr. PACKWOOD, Mr. CANNON, Mr. MOSS, Mr. HUGHES, Mr. GRAVEL, and Mr. MCGEE):

S. 4001. A bill to amend title II of the Social Security Act to provide for the liberalization and automatic adjustment in accordance with rising wage levels—of the earnings test thereunder, which provides for deductions in monthly benefits on account of excess earnings. Referred to the Committee on Finance.

Mr. MANSFIELD. Mr. President, for some time the distinguished senior Senator from Vermont, the ranking Member in this body, and I have discussed at breakfast the plight of our older citizens on social security. As a result of these conversations, and on behalf of the distinguished senior Senator from Vermont (Mr. AIKEN) and myself, we introduce a bill that seeks to provide greater equity for older Americans whose subsistence is tied primarily to social security.

It does so in two major ways: First, it increases from $1,680 to $3,000 the outside income a social security pensioner is entitled to receive without penalty.

The second main feature would reduce the amount by which the pensioner would be penalized should his outside earnings exceed the exemption.

The total effect of this bill, Mr. President, is to bring greater relief to senior citizens—or at least to those of them who happen to be subject to the social security laws. It is in line with past efforts of the Congress to grant more equitable treatment to older Americans.

In this regard, the Senate will recall that it was the Congress, on its own initiative, that granted a full 20-percent increase in benefits to social security pensioners this year.

We therefore offer the bill in keeping with this outstanding record. All options will be reserved with respect to this matter in seeking to assure, if possible, that it becomes law before this Congress adjourns.

Mr. AIKEN. The proposal just made by the Senator from Montana, the majority leader, is long overdue. It is not right to keep people living at the poverty level or less, simply because they are entitled to social security.

I am more than glad to be a cosponsor of this proposal.

Mr. MANSFIELD. I thank the distinguished Senator from Vermont.

The ACTING PRESIDENT pro tempore. Does the distinguished acting Republican minority leader desire recognition?

Mr. SAXBE. At this time, Mr. President, I just would like to comment upon this effort, because it is one that is well taken at this time. It points up the grinding effect of inflation upon these people who presumed and thought they received a promise that they were buying an insurance policy. It was never intended that social security would be considered as Government support or welfare.

It was contemplated in the past, in the 1930's, that this was an actuarial system whereby they would buy protection in the form of an insurance policy. As we have advanced through the increases in the percentage of deduction of payrolls, we have reached the point, I believe, at 10 percent, where it is impractical, even impossible, to take from a workingman's salary more than 10 percent of his pay to support something which he will get in maybe 40 years, and which may be worthless, as the 1930 plan is today.

Therefore, I hope we can get away from this fiction that social security payments are actuarial and realize it is an obligation of our Government to support those people who have contributed through their lifetime to a working economy.

I think that it is long overdue, and I believe that in time it will extend to railroad retirement and to all other railroad retirement programs that are being wrecked by runaway inflation.

Mr. MANSFIELD. Will the Senator yield?

Mr. SAXBE. Yes.

Mr. MANSFIELD. The Senator has made a point which I believe cannot be emphasized too much; that is, these people have contributed to their retirement, so they have earned their way into retirement, but their dollars become of less value with the passage of time. That is a natural thing, regardless of the administration in power, and they are well under, most of them, if not all of them, the so-called poverty level as far as income is concerned.

This is one way in which a rectification can be achieved, and I am delighted that the distinguished Senator from Ohio has joined the distinguished Senator from Vermont and me in giving support to this proposal.

Mr. SAXBE. If I would be permitted, Mr. President, I would like to be a cosponsor of this bill.

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

Mr. CHURCH. Mr. President, I want to commend the senior Senator from Vermont and the Senator from Ohio for their sponsorship of the bill introduced by the Senator from Montana.

I ask unanimous consent that I may be joined as a cosponsor of the measure.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished assistant majority leader (Mr. ROBERT C. BYRD) also be listed as a cosponsor.

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

Mr. MANSFIELD. Mr. Cranston also.

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

Mr. MANSFIELD. Mr. President, I also ask unanimous consent that the distinguished Senator from Connecticut (Mr. RIBICOFF) be added as a cosponsor.

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

Mr. ROBERT C. BYRD. Mr. President, I am pleased to join with the distinguished majority leader (Mr. MANSFIELD) and the distinguished senior Senator from Vermont (Mr. AIKEN) in cosponsoring a bill that would make more realistic the limitations placed on outside income received by social security recipients.

At present, a social security pensioner can have an outside income of $1,680—anything more than that will result in a proportionate reduction of his social security benefits. The bill that is being introduced today raises to $3,000 the amount of outside income a pensioner can have before he or she is penalized by a reduction in benefits. It would also reduce the penalties for persons whose outside incomes exceed the $3,000 limit.

Congress is acutely aware of the burden that social security pensioners have had to bear over the past several years. Inflation has hit hardest at these fixed-

income citizens, making their social security benefits less than subsistence-level in many cases and driving many of our older citizens below the poverty line. Earlier this year, Congress expressed its awareness in a positive manner by granting an across-the-board 20-percent increase in social security benefits.

The bill will complement the earlier benefit increase. It is a further step toward providing equity for older Americans, granting them greater independence to supplement their retirement incomes and better enabling them to fight the spiraling inflation.

I am hopeful that Congress will continue its outstanding accord with regard to our Nation's social security recipients, and will take steps to assure that this bill is enacted into law before adjournment.

By Mr. JACKSON (for himself and Mr. ALLOTT) (by request):

S. 4002. A bill to establish the Pennsylvania Avenue Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, on behalf of the ranking minority member of the Committee on Interior and Insular Affairs (Mr. ALLOTT) and myself, I send to the desk for appropriate reference a bill to establish the Pennsylvania Avenue Development Corporation, to provide for the preparation and carrying out of a development plan for certain areas between the White House and the Capitol, to further the purposes for which the Pennsylvania Avenue National Historic Site was designated, and for other purposes.

This legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the draft proposal be printed in the RECORD at this point in my remarks.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., September 18, 1972.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As a cosponsor of S. 715, the initial Administration proposal to establish a Federal City Bicentennial Development Corporation, you are no doubt aware that a similar bill, H.R. 10751, has been ordered reported by the House Committee on Interior and Insular Affairs and that a Senate hearing has been scheduled by Chairman Bible for September 21.

While the House bill is similar to S. 715 and incorporates language subsequently recommended by the Administration, it contains a few provisions which should be strengthened. Accordingly, there is enclosed a clean draft bill which represents the Administration position in every particular, and we request that it be introduced prior to the hearing this week.

Your assistance will facilitate Senate consideration of a bill which need not be amended and would thus enhance the prospect of favorable action by this Congress. Please do not hesitate to advise if we can be of service to you in this matter.

Sincerely yours,

DOUGLAS P. WHEELER,
Assistant Legislative Counsel.

By Mr. HARTKE (for himself and Mr. SCOTT):

S. 4004. A bill to prohibit the transportation or shipment within the United States of gas cylinders not inspected in the United States. Referred to the Committee on Commerce.

Mr. HARTKE. Mr. President, for myself and the Senator from Pennsylvania (Mr. SCOTT), I introduce a bill to amend chapter 26 of title 49 of the United States Code. This legislation is designed to prohibit the Secretary of Transportation from promulgating any regulations which would permit the transportation of compressed gas cylinders within the United States which have not been inspected within the United States.

The regulations of the Department of Transportation presently provide that compressed gas cylinders may not be offered for transportation in domestic traffic unless they have been made in accordance with the applicable DOT specification and unless the tests required by such specification were made in this country. Compressed gas cylinders are used to transport and store various gases such as carbon dioxide, helium, oxygen, argon, and nitrogen for industrial and medical purposes.

The cylinders are for the most part quite large and the gases they hold are oftentimes highly flammable, explosive, toxic, or corrosive. Due to the nature of the cylinder contents and the extremely high pressures under which the gases are stored and transported in the cylinders—sometimes exceeding 2,600 pounds per square inch—exceptionally high quality standards are necessary to assure safety.

On January 19, 1971, the Hazardous Materials Regulations Board of the Department of Transportation, in a notice published in the Federal Register, stated that it was considering whether it was necessary to continue to require that the tests be performed in the United States. The Board made clear that the motivation for this possible change in safety requirements was not safety but "the desire to import foreign-made cylinders for industrial and medical gas service and the future difficulties which will evolve from passive restraint systems being incorporated into foreign manufactured automobiles."

I do not believe that the suggested changes should be made. On the contrary I believe that unless a positive showing can be made that the safety of American workers and consumers will not be endangered by the suggested changes in the regulations, the Department of Transportation must continue to require that these tests be performed within the United States. My review of the record before the Hazardous Materials Regulations Board convinces me that there has been no showing that safety will be enhanced or even preserved by this action. Rather, the proposed action would be a step away from safety and would create risks to which the American worker and consumer should not be exposed.

Accordingly, it is my hope that hearings on this legislation will be held as soon as possible. At such hearings DOT representatives would have the opportunity to present evidence which would establish that safety will not be diminished if the regulations are changed as suggested. I would also hope that DOT would stay any action on the proposal until the hearings are completed and a report is submitted.

The American cylinder manufacturing industry has established an unequaled safety record, but this record could be jeopardized if the proposals of DOT on this subject are adopted. There can be no doubt that the proposals do not enhance safety. In fact, there is a serious possibility that, if adopted, they would have exactly the opposite effect.

In this period of our history where concern is being expressed by the Congress for workers' health and safety and for consumer protection, it seems strange and very inconsistent for DOT to propose action, not on the basis of safety which is its only jurisdictional basis for action in this area, but on the basis of trade considerations.

Accordingly, I will call for hearings on this legislation as soon as possible.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

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

S. 4004

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That chapter 26, title 49 of the United States Code is amended by inserting the following new section:

"SEC. 1736. (a) As used in this section, the terms—

(1) "person" shall mean an individual, corporation, partnership, association, joint stock company, business trust, or unincorporated organization.

(2) "compressed gas cylinders" shall mean any cointainer holding any gas under a pressure greater than 100 pounds per square inch at 130 degrees Fahrenheit.

(b) In promulgating rules regulating the safe transportation within the United States of compressed gas cylinders, the Secretary shall not permit any person engaged in interstate commerce to receive for transportation or shipment, or to transport or ship within the United States any such cylinders which have not been inspected within the United States.

(c) Any person who knowingly transports or ships, or causes to be transported or shipped a container for compressed gas in violation of this section and the regulations promulgated thereunder shall be subject to a fine of not more than $1,000 and/or imprisonment for not more than one year.

By Mr. INOUYE:

S. 4005. A bill to designate the Federal office building to be constructed in Albany, N.Y., as the "Leo W. O'Brien Federal Building." Referred to the Committee on Public Works.

Mr. INOUYE. Mr. President, I have to-

day introduced a bill to designate the Federal office building to be constructed in Albany, N.Y., as the "Leo W. O'Brien Federal Building."

There may be those who wonder why a Senator from the State of Hawaii would introduce such a measure applicable only to the State of New York and I want to explain that matter. Leo W. O'Brien is not only a personal friend but he is a friend of Hawaii. As a Member of the House of Representatives from 1952 to 1967 he served as chairman of the Territorial and Insular Affairs Subcommittee of the House Interior and Insular Affairs Committee. In that capacity he managed the Hawaii Statehood Act. He also managed the Alaska statehood provision and was, I believe, the only Member to manage two statehood acts.

As a result we in Hawaii owe him a great debt of gratitude. Our statehood is a monument to his service in the Congress. Even without statehood, we in Hawaii knew that as long as we had Leo W. O'Brien as the chairman of that subcommittee our pleas would be heard.

It is because of that relationship, which was further strengthened when I was elected as the first Member of Congress from the new State of Hawaii, that I rise today to introduce this measure. Naming this new Federal building in honor of Leo W. O'Brien is a most deserved tribute to a man who served the people of that region of New York, as well as the people of my State, most ably and effectively for so many years. I hope that my colleagues will give this measure their support.

By Mr. HARTKE (for himself and Mr. THURMOND):

S. 4006. A bill to amend title 38 of the United States Code increasing income limitations relating to payment of disability and death pension, and dependency and indemnity compensation. Referred to the Committee on Veterans' Affairs.

VETERANS' PENSIONS

Mr. HARTKE. Mr. President, today I introduce legislation to protect and increase veterans' pensions. I am happy to be joined in this bipartisan effort by the ranking minority member of the committee, the distinguished senior Senator from South Carolina (Mr. THURMOND). This bill provides for a $400 increase in maximum annual income limitations. Enactment of this legislation together with the new formula system adopted by the Committee on Veterans' Affairs and enacted into Public Law 92–198 last December will mean, according to figures supplied by the Veterans' Administration, that almost no persons will go off the pension rolls solely because of the recent 20-percent increase in social security benefits. Those continuing to receive pensions will enjoy the major fruits of those social security increases as well as suffer no loss in aggregate income. Hearings before the Subcommittee on Compensation and Pensions on September 12 established, I believe, the need to act promptly to protect the pensions of our Nation's veterans. If we do not act, 1.5 million pensioners will be faced with reductions in their pensions. Another 20,000 are scheduled to drop from the pension rolls altogether. Thus, in line with the recommendations made by the Veterans of World War I who testified 1 week ago today, the maximum annual income limitations have been increased by $400. This means that a single pensioner may have up to $3,000 outside "countable" yearly income and still receive a pension. A pensioner with a dependent may receive up to $4,200 annually. Of course, in determining "countable" annual income, current pension law now contains approximately 18 exclusions including 10 percent of all social security or other retirement or annuity payments, expenditures for usual medical expenses and unearned income of a wife of a veteran of up to $1,200 annually.

Individuals receiving old law pensions under section 9(b) of the Veterans' Pension Act of 1959 will also be protected with identical $400 increase in the maximum annual income limitations.

Under the formula system adopted last year a maximum monthly rate of pension is specified for each group of beneficiaries within designated annual income categories. An individual's particular rate is computed by reducing the maximum by a specified number of cents for each dollar for which the maximum annual income limitations for the particular group is exceeded.

The bill will also provide for an identical $400 increase in the maximum annual income limitations for the nearly 70,000 dependent parents who because of their low income are entitled to receive disability indemnity compensation.

This bill would take effect on January 1, 1973, the date on which a veteran's annual income is determined and his pension is subject to recalculation. It is on this date that the recent 20-percent increase in social security benefits would affect a veteran's pension. Enactment of this bill will significantly lessen the impact.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the RECORD at this point.

There being no objection the bill was ordered printed, as follows:

S. 4006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $700 or less, the monthly rate of pension shall be $130. For each $1 of annual income in excess of $700 up to and including $1,100, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,100 up to and including $1,600, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,600 up to and including $2,000, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $2,000 up to and including $2,500, the monthly rate shall be reduced 6 cents; and for each $1 of annual income in excess of $2,500 up to and including $3,000, the monthly rate shall be reduced 7 cents. No pension shall be paid if annual income exceeds $3,000."

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $900 or less, the monthly rate of pension shall be $140 for a veteran and one dependent, $145 for a veteran and two dependents, and $150 for three or more dependents. For each $1 of annual income in excess of $900 up to and including $1,300, the particular monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $1,300 up to and including $3,400, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $3,400 up to and including $4,200, the monthly rate shall be reduced 5 cents. No pension shall be paid if annual income exceeds $4,200."

(c) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $700 or less, the monthly rate of pension shall be $87. For each $1 of annual income in excess of $700 up to and including $1,000, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,000 up to and including $2,100, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $2,100 up to and including $3,000, the monthly rate shall be reduced 4 cents. No pension shall be paid if annual income exceeds $3,000."

(d) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and one child, pension shall be paid according to the following formula: If annual income is $600 or less, the monthly rate of pension shall be $104. For each $1 of annual income in excess of $600 up to and including $2,000, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $2,000 up to and including $3,400, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $3,400 up to and including $4,200, the monthly rate shall be reduced 3 cents. Whenever the monthly rate payable to the widow under the foregoing formula is less than the amount which would be payable to the child under section 542 of this title if the widow were not entitled, the widow will be paid at the child's rate. No pension shall be paid if the annual income exceeds $4,200."

SEC. 2. Section 4 of Public Law 90–275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,600 and $3,000 respectively."

SEC. 3. (a) Subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to him according to the following formula: If annual income is $1,200 or less the monthly rate of dependency and indemnity compensation shall be $100. For each $1 of annual income in excess of $1,200 up to and including $1,700, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,700 up to and including $2,200, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $2,200 up to and including $2,600, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,600 up to and including $3,000, the monthly rate shall be reduced 7 cents. No dependency and indemnity compensation shall be paid if annual income exceeds $3,000.

"(2) If there is only one parent and he has remarried and is living with his spouse, dependency and indemnity compensation

shall be paid to him under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and his spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula."

(b) Subsection (c) of such section 415 is amended to read as follows:

"(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each according to the following formula: If the annual income of each parent is $1,200 or less, the monthly rate of dependency and indemnity payable to each shall be $70. For each $1 of annual income in excess of $1,200 up to and including $1,700, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $1,700 up to and including $2,400, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $2,400 up to and including $3,000, the monthly rate shall be reduced 4 cents. No dependency and indemnity compensation shall be paid to a parent whose annual income exceeds $3,000."

(c) Subsection (d) of such section 415 is amended to read as follows:

"(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula: If the total combined annual income is $1,400 or less, the monthly rate of dependency and indemnity compensation payable to each parent shall be $67. For each $1 of annual income in excess of $1,400 up to and including $2,100, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $2,100 up to and including $3,600, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $3,600 up to and including $4,200, the monthly rate shall be reduced 3 cents. No dependency and indemnity compensation shall be paid to either parent if the total combined annual income exceeds $4,200."

SEC. 4. This Act shall take effect on January 1, 1973.

By Mr. GRIFFIN:

S. 4007. A bill to amend the act providing an exemption from the antitrust laws with respect to agreements between persons engaging in certain professional sports for the purpose of certain television contracts in order to terminate such exemption for television blackouts of games within the home territory of a club on the day when such club is playing a game at home. Referred to the Committee on the Judiciary.

TV BLACKOUTS OF PROFESSIONAL FOOTBALL GAMES

Mr. GRIFFIN. Mr. President, today I am introducing a bill to repeal the antitrust exemption which now makes it possible for the professional football leagues to impose a TV blackout on home football games, even in situations when all tickets to such a game are already sold in advance.

The legislation would apply also to professional baseball, hockey, and basketball, although TV blackouts are not as serious a problem in those sports.

There is no longer any justification for granting blanket immunity from the antitrust laws so that professional football may prohibit the local telecasting of all home games. In 1953, a Federal district court ruled that home game blackouts of professional football games did not violate the antitrust laws, *United States v. National Football League*, 116 F. Supp. 319 (1953). Subsequently, in 1961 Congress provided by law that TV blackouts of both outside and home games broadcast into the home territory of a team would be exempt from antitrust action.

The argument expressed in the 1953 decision that certain TV blackouts were absolutely essential to the survival of the National Football League has no substance today. Since 1961 attendance in the NFL has doubled and most regular season games as well as exhibition games are sellouts or near sellouts.

In 1971 total season ticket sales for all clubs in the American Football Conference accounted for 66 percent of total stadium capacity and in the National Football Conference for 74 percent of total stadium capacity. Thus, there is not only an assured market for the owners but at the same time there is little opportunity for the average fan to purchase tickets for individual games.

The situation in professional football is somewhat different than it is in other sports. Not only is fan interest in pro football widespread but the limited number of regular season games places a premium on both tickets and the availability of home viewing. Football is the only professional sport to receive regional and nationwide telecasting for practically all games, including exhibition and postseason contests. This demand coupled with the scarity of tickets in most league cities underscores the urgency for review of congressional policy toward television blackouts.

In Washington, D.C., for instance, all exhibition and home games of the Washington Redskins are sold out to season ticketholders and there is a long waiting list for these tickets. Thus in Washington, home viewing is the only way that most fans will ever get an opportunity to see a local Redskins game.

In other professional sports such as basketball and baseball the problem with television blackouts is not nearly so acute. In both of these sports there is a much greater opportunity for fans to attend home games. Many of the games are not televised at all.

In professional hockey where there perhaps is even a higher number of sellouts than in pro football and large numbers of season ticketholders, the National Hockey League and individual club owners have shown some flexibility toward the televising of home games. For instance the Boston Bruins televise a substantial number of home games in the Boston area. In recent years a number of the nationally televised NHL games have not been blacked out in the home territory of one of the teams involved, particularly where fan interest in that city is very high. Also, most of the Stanley Cup playoff games are not blacked out locally.

Mr. President, the absence of blackouts for such major sports events such as the World Series, the Rose Bowl, the Kentucky Derby has not lessened the interest of avid fans in attending these sports events. Unfortunately, this public interest policy has yet to be extended to the Super Bowl—a decision which has roused substantial opposition in cities such as Miami, New Orleans, and Los Angeles.

Mr. President, it is very clear to me that the inflexibility of the National Football League on the question of television blackouts should no longer be encouraged through the congressional grant of antitrust immunity. By taking away this legislative immunity, as I am proposing, TV blackouts will not automatically be eliminated. It does mean that the National Football League will no longer have the freedom to determine unilaterally when and over what area blackouts will be imposed. Individual clubs would still be able to control televising their home games if such controls are reasonable and in the public interest.

Removal of the antitrust exemption should open the door to close scrutiny of the longstanding league rules that the home territory of a team is defined as a 75-mile radius from the exterior limits of the home city. This rule has been in existence for over 20 years and its wide-sweeping scope may not be justified in many cities today.

Furthermore, the 75-mile rule has the effect of prohibiting home viewing of games even beyond the 75-mile radius. The televising of home games by stations beyond the 75-mile radius whose signals can be received within that radius is also prohibited. In the case of the Detroit Lions, for instance, not only are there three local Detroit stations which are blacked out when the Lions are playing at home, there are also six network stations outside Detroit which do not carry the games because of the blackout rule. There are two stations in Lansing; three in Toledo, and one in Flint.

Mr. President, I believe the legislation I am proposing is reasonable and does not endanger the financial security of the National Football League or its individual clubs. Passing my legislation would encourage the National Football League to experiment as the National Hockey League has done. Perhaps a few home games could be televised locally or the definition of home territory could be narrowed.

It should be pointed out that in instances where the National Football League has modified its policy toward blackouts the result has not been disasterous. The antitrust exemption enacted in 1961 authorized the blackout not only of home games but also of outside games broadcast into the home territory of a team playing at home. In 1966 the NFL voluntarily removed the ban on the broadcasting of outside games, and in lieu of the fact that in 1971 over 95 percent of all seats in the NFL were sold, it is apparent that no harm has been done.

Mr. President, it is my hope that prompt consideration will be given this proposal by Congress so that millions of football fans will get a better shake.

By Mr. GRIFFIN:

S. 4008. A bill to amend the Internal Revenue Code of 1954 to provide that in

the case of certain corporations net losses from farming shall not be deductible. Referred to the Committee on Finance.

CLOSING A TAX LOOPHOLE THAT THREATENS SMALL FARMERS

Mr. GRIFFIN. Mr. President, today I am introducing a bill (S. 4008) to close a tax loophole that now gives some large corporations an unfair advantage over small family farmers.

At present, most business losses are deductible for Federal income tax purposes. Some of the corporate conglomerates capitalize on this by operating agricultural businesses at a loss in order to offset income from other profitable nonagricultural activities. This "tax-loss farming" by some corporations means unfair competition for the family farmer and it means a loss of revenue for our Government.

Farming activity represents the sole source of income for most small farmers. It is their very means of survival. The risks are great. Adverse weather conditions, crop disease, and market conditions are just a few of many factors that can spell financial disaster for the small family farmer.

Losses from farming activities do not, however, necessarily have a serious impact on conglomerates. These large corporations can use farm losses to reduce their Federal income tax liability by offsetting them against profits from other profitmaking activities.

Use of the consolidated return makes this possible. Profits and losses from various operations are combined on a single balance sheet.

Since it is advantageous at times for a corporation to have offsetting losses, there could be an incentive for a corporation to undersell the market with respect to its farming operations. Sales at a loss disrupt the market and create unfair competition for legitimate farmers. Such disruptive price competition could eventually eliminate the small family farmer. This trend would, of course result in a greater concentration of corporations in the farm industry.

Under the legislation I am introducing, a corporation would not be allowed to offset a farming loss except to the extent that income is actually derived from farming activity.

In recent years, a number of family-operated farms have elected the corporate form for their business operations. Family farms would still have that option under my legislation. The bill would simply preclude corporations from using farming activities as a tax dodge to reduce Federal taxes due on the profits from other nonfarming activities. Farm corporations that do not have nonfarm income would not be affected by the legislation.

According to the most recent Internal Revenue Service figures, 8,696 of the 20,468 corporations engaged in farming in 1969 reported deficits on their farming operations. These corporations claimed losses of $221,987,000 for 1969.

We must close this glaring tax loophole and eliminate the unfair competition resulting from tax-loss farming by large corporations.

Mr. President, I urge the Senate to take prompt and favorable action on this important legislation.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 4008

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items not deductible) is amended by adding at the end thereof the following section:

"SEC. 280. LIMITATIONS ON DEDUCTIONS ATTRIBUTABLE TO FARMING BY CERTAIN CORPORATIONS.

"(a) GENERAL RULE.—In the case of any corporation engaged in the business of farming, the deductions attributable to such business which, but for this section, would be allowable under this chapter for the taxable year shall be allowed only to the extent of the amount of gross income derived from the business of farming for the taxable year.

"(c) ALLOCATION OF INCOME AND DEDUCTIONS.—The Secretary or his delegate may prescribe such regulations for the distribution, apportionment, or allocation of income and deductions between the business of farming and any other trade or business carried on by a corporation as may be necessary to carry out the purposes of this section.

"(d) SUBCHAPTER S CORPORATIONS.—Nothing in this section shall apply to any electing small business corporation (within the meaning of section 1371(b)).

"(e) BUSINESS OF FARMING.—As used in this section, the term 'business of farming' has the same meaning as when used in section 182."

(b) The table of sections of part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280. Limitation on deductions attributable to farming by certain corporations."

SEC. 2. Section 172(1) of the Internal Revenue Code of 1954 (relating to cross reference with respect to net operating loss deduction) is amended by adding at the end thereof the following new paragraph:

"(3) For limitation on deductions attributable to farming by certain corporations, see section 280."

SEC. 3. The amendments made by this Act shall apply only to taxable years beginning after the date of the enactment of this Act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 718

At the request of Mr. ROTH, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Florida (Mr. GURNEY), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of S. 718, a bill to create a catalog of Federal assistance programs.

S. 1947

At the request of Mr. MUSKIE, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 1947, a bill to prohibit trading in Irish potato futures on commodity exchanges.

S. 3785

At the request of Mr. MATHIAS, the Senator from Alaska (Mr. GRAVEL) and the Senator from New York (Mr. JAVITS) were added as cosponsors of S. 3785, a bill to promote the development of American arts and handcrafts.

S. 3885 AND S. 3886

At the request of Mr. ROBERT C. BYRD (for Mr. BURDICK) the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 3885, a bill to amend section 345(a) of title 5, United States Code, to provide guaranteed annuity benefits equal to the minimum primary insurance amount authorized under section 3215(a) of the Social Security Act, as amended; and S. 3886, a bill to provide increases in certain civil service retirement annuities.

S. 3958

At the request of Mr. ROBERT C. BYRD (for Mr. JACKSON) the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 3958, a bill to amend the Wild and Scenic Rivers Act.

S.J. RES. 265

At the request of Mr. HUMPHREY, the Senator from Florida (Mr. CHILES), the Senator from Oregon (Mr. HATFIELD), and the Senator from Arkansas (Mr. FULBRIGHT) were added as cosponsors of Senate Joint Resolution 265, a joint resolution to provide grants for ALLEN J. ELLENDER fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program.

SENATE CONCURRENT RESOLUTION 97—SUBMISSION OF A CONCURRENT RESOLUTION IN BEHALF OF PRISONERS OF WAR AND MISSING IN ACTION

(Referred to the Committee on Foreign Relations.)

Mr. THURMOND submitted the following concurrent resolution:

S. CON. RES. 97

Whereas the purpose of the Geneva Convention of August 12, 1949, was to prescribe rules for the humane treatment of prisoners of war;

Whereas the Government of North Vietnam, having adhered to that convention on June 28, 1957, is one of the one hundred and thirty-one parties to that convention;

Whereas the Government of North Vietnam has failed to honor its commitment as a signatory nation of the Geneva Convention;

Whereas the Geneva Convention states, contrary to the view of the Government of North Vietnam, that the convention applies to "any other armed conflict which may arise between two or more of the high contracting parties, even if the state of war is not recognized by one of them";

Whereas the International Conference of the Red Cross adopted without dissent and with the support of one hundred and fourteen nations, a resolution calling upon the parties of the Vietnam conflict to abide by the Geneva Convention with respect to the humane treatment of prisoners of war;

Whereas prisoners taken by the United States in Vietnam are identified and accorded humane treatment, including adequate shelter, clothing, food, exercise, and medical care, and released if sick or wounded, all of which actions have been verified by international inspections;

Whereas the Geneva Convention requires the Government of North Vietnam to:

(1) identify all prisoners of war;

(2) exercise humanitarian treatment;

(3) release sick and wounded prisoners;

(4) protect prisoners from public abuse;

(5) permit inspection of prisoners and quarters by a neutral party;

(6) allow the flow of letters and packages;

Whereas the United States is complying with the above provisions of the Geneva Convention: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is hereby declared to be the sense of the Congress that all parties to the Geneva Convention should join with the United States in exercising every appropriate action to cause the Government of North Vietnam to abide by the provisions of the Geneva Convention, and to agree to an arrangement for the rapid exchange of all prisoners of war.

SEC. 2. The Congress requests and urges the President to transmit a copy of this resolution to the heads of governments of all signatory nations of the Geneva Convention and to the Secretary General of the United Nations.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENT

AMENDMENT NO. 1550

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

PRESERVATION AND PROMOTION OF RESOURCES OF THE CONNECTICUT RIVER VALLEY—AMENDMENT

AMENDMENT NO. 1551

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. KENNEDY. Mr. President, I am submitting today amendments to the legislation I introduced on June 18, 1971, to establish the Mount Holyoke unit of the Connecticut Historic Riverway. These amendments reflect changes suggested by the National Park Service and approved by the Citizens Advisory Committee. There is no citizen group which has worked harder, more diligently, or more effectively than this Citizens Advisory Committee. It has been a long and difficult time for them pursuing the goals to protect and preserve this beautiful area. They have traveled to Washington to meet with representatives of the Department of Interior and the National Park Service. They have worked closely with the congressional staffs. They have had meetings, discussions, field trips—all in an effort to write the best possible legislation to protect this unique area. These amendments I offer today are the product of this effort. Congressman EDWARD BOLAND is offering identical amendments in the House. Senator EDWARD W. BROOKE is a cosponsor of the legislation which not only has wide support from elected officials, but broad-based citizen support as well.

Legislation introduced by Senator ABRAHAM RIBICOFF to protect the Gateway unit of the Connecticut Historic Riverway has passed the Senate and awaits action in the House. I am hopeful that the Senate will have an opportunity to act on the Mount Holyoke unit located in Massachusetts early next Congress.

This legislation is designed to leave untouched the most valuable farmlands which have been worked for over 300 years; to develop for recreational purposes those areas with the greatest potential for camping, fishing, hunting, boating, swimming, and hiking; and to preserve and restore the great natural wonders of the river, the land, the forests, and the fresh air.

The Mount Holyoke unit comprises approximately 12,000 acres on the east side of the Connecticut River, north of Springfield. The river flows between the Mount Holyoke Range and the Mount Tom Range. This unit of the historic riverway embraces the bulk of the Mount Holyoke Range. For 2 years field teams, planning agencies, local officials, and private citizens collected data and worked together on the New England heritage report. Since publication of that report, another 2 years have gone into study and refining the specific proposals put before the local communities.

The Mount Holyoke unit would include three classifications of land areas:

First, public use and development zone—land may be acquired by donation, purchase, transfer, or condemnation, but in no event can more than 1,500 acres be acquired by condemnation;

Second, preservation and conservation zone—which will be maintained in its natural state with only the development of trails; and

Third, private use and development zone—land within this zone shall be limited to noncommercial, residential development except for business already in existence.

Mr. President, I ask unanimous consent that an article depicting the history of this area and the development of this legislation be printed in the RECORD.

It is clear that the citizens have done their work. And the pressures of time and development require that the Congress act soon to assist these residents. The Park Service is to be congratulated not only for the fine work they have done on the planning for the area, but their spirit of cooperation in fostering real participation in the planning process by the citizens of western Massachusetts. It is my hope that with these final refining amendments the proposal will be acted on favorably by the Senate.

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

CONNECTICUT RIVER, MOUNT HOLYOKE UNIT

With the realization that the United States no longer has frontiers to explore and exploit, has come a change in emphasis in the National Park System. No longer are parks sought solely in remote western areas of the public domain. The Smoky Mountain National Park in the 1930s was a prelude to the new trend. There, developed farm lands were incorporated into a preservation of the 19th and early 20th Century American scene, as anyone who has visited Cades Cove will remember. The pressures of population in the 1970s make more urgent a present attempt to incorporate into a national park a unique segment of New England, portions of the Connecticut River Valley. Four hundred miles long, this greatest river of the northeast meanders through areas of unusual scenic, ecological, scientific and historic value for citizens of today and for future generations.

U.S. Senate Bill 318, Amendment 199 introduced on 18 June 1971 by Senator Edward M. Kennedy of Massachusetts and H.R. 9273 by Rep. Edward P. Boland on 21 June 1971 propose that ultimately the borders of the entire Connecticut River become a long green belt, including the first tier of towns on either bank. But more specifically and immediately, the people of Massachusetts now have the opportunity to support the establishment of the 12,400-acre Mount Holyoke Unit of the Connecticut River Historic Riverway. It will attempt to preserve for posterity the essential qualities of the New England heritage in this section of the Valley where the ten-mile-long Mount Holyoke Range meets the Connecticut River. Beyond the river to the west lies the Mount Tom Range, a state reservation, and the Ox Bow of the river which borders Arcadia Sanctuary of Massachusetts Audubon.

The Mount Tom-Mount Holyoke Range runs from east to west and then turns south. Rising from the flood plain of the river this range offers some of the most spectacular views to be found in the Comomnwealth. The Connecticut River meanders below and has created a fertile agricultural region. The river has cut and abandoned many channels which now stand out as ox-bow lakes, varying the scenery and providing opportunities for water-based recreation.

The east-west orientation of the range is unusual and has interesting effects on the vegetative cover. The southern slopes are more exposed to the sun and support a forest which is adapted to dry, hot conditions, while the north facing slopes receive less sunshine and support a conspicuously different forest which is more characteristic of Canada.

In the fall southward migrating hawks encounter this range and ride the updrafts which the hills create. The hawks soar to the west and south funneling closer and closer into groups called 'kettles'. Spectacular aggregations of hawks attract hundreds of viewers to the range in the middle of September.

The rugged terrain has kept the intrusion of man to a minimum, maintaining a large block of wild land on which turkeys could be found until the middle of the last century. Bobcats roam the range and the copperhead and timber rattlesnakes still live in more remote areas. Barred owl calls echo from the cliffs and raccoons have age-old dens among the fallen boulders.

The view from the range is one of the more varied and satisfying to be found in New England, reflecting historical and natural influences on man's habitation. The drumlins of Amherst are covered with orchards and the great Lawrence Swamp has been protected as a town conservation area. Hadley's rich flood plain agricultural area produces onions, asparagus and truck crops. The Meadows of Northampton display a quiltwork that follows the contours of former river channels. South Hadley is the location of Mount Holyoke College rising from its lush suburban setting and Granby fits the pattern of the typical New England town.

On clear days vistas stretch away to Mount Wachusett in the east, Mount Monadnock in the northeast, Mount Greylock in the northwest and the Meriden Hills to the south.

How this new park proposal came about is a story in itself. About a year ago a public hearing was held in the high school at South Hadley, Mass. Before the people of the area was the proposal for the Mount Holyoke Unit of the Connecticut River National Recreation Area, with a visitor impact of 16,000 people per day per 100 days of summer. Extensive camp sites on the mountain range and an inner circular road at the base of the mountain had been drawn up, and numerous picnic areas and riverfront activities were included. It was clear from the legislation at that time that the Secretary of the Interior could acquire by land-taking up to the 12,000 acres, or the entire proposed park. The response of the citizens of the four affected towns was fully acknowledged by the public officials present at the hearing. The Park Service was chastized for an over-ambitious plan. The senators presiding (Alan Bible, D.-Nevada Chairman of Parks and Insular Affairs Subcommittee of the Senate Interior Committee; Abraham Ribicoff, D.-Conn.; Edward M. Kennedy, D.-Mass.) saw that the citizens could not be budged from the position that conservation and not recreation would prevail, and that scenic easements (restrictions from development of land) but not outright land taking procedures must be the rule for this proposed park.

Great credit is due the National Park Service for its subsequent efforts in cooperating to the fullest extent with the local Citizen's Advisory Committee which has represented the local affected towns, citizens and interest groups concerned with the disposition of the Holyoke Range. Chaired by State Representative John W. Olver, this committee has labored into many nights to hammer out both Federal legislation and input to a Master Plan of the National Park Service to recognize the specific concerns of every individual who has expressed himself in a reasonable and constructive manner.

The results of these voluntary efforts on the part of the committee in cooperation with representatives of the Park Service and Senator Kennedy's office have been a unique example of local participation in government at the Federal level. What has emerged is a bill (S. 318, Amend. 199) written in part by the citizens with the help of a local attorney, which conveys an unprecedented degree of protection of their rights. Tied to this bill in an inseparable way is the Master Plan for the Mounting Holyoke Unit which seeks to preserve the present use of the land. The plan allows for certain degrees of freedom for the land owner and would acquire outright only 1,100 acres of the 12,400 acres of land in the proposed park.

The park will be divided into three zones which were established by the consensus of the Citizen's Advisory Committee and the National Park Service.

ZONE 1: THE PUBLIC USE AND DEVELOPMENT ZONE

This zone would consist of about 1,100 acres and would be purchased outright by the Department of the Interior. Most of this would be a buffer area surrounding the facilities located on about 300 of these acres.

The facilities which will become available to the public include a visitor center with interpretive exhibits and lectures, and an ecology center for nature study with overnight facilities for authorized groups such as school classes, teachers' conferences and Boy or Girl Scouts. Associated with this visitor center will be a restoration in modern terms of the historic Mount Holyoke Cable Railway car. This tram system will replace the present auto road and will carry visitors to the always spectacular view from the summit as well as to interpretive information about the Connecticut River, its past and future, and a modest restaurant. Picnic sites and trail heads will lead out from this area. Four aditional ten-to-twelve-table picnic sites and trail heads will be placed around the base of the mountain range, and an equestrian center will be featured near the east end. The river will be the site of three boat-in camp sites. These will include two islands and one beach, all of which are now used for unregulated camping by the public. The facilities planned reduce the visitor load to 3,400 per day for summer use, which is in line with the conservation emphasis sought by the local townspeople.

A low key daytime winter sports facility on the north side of the Range primarily for family usage would emphasize limited skiing, tobogganning, sledding and skating. On the east end of the Range a nature center with a limited group camping facility would be developed as part of a natural history education program. Here also would be an equestrian center. A series of small sites around the park boundary would each have a few picnic tables and serve as taking-off points for those interested in serious hiking. Hunting and fishing essentially would remain as it is today, subject to state and federal regulations. The effects of pollution control measures are expected to make river swimming safe and pleasant by the time the unit is fully operable, in about five years.

Sanitation facilities would meet the highest standards, local, state or federal, and costs would be paid by the federal government. Police and fire protection within the unit boundary would be on a cooperative basis. The costs of protection on the federally-owned lands would be borne by the federal government. The major flow of traffic to the unit would be by Routes 91 and 9.

ZONE 2: THE PRESERVATION AND CONSERVATION ZONE

The great bulk of the unit, about 10,700 acres, would be in Zone 2, the main purpose of which is to maintain the land as it is. Landowners either could keep their lands secured against future development by a legal easement appended to their deed titles, or they could require that the government buy all or part of the land outright at fair market value. Land secured against development by easement together with existing structures and usages, could continue to be used as today, could be sold in the open market, or willed to heirs, etc.

Large areas which are now used for private and public water supply exist in this zone and these are specifically protected in the legislation which states that "within this zone the Secretary shall agree to protect the integrity of all water supply areas, public and private."

The only developments foreseen in this zone are the continuation and extension of trails for hiking, riding, bicycling, cross-country skiing, etc.

ZONE 3: THE PRIVATE USE AND DEVELOPMENT ZONE

Land in Zone 3 would consist of about 600 acres and include three locally-developed areas in the Ox Bow, Hockanum Village and Harris Road, Granby. Within this zone, future single-family housing development could occur, provided a minimum 20,000-square-foot lot size is adhered to. Existing business within this zone could continue, but future commercial development would be prohibited. Land owners in this zone could, at their request, transfer their land to the Preservation and Conservation Zone; no other zone interchanges could occur.

The Ox Bow area of Northampton and lands adjacent to the Massachusetts Audubon Society's Arcadia Wildlife Sanctuary would be included in the park. The status of the Audubon property would remain unchanged because it already fulfills a public function in accord with the aims of the National Park.

Current development in Northhampton and Amherst makes it imperative that this National Park become fact before the land is carved into building lots, shopping malls and recreational hodge-podges which are popping up overnight as demand for river-oriented recreation increases.

Mr. BROOKE. Mr. President, I am pleased to join today in introducing, with the senior Senator from Massachusetts (Mr. KENNEDY) a set of amendments to S. 318, a bill to preserve and promote the resources of the Connecticut River Valley.

In 1966, the Congress passed a bill authorizing a study of the Connecticut River from the Canadian border to Long Island Sound. The study was conducted by the Department of the Interior, which found the 400-mile stretch of river valley to be of priceless natural beauty, a rich historic heritage, and a wealth of recreational opportunities.

The Department also developed a proposal for preserving three units of the river valley: the Coos unit in New Hampshire and Vermont, the Mount Holyoke unit in Massachusetts, and the Gateway unit in Connecticut.

A bill to preserve the Gateway unit has already passed the Senate. But the bill covering the Mount Holyoke unit has been held up in committee for several years.

Now, at last, the many outstanding issues appear to have been resolved. The amendments which Senator KENNEDY and I are introducing today have been carefully worked out in consultation with citizens groups in Massachusetts. The National Park Service has been particularly helpful in advising on proposed changes, and the amendments have their support.

I am hopeful that the revised bill to preserve and promote the resources of the Connecticut River Valley in Massachusetts will receive the prompt and favorable consideration of the Congress. For prompt action is needed if this region is to be protected for posterity.

ANTIHIJACKING ACT OF 1972—AMENDMENTS

AMENDMENT NO. 1552

(Ordered to be printed and to lie on the table.)

Mr. MANSFIELD (for Mr. Moss, Mr. PERCY, Mr. CHURCH, Mr. TUNNEY, and Mr. FONG) submitted an amendment intended to be proposed by them jointly to the bill (S. 2280) to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended, to implement the Convention of Aircraft, and for other purposes.

AMENDMENT NO. 1554

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the bill (S. 2280), supra.

VETERANS' PENSIONS—AMENDMENT

AMENDMENT NO. 1553

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. HARTKE (for himself and Mr.

THURMOND) submitted an amendment intended to be proposed by them jointly to the bill (S. 3070) to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes.

NOTICE OF HEARINGS ON CONVENTIONS

Mr. FULBRIGHT. Mr. President, I wish to announce that the Committee on Foreign Relations has scheduled a hearing on the following conventions on Friday, September 22, 1972:

First, Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Ex. T, 92–2).

Second, Agreement with Brazil Concerning Shrimp (Ex. P, 92–2).

Third, Protocol to the International Convention for the Northwest Atlantic Fisheries Relating to Amendments to the Convention (Ex. C, 92–1).

The hearing will be held in room 4221 of the New Senate Office Building, beginning at 10 a.m. Persons wishing to testify should communicate with the chief clerk of the committee without delay.

ADDITIONAL STATEMENTS

TROUBLED CAMBODIANS MISS THE MONARCHY

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Troubled Cambodians Miss the Monarchy," written from Pnompenh by Malcolm W. Browne, and published in the New York Times of Tuesday, September 19, 1972.

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

TROUBLED CAMBODIANS MISS THE MONARCHY

(By Malcolm W. Browne)

PNOMPENH, CAMBODIA, Sept. 10.—With Cambodia's military, economic and political situation sliding into deeper trouble daily, many of her people are expressing a nostalgia for the "good old days" two years ago when this land was a well fed, peaceful kingdom and not a threadbare and war-torn republic.

The reminders of monarchy are still much in evidence despite the best efforts of the new Government.

Words relating to royalty and kings have been painted over or chipped away from Cambodian street signs, hotels, airliners, stores and public buildings.

But the outlines of the words and royal crests are often still faintly visible. And, in the words of one foreign diplomat: "Whatever its merits, this Government is drab. Prince Norodom Sihanouk was a very tough act to follow."

SIHANOUK MEMORY VIVID

The memory of Prince Sihanouk, Cambodia's absolute ruler until his ouster in a military coup d'etat on March 18, 1970, remains vivid here.

Considered by his enemies to be a clown and a Communist and by his friends as an Asian cross between Henry VIII and Metternich, Prince Sihanouk rarely inspired anything less than extreme feeling among his subjects.

His people were reminded of the 49-year-old Prince again two weeks ago with reports from Peking that he expected soon to return to Cambodia from his exile in the Chinese capital. He made it known through diplomats to reporters that he understood that the United States was prepared to abandon the Government of Marshall Lon Nol and permit the return of the Prince.

The news was received with extreme skepticism here, and there was certainly no rejoicing. Prince Sihanouk was feared and disliked by much of his country's civil service, army and economic upper classes.

WAS POPULAR WITH PEASANTS

Despite his royal blood and great wealth, his real popularity was with Cambodia's peasantry. The nation's farmers still apparently think well of their former sovereign, judging from analyses of recent rural elections.

But even for opponents of the former Sihanouk government, comparisons between life before his ouster and now are difficult to avoid.

Ending a line of royal dynasties stretching into antiquity, the new republican Government designed a new national flag, created a Parliament and Constitution, told people to vote and renounced the neutralist foreign policies of Prince Sihanouk in favor of active alliance with the United States.

In a matter of months, Cambodia, which had been peaceful, was plunged up to her neck in the Indochina war. Opposing Vietnamese armies came crashing over the borders, Communist troops occupied some two-thirds of her territory, and the roar of American B–52 bombers was heard overhead.

SHORTAGE OF RICE

Now, powerful Communist forces are throttling the supply of rice from the Western province of Battambang by blocking Route 5 to the capital. Thus the capital of one of the most rice-rich nations in the world has been plagued by rice riots with the doubling in price of the grain in three weeks.

Other Communist forces moving toward Pnompenh along Route 1, the road from Saigon, reportedly wiped out eight Cambodian Army positions, seized the provincial capital of Kompong, Trabek and apparently captured an entire battalion of 350 Cambodian soldiers within two days.

As the nation appears to flounder, many officials are wondering whether Cambodia can go on much longer under the leadership of President Lon Nol, whose activity was drastically reduced by a massive stroke last year.

Educated exponents of political modernism—and many Americans—feel things might run more smoothly if a free hand were given to Lieut. Gen. Sisowath Sirak Matak, special counselor to the President.

General Sirak Matak, who is 58, has held high posts in Cambodian government since the end of World War II and is known for his energy and clear thinking.

Student groups have staged demonstrations against General Sirak Matak, and his overall popularity is questionable. But apart from his reputed organizational talents, he has an attribute of great importance in Cambodia—he is the descendant of an ancient line of kings.

Royalty in Cambodia is not mere ceremony. Under Prince Sihanouk, who technically renounced the throne in 1955 but remained de facto monarch, Cambodia was governed by a benevolent despot.

Recent conversations with Cambodians indicate that the people of the countryside have not forgotten the days when Prince Sihanouk's helicopter might land without notice in the middle of a rice field.

The Prince, always talking fast in a high voice, would accept gifts of fruit and then listen to anyone who wanted to complain about anything or about anyone, including local and national officials.

He would adjudicate any kind of disagreement, fixing land boundaries, freeing prisoners, dressing down officials of all ranks and usually handing out money to everyone around.

Few political observers, Cambodian or foreign, question Prince Sihanouk's immense popularity in the countryside of a nation made up mostly of rice farmers and fishermen.

PRINCE RESTORES ANGKOR

Most Cambodians felt deep pride in the way Prince Sihanouk refurbished and literally spotlighted the great 12th-century palace ruins at Angkor. The knowledge that Angkor is now damaged by shellfire and is in use as a military base by the Communists has saddened Cambodians.

Cambodian farmers also appreciated the way Prince Sihanouk appeared to be taking them into his personal confidence.

Few who were here at the time have forgotten a 1963 broadcast the Prince made to the nation, warning mothers of the realm to keep their daughters locked up if they should hear that one of the Prince's playboy sons was anywhere around.

In the same year, Prince Sihanouk forced another of his sons to marry a 15-year-old commoner when he discovered the son had been having an affair with her. The angry Prince announced his son's engagement to the girl, a book store clerk, in a broadcast speech.

The palace from which Prince Sihanouk reigned is a museum now. Its spectacular gold-tiled buildings, with elephants still tethered in old gardens, are well cared for by the new Government.

The center of Cambodia's royal house now is Queen Kossamak Nearireath, the 70-year-old mother of Prince Sihanouk. The Queen, guarded by soldiers stationed outside the small villa assigned her, is not permitted to leave Cambodia, nor are the nine of the Prince's children who are still here. The spokesman for the ailing Queen and the rest of the family living here is Prince Sisowath Monireth, the brother of the Queen.

NOT VERY DIFFERENT

He and the rest of the family are often accused by officials of the Lon Nol Government of scheming for the return of the royal government.

Prince Monireth merely smiles when asked if he thinks his nephew Prince Sihanouk will return.

"My friend, I am very sorry, but we cannot discuss politics or say anything," he told a correspondent last week. "We are in a very delicate position. Now I must get to a meeting."

In terms of their major objectives, Prince Sihanouk and the present Cambodian Government appear to be in nearly complete agreement, despite the invective they hurl at each other from a distance.

Both the Prince and the Lon Nol Government want Cambodia freed of foreign occupation and interference by any power, including the North and South Vietnamese, the Thais and the Americans.

Both the Prince and the Lon Nol Government accept the future existence of a legal Cambodian Communist party, which could participate in affairs of state at some point.

Both royalists and republicans would like to see Cambodia effectively neutralized and made secure by internationally guaranteed treaty from future incursions by foreign troops of any nationality.

RETURN DEEMED UNLIKELY

Despite the optimism Prince Sihanouk has shown visitors in Peking, few knowledgeable officials or observers here feel there is more than a very remote chance of his return.

In the event of Communist victory throughout Indochina, Prince Sihanouk might well be returned to his palace in Pnompenh. He is still recognized by China and North Vietnam as Cambodia's chief of state despite the statements he makes even from his Peking exile renouncing Communism as a political philosophy for Cambodia.

The Prince himself seems unsure what role he would play if the Communists return him to power.

A junior official who has served in both the Sihanouk Government and its successor said:

"Many people, especially the peasants, would like to see him back. But the realities of the day are such that it will never happen. Whether there is hope for Cambodia or she is doomed, you can't turn back the clock now. You can't bring back Sihanouk. One does miss those good old days only two years ago, though."

ANNIVERSARY OF "THE STAR-SPANGLED BANNER"

Mr. MATHIAS. Mr. President, the strength and well-being of a nation is determined as much by its spirit and sense of identity as by its force of arms. Anyone who has been in battle, or has even traveled abroad, knows the surge of pride and confidence that is felt when he or she sees our Nation's flag or hears our national anthem. Our flag, "The Star-Spangled Banner," symbolizes the greatness of our Nation, and our people. Its spirit was captured in verse in a remarkable episode. And the story of the national anthem, "The Star-Spangled Banner"—written by a young Marylander during a critical battle in a war that severely tested the spirit and unity of our young Nation—is one of which all Americans should be justly proud.

We were therefore, particularly thankful on September 14, the 158th anniversary of the writing of the national anthem "The Star-Spangled Banner" that the Post, published in Frederick, Md., had compiled a full account of the family of Francis Scott Key and the circumstances surrounding the writing of our national anthem. Frederick County was the home of the Key family, and I can remember as a child the pride that all of us in Frederick felt that such a great American had strong family ties to our town. My pride has increased over the years as I realize the great difficulties that the citizens of our Nation experienced in the early days of our Republic and in that early war with larger and more powerful foreign nations. The United States would probably not have survived those difficult times without the spirit and sense of purpose that Francis Scott Key so eloquently captured in the words every schoolchild knows by heart. And so, perhaps, we all need to pause today and ponder about the state of our national spirit, and to reflect for a moment on the roots of our national heritage. In that regard, I think the Post has made a real contribution by giving us the benefit of the article entitled "Maryland Celebrates Star-Spangled Banner's 158th Anniversary," which was written by Judge Edward S. Delaplaine.

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

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

MARYLAND CELEBRATES "STAR-SPANGLED BANNER'S" 158TH ANNIVERSARY

(By Judge Edward S. Delaplaine)

Today is the 158th Anniversary of "The Star-Spangled Banner."

Eight years ago the Sesquicentennial of the National Anthem was celebrated actively in Maryland, especially in Baltimore and in Frederick.

In Frederick on September 13, 1964, Judge Sarah T. Hughes, the jurist who administered the Presidential oath to Lyndon B. Johnson in Dallas after the death of President John F. Kennedy, presented on behalf of the City of Baltimore the first 15-star flag ever to fly over the grave of Francis Scott Key in Mount Olivet Cemetery.

On the following day the Frederick Chapter, Daughters of the American Revolution, and the Francis Scott Key Memorial Foundation unveiled a bronze plaque marking the graves of Judge John Ross Key and his wife, Anne Charlton Key, Francis Scott Key's father and mother.

Governor J. Millard Tawes, who always gave a helping hand to patriotic movements, had issued a Proclamation setting September 14, 1963—a year before the Sesquicentennial—as National Anthem Day; and the Daughters of the American Revolution looked with favor on a suggestion that the Governor in every State should be required to proclaim National Anthem Day annually in September.

In 1964 the Maryland Legislature passed a resolution recommending "That the 14th day of September of the year 1964 and every year thereafter be proclaimed National Anthem Day."

In the last eight years, however, National Anthem Day has not received much public attention. On the contrary, unfortunately, there have been some individuals who have criticized "The Star-Spangled Banner" and have urged that it should be replaced by an anthem easier to sing.

Today on the 158th Anniversary of "The Star-Spangled Banner" it is gratifying to find how deeply one of America's great institutions of learning—Columbia University in New York—reveres our National Anthem and its author.

Columbia University's judgment was disclosed recently when its president, Dr. William J. McGill, announced that the original letter written by Francis Scott Key to his father in September, 1814, before setting out on his mission to the British fleet, had been presented to the University, President McGill declared that he considered Key's letter one of the Library's most interesting and valuable resources.

In thanking the donors of the letter, Mr. and Mrs. Alfred C. Berol, of New York, President McGill announced that it would be difficult "to conceive a further single contribution that stands out so magnificently in our manuscript collections for its historical significance."

In 1814 Key was living in Georgetown. He had left Frederick with his wife and their two small children near the end of the year 1805.

The Georgetown home, located on the south side of Bridge Street (later named M Street), commanded a beautiful view of the Potomac. It stood near the old Aqueduct Bridge (near the present Francis Scott Key Memorial Bridge).

It was a Georgian brick mansion. It had two main stories and a basement, and a gable roof with dormer windows. The front door opened into a wide hallway, to the right of which were two large parlors. In the basement were the dining room and kitchen and a cold storage pantry.

Back of the mansion was a sun porch that looked upon a terraced flower garden, which sloped all the way down to the north bank of the Potomac River. Near the rear of the property were a coach house and a smoke house.

To the right of the mansion was a little one-story brick office building which was the Key's law office.

In August, 1814, when the British invaders captured Washington and burned the Capitol and the President's House, Key was so unnerved that he was unable to attend to any legal practice. The terrible events also gave great anxiety to his father and mother at Terra Rubra and also to his sister Anne and her husband, Roger B. Taney, who was a Frederick lawyer.

The relatives in Frederick County thought "Frank" and "Polly" ought to leave their home and take refuge in Frederick or at Terra Rubra. The children—there were now three girls and three boys—had been taken up to Terra Rubra to be with their grandparents away from the danger zone. The oldest child was a girl not yet eleven. The youngest was a boy not yet one year old. Key's wife, however, stubbornly refused to leave him.

The following explanation of the situation was given by Taney:

"It was rumored, and believed in Frederick, that a marauding attack of the same character would be made on Washington and Georgetown, before the ships left the river. Mr. Key's family were still in Georgetown. He would not, and indeed could not, with honor, leave the place, while it was threatened by the enemy; for he was a volunteer in the Light Artillery, commanded by Major Peter, which was composed of citizens of the District of Columbia, who had uniformed themselves, and offered their services to the government, and who had been employed in active service from the time the British fleet appeared in the Patuxent preparatory to the movement upon Washington. And Mrs. Key refused to leave home, while Mr. Key was thus daily exposed to danger.

"Believing, as we did, that an attack would probably be made on Georgetown, we became very anxious about the situation of his family. For if the attack was made, Mr. Key would be with the troops engaged in the defense; and as it was impossible to foresee what would be the issue of the conflict, his family, by remaining in Georgetown, might be placed in great and useless peril.

"When I speak of *we*, I mean Mr. Key's father and mother, and Mrs. Taney and myself.

"But it was agreed among us, that I should go to Georgetown, and try to persuade Mrs. Key to come away with their children, and stay with me or with Mr. Key's father, until the danger was over. When I reached Georgetown, I found the English ships still at Alexandria, and a body of militia encamped in Washington, which had been assembled to defend the city."

About the time Taney arrived, the six children were sent up to Frederick, but Mrs. Key was reluctant to leave her husband. Two or three days after Taney arrived, the British squadron was seen moving down the Potomac. The terrified inhabitants of Alexandria, having seen the fires in Washington, in humble submission had asked for terms of capitulation, and had given a ransom of flour and tobacco worth a hundred thousand dollars in addition to ships loaded with cargoes in the harbor. It was believed that the enemy squadron was on the way to join the main fleet for an attack on Baltimore.

In view of the departure of the invaders. Taney was about to return to Frederick without Mrs. Key when an unexpected visitor arrived. The visitor was Richard W. West of Upper Marlboro. Mr. West had come to ask Key to try to rescue Dr. William Beanes, who had been taken prisoner by the British. Key pictured the old doctor in chains, surrounded by enemy soldiers on one of His Majesty's warships. He agreed at once to go to the fleet and plead for his release.

Early in the morning of the 2nd of September the young lawyer—he was only a month over 35—was on his way to confer

with the President of the United States. Mr. Madison, who had been hiding with Dolley in a place of refuge in Virginia, had returned and had established a temporary home in the Capital. The prim little President had been nearly prostrate from fright.

The lawyer hurriedly explained his mission. He wanted the cooperation of the United States Government. Mr. Madison had no objection to the plan of visiting the British fleet under a flag of truce. He advised the lawyer to request the Commissary General of Prisoners to write a letter to the commander of the British Army.

Key hastened to the office of the Commissary General of Prisoners. There he related the facts to General John Mason. The General penned a letter to John S. Skinner, the Government's flag of truce officer for the exchange of prisoners, directing him to embark with Key at Baltimore in a flag of truce boat and proceed in search of the British fleet.

"I pray your utmost zeal and earnestness," General Mason said in his letter to Skinner, "in endeavoring to withdraw the worthy Dr. Beanes."

General Mason also penned a strong letter to Major General Robert Ross, the British Commander, telling him that "John S. Skinner agent and Flag officer for this office and Francis S. Key Esqr. a citizen of the highest respectability have been authorized to wait upon you and to express to you the views and expectations of the Government."

With these important letters, Key returned to his home in Georgetown to prepare to leave for Baltimore in the morning. There was no time to lose. And he realized that it would be at least a week or ten days before he could get back. Therefore, in view of the change in circumstances, Taney had no problem in persuading his wife now to leave home to take refuge with him in Frederick or with her parents at Terra Rubra.

Before retiring to his bed for the night, Key dashed off two letters, one to his father, one to his mother.

This is the letter he wrote to his father, Judge John Ross Key.

GEO TOWN—
2. Sep. 1814.

My Dr. Father.—

It was with great pleasure we heard from you that you were all well—it had been so long since we had any news of you.—Polly goes up in the morning with Mr. Taney—I cannot go yet, as I have to make a journey to the Fleet to try to get Dr. Beanes released from the Enemy—I hope I may succeed but I think it very doubtful. When I return I shall get to Fredk as soon as possible.—

I fear it will be quite impossible to get a loan as you mention from the Banks. Neither the Banks here, nor in Fredk (as I understand) make and discounts.—I owe more money in Bank here now than I ought—& in these distressing times I really know not what I shall do to provide for the necessities of my family.—I think you had better sell something even at a Sacrifice to raise what you want, & then avoid incurring, on any account, any new debt.—Your wheat I would certainly advise you to sell, if you can get anything, even 75 cents for it. It cannot be more saleable—There is no hope of peace—and as the war lasts that & every thing else will be getting worse.—In about a fortnight I trust I shall see you—sooner if I can.—

Farewell my Dr Father—
Yr most affectn
F. S. KEY

The Enemy have left Alexa to-day.—Tell the children I would write to them but have not time.

The letter written by Key to his mother was cherished by her for fourteen years. Mother Key, a widow for nine years, died in 1830. After her death the letter was saved by her daughter, Anne Taney.

Mrs. Taney cherished the letter for twenty five years. Then, after her death in 1855, the letter was preserved by Chief Justice Taney's daughter Anne, the wife of a Baltimore lawyer, James Mason Campbell.

The last member of the family to keep the letter was a daughter of Mr. and Mrs. Campbell, Alice, the wife of Colonel Frank M. Etting of Philadelphia.

One hundred years ago the people of America were busy making plans for the celebration of the 100th Anniversary of the Declaration of Independence. The greatest activity was in Philadelphia because Philadelphia had been selected as the site of the Centennial Exposition of 1876.

Colonel Etting was not only an army officer but a lawyer and a scholar. Several years before the opening of the Centennial Exposition he was one of the public spirited citizens of Philadelphia who was helping in a movement to establish a museum in Independence Hall. His wife, a granddaughter of the late Chief Justice Taney, thrilled by the patriotic feeling of the time, offered to share in the arrangements by donating to the Independence Hall Museum the original letter that Francis Scott Key had written on September 2, 1814, to her ancestor, Mrs. John Ross Key. And so the letter was deposited in Independence Hall in the year 1873.

For upwards of a century the letter was preserved in Independence Hall. Then in 1960 the National Park Service curator at Independence Hall, while cataloguing manuscripts there, happened to see the letter. The curator was David H. Wallace. Thinking it would be more appropriate for Fort McHenry, he sent it there. And so the letter is now preserved at Fort McHenry.

Mr. Wallace now resides with his wife and three children at 9 West Third Street in Frederick. He is with the National Park Service at Harper's Ferry.

This is the letter Francis Scott Key wrote to his mother on the night before he left on his mission to the British fleet:

GEO TOWN,
2 Sep: 1814

My Dr Mother—

You have made allowances, I hope for our confusion & anxiety here, & have therefore excused my not writing sooner. Indeed for two or three days after our disgrace I had neither time or mind to do anything.—And since then I have been much engaged.—I had however a promise from Mr. Munro that he would write to Taney often & soon, so that you might know I was well.—You have since no doubt heard how mercifully we have all been spared here, the Enemy not even entering our Town, which I am sure they would have done, had they not gone off with such unnecessary precipation (sic).—They have today left Alexandria, & I trust we shall see no more of them.—I hope we shall be grateful to God for this deliverance, & remember how much more light our chastisement has been than we expected or deserved.—

I am going in the morning to Balte to proceed in a flag-vessel to Geni Ross. Old Dr Beanes of Marlbro' is taken prisoner by the Enemy, who threaten to carry him off—Some of his friends have urged me to apply for a flag & go & try to procure his release.

I hope to return in about 8 or 10 days, though is uncertain, as I do not know where to find the fleet.—as soon as I get back I hope I shall be able to set out for Fredk—

The Children will be delighted to see their mother.—Give my love to them & to Papa—

God bles you my Dr Mother
Ever yr most affece Son
F. S. KEY

With the farewell letters written to his father and mother, Key drove off for Baltimore on the morning of the 3rd of September, Taney left with Mrs. Key for Frederick.

On Sunday, September 4, Key and Skinner made final preparations for their voyage, and on Monday morning they were off in the flag of truce boat. They caught sight of the first British ships shortly after noon on the 6th. They boarded the *Royal Oak*, but found it was only a troop convoy. The main part of the British fleet was further south. Continuing south on the morning of the 7th, they finally sighted the *Tonnant*, which they boarded about 2 o'clock in time to dine with General Ross and Admiral Alexander Cochrane.

Ross and Cochrane finally agreed to release Dr. Beanes, but Cochrane explained regretfully that he was unable to keep the three Americans on the *Tonnant* during their stay, as there was no room for them. He asked them to move to the frigate *Surprize*, and he remarked that he felt sure they would be comfortable there.

On the 9th of September the fleet stopped off the Patuxent River for the night, and at daylight on the 10th they were on their way again.

The countryside was in an uproar. The people of Annapolis, fearing they might be bombed, were rushing frantically from their homes. But the invaders, instead of stopping at Annapolis, continued up the Bay.

Then came the bombardment of Fort McHenry on the night of the 13th and the morning of the 14th. It was in the dawn's early light that morning when Francis Scott Key saw the mammoth flag that had been made by Mary Young Pickersgill, the industrious young widow who lived near the harbor of Baltimore.

Mrs. Pickersgill was born in 1776 in Philadelphia, the city in which Betsy Ross, the legendary maker of the first Stars and Stripes, was born. Mary Young was the daughter of William and Rebecca Flower Young, who fled from Philadelphia in 1777 to escape from the advancing British troops. She was a niece of Colonel Benjamin Flower, Commissary General of Military Stores for Washington's Army, who kept the stores from being captured by the British and who hid the Liberty Bell.

Mary was married at nineteen to John Pickersgill in Old St. Paul's Church in Baltimore. The Pickersgill had four children, but only one, Caroline, survived.

Ten years after the wedding, Pickersgill died in London. Two years later Mary and her widowed mother and little Caroline moved to Baltimore and lived in the house on the corner of Queen (now Pratt) and Albemarle Streets.

Mary Pickersgill was 37 years old at the time, she was working on the flag ordered for Fort McHenry. She used 400 yards of bunting to make it. She made 8 red stripes and 7 white stripes, each 2 feet wide. There were 15 stars, each measuring 2 feet from point to point.

Mary got some help from her little daughter Caroline in stitching the flag together on the floor of a nearby brewery. "Night after night through the hot weather the widow and her daughter Caroline crawled over the big flag, and stitched the colored pieces together. Just a widow and her little daughter crawling at night on the floor of a brewery—but helping to write an anthem destined to be enshrined forever in the hearts of the American people."

When the flag was completed in August, 1813, it was 30 feet wide and 42 feet long. It was the largest battle flag in the world.

The huge flag became a proud possession of George Armistead, who was brevetted from Major to Colonel for his gallant command of Fort McHenry. When he left Fort McHenry he took the flag with him.

Colonel Armistead bequeathed the flag to his daughter Georgiana, wife of Eben Appleton, of New York.

Mrs. Appleton bequeathed it to her son, Eben Appleton, Jr. For many years Eben, Jr., kept it in a safe deposit vault. He bequeathed it to the Government of the United States in 1912.

For more than a half a century the flag

was kept in a crowded glass case in the Arts and Industries Building of the Smithsonian Institution. It had lost eight feet of its stripes to souvenir collectors during the many years it had been privately owned.

When the Smithsonian's Museum of History and Technology on Constitution Avenue, between 12th and 14th Streets, N.W., was completed in 1964, the lost portion was reproduced with material similar to that used by Mrs. Pickersgill. The new portion was hung below and behind the original.

The home of Mrs. Pickersgill, the flag maker, is beautifully preserved by the Star-Spangled Banner Flag House Association, Inc. And the flag she made is assured of permanent preservation in a 50-foot display in the National Museum. Special incandescent light is provided to guard against fading, and a gentle current of air flows over it to keep off the dust.

Many years ago Key's manuscript of "The Star-Spangled Banner" came into the possession of Henry Walters, the famous art collector of Baltimore. Mr. Walters died in 1931, leaving his art gallery to the City of Baltimore. But the manuscript was a part of his personal estate. Accordingly, on January 5, 1934, the manuscript was offered for sale at an auction in New York, and it was bought by the trustees of the Walters Art Gallery for $24,000 in order to keep it in Baltimore.

In 1953, by generous arrangement with the trustees of the Art Gallery, it was purchased by the Maryland Historical Society for $26,400.

The cost of the manuscript and the niche in which it is preserved, lined with marble and suitably inscribed, was donated by Mrs. Thomas C. Jenkins as a memorial to her late husband's mother, Catherine Kay Jenkins, a cousin of Francis Scott Key.

Unfortunately, however, the home in Georgetown in which Key and his wife and children lived at the time of the writing of "The Star-Spangled Banner" has not been presented.

Before the close of the Nineteenth Century, commercial establishments were beginning to encroach into the residential area of Georgetown along the Potomac River. It was apparent that the Key mansion was in danger. As early as 1907 a group of prominent citizens were planning a campaign to save the historic home. The Francis Scott Key Memorial Association was formed to make an appeal for members and contributions. Among the officers of the association were two heroes of the Spanish American War, Admiral George Dewey, hero of Manila Bay, and Admiral Winfield Scott Schley, hero of Santiago.

But even with the backing of a number of distinguished Americans, the effort failed. In those days, it was difficult, if not impossible to get help from the Government for the preservation of historic shrines.

In the years between 1912 and 1915, the Key mansion was damaged severely by alterations made for the use of business establishments.

About a decade later plans were being made for a new bridge to span the Potomac to take the place of the old Aqueduct Bridge. It has been estimated that the bridge cost at least $2,500,000. Upon its completion in 1924 it was dedicated as the Francis Scott Key Memorial Bridge in honor of the author of the National Anthem.

Several more years went by. Each year the building which was once Key's home became more and more dilapidated, and by the year 1930 it was almost completely gutted.

In 1931 Mrs. Julian C. Lane, of Statesboro, Georgia, genealogist of the Key and Allied Families, told a nostalgic story of "Charley" Burkitt, who looked sorrowfully upon the scene as the demolition workers were reducing the old home to ruins. "Charley" Burkitt was a humble but sentimental resident of Georgetown who served as a police guard at the Aqueduct Bridge for twenty years.

This is Mrs. Lane's story of "Charley" Burkitt:

"As he watched the workmen wreck the house, it seemed to awaken within his soul the memories told of the great and good Francis Scott Key, and from the piles of beam, board, sill and slab he saved a huge beam of great thickness, and 33 feet long. Its age was attested by marks of broad axes which had been hewn from white oak. He chained part of the beam to the bridge and often told of its history to those who passed. After several years Burkitt was transferred to another post. Wishing the historical timber preserved, he presented it to the members of the Boat Club whose intentions are to have it polished, varnished and appropriately marked, 'A relic of the Old Key Mansion.'"

"Charley" Burkitt was not the only one who salvaged relics from the Old Key Mansion. Several years ago it was reported in Washington that the original rear door of the Key house was found in the town of Haverford, Montgomery County, Pennsylvania.

The brass name plate, measuring 7 by 3½ inches, engraved with the name of "Key" is preserved in the Flag House in Baltimore. The Flag House is also preserving a beam from the mansion.

But these were only a few of the parts of the building that were saved. Some of the historically minded citizens of Washington salvaged bricks and pieces of woodwork and stored them with the hope that a replica of the mansion could be constructed. Photographs had been taken of the building before it was demolished and careful measurements had been made of it.

In 1935 a campaign to raise a fund for the restoration of the building was inaugurated. At that time it was estimated that the cost of restoration would be at least $55,000. No further action was ever taken.

In recent years we have begun to appreciate the value of historic buildings because they remind us of great Americans, our patriots and poets, especially those who illuminate the crucial periods of American History.

Ordinary buildings should never impede progress. But buildings of historical importance and irreplaceable national treasures that teach the meaning of America.

H.R. 8389—THE VICTIMS OF CRIME ACT OF 1972

Mr. McCLELLAN. Mr. President, I am gratified that the Senate has reconstituted the Victims of Crime Act of 1972 in the form of H.R. 8389.

This legislation, which will do much to ameliorate the oftentimes tragic financial consequences of crime, has been the result of a joint effort which included contributions by a number of Senators.

I take this opportunity to extend my warm personal thanks for the leadership of Senators MANSFIELD, MONDALE, KENNEDY, SCHWEIKER, BIBLE, TUNNEY, HUGHES, SPONG, ERVIN, and HRUSKA, and also for the numerous other Senators who spoke on or who cosponsored these vital measures.

We have not always agreed on all aspects of this legislation, but we have seen that the measure ran a full democratic course in the highest traditions of the Senate.

Our work here yesterday is something that we may all be proud of.

I hope the House will now join us in seeking to lay this important legislation on the President's desk without undue delay.

CAB TO SEPARATE SMOKERS ON AIRLINES

Mr. SCHWEIKER. Mr. President, I was pleased to note that the Civil Aeronautics Board has proposed requiring all airlines to segregate smokers from nonsmokers.

On February 28, 1972, I introduced S. 3249, a bill to require the setting aside of special seating areas for smokers on airlines, buses, and trains. I introduced the bill partly because in early 1972 the Surgeon General found that nonsmokers are significantly affected by the smoke generated by smokers. Thus, the problem has gone far beyond being a matter of inconvenience or irritation to nonsmokers and has become a matter of health.

Earlier this year, the Interstate Commerce Commission proposed separate seating for smokers and nonsmokers on interstate buses.

Now the CAB has issued its proposed rule to do the same thing on airlines. It should be noted that most of the major airlines already segregate smokers. However, the CAB has pointed out that in general the supplemental airlines and the local service lines do not do this.

I strongly support this action by the CAB. In fact, it should have been done long ago, particularly since it has been shown that breathing smoke affects the health of nonsmokers.

Mr. President, I ask unanimous consent that an article from the Washington Post of September 19 and the CAB Notice of Proposed Rulemaking, published in the Federal Register, be printed in the RECORD.

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

CAB WOULD SEPARATE SMOKERS ON AIRLINERS

(By Vern Haugland)

The Civil Aeronautics Board yesterday proposed requiring all the airlines to segregate smokers from other passengers.

The CAB said that this could be done by designating a smoking area in the rear of each compartment of an airliner and prohibiting smoking in other areas.

The board noted that most of the trunk airlines already segregate smokers. In general, however, the supplemental airlines and the local-service lines do not, the board said.

The board said it would accept comment on the proposed rule until Nov. 3, before making a final rule.

In December, 1969, consumer advocate Ralph Nader asked the Federal Aviation Administration to ban smoking on planes as a fire hazard. Another petition asked the FAA to require segregation of smokers to protect the health of other passengers.

In March, 1970, the FAA ruled that smoking did not represent a flight safety hazard. The FAA referred the health issues to a joint study with the Department of Health, Education and Welfare to measure tobacco smoke contaminants in transport aircraft.

The CAB said the completed joint study shows, in general, that the low levels of contaminants in a passenger plane do not represent a health hazard to nonsmokers. But, the study found that more than 60 percent of the nonsmokers were bothered by tobacco smoke.

The CAB said an outright ban on smoking on commercial flights would be a drastic remedy and inconvenience travelers who wish to smoke.

[From the Federal Register, Sept. 19, 1972]

SPECIFICALLY DESIGNATED "SMOKING" AREAS ABOARD COMMERCIAL AIRCRAFT

(Notice of Proposed Rule Making, September 13, 1972)

Notice is hereby given that the Civil Aeronautics Board has under consideration the enactment of a new part to require certificated air carriers (both route and supplemental carriers) to establish procedures designed to segregate passengers who desire to be seated in designated "smoking" areas and to prohibit smoking in all areas not so designated on commercial flights.

The background and principal features of the proposed part are described and discussed in the attached explanatory statement and the proposal is set forth in the proposed rule. The part is proposed under the authority of sections 204(a), 404(a), and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, 766 (as amended); 49 U.S.C. 1324, 1374, 1377.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individual members of the general public who, as prospective passengers, could be affected by the outcome of this proceeding, may participate in the proposed rule making through submission of comments in letter form to the Docket Section at the above-indicated address, without the necessity of filing additional copies thereof. All relevant material received on or before November 3, 1972, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

In December 1969 Mr. Ralph Nader in his individual capacity filed with the Board and with the Federal Aviation Administration (FAA) petitions for rule making to ban the smoking of cigars, cigarettes, and pipes on all passenger-carrying air flights. At about the same time he filed with the FAA a petition to require the segregation of passengers who wish to smoke from those who do not wish to smoke aboard commercial aircraft. These petitions raise three principal issues: (a) Whether smoking on commercial aircraft creates a fire hazard; (b) whether tobacco smoke is injurious to the health of all passengers subjected to it; and (c) whether tobacco smoke causes annoyance and discomfort to the passengers.

On March 19, 1970, the FAA issued an advance notice of rule making entitled "smoking on aircraft operated by air carriers, air travel clubs, and commercial operators."[1] In the explanatory statement portion of the rule, the FAA dismissed the petitions insofar as they pertained to issue (c), above, and partially denied the petitions insofar as they pertained to issue (a), above. Thus, the scope of the petitions pending before the FAA was, according to the notice, to be limited to the issue of whether exposure to tobacco smoke aboard aircraft creates a health hazard to passengers. The notice referred to a joint study by the FAA and the Department of Health, Education, and Welfare (HEW) "to measure the amounts of tobacco smoke contaminants in air transport aircraft, using flights carrying military personnel and dependents as a 'test bed' for the study."

For its part, the Board deferred regulatory action with respect to issue (c), pending the results of the joint study.

The joint study referred to in the FAA advance notice has now been completed. In general, the study concludes that the low levels of contaminants measured do not represent a health hazard to the nonsmoking passengers. On the other hand, the study found that a significant portion of the nonsmokers (over 60 percent) stated that they were bothered by tobacco smoke, suggesting that corrective action should be taken, such as a ban on smoking or the segregation of smokers from nonsmokers on commercial flights. Thus, although the FAA has not yet taken final action on the basis of the study, it now seems that there is no longer any reason for the Board to defer institution of rule making proceedings on issue (c) above, namely, whether the extent to which tobacco smoke causes annoyance and discomfort to passengers warrants remedial action, and, if so, what form of action that should take.

As indicated above, the Nader petition filed with the Board asks for a ban on the smoking of cigars, cigarettes, and pipes on all passenger-carrying flights. An outright prohibition of smoking on commercial flights is an extremely drastic remedy since it would inconvenience a substantial segment of the public which travels on airplanes and desires to smoke. Such a remedy should not be proposed if a less drastic one is available which would provide an adequate solution to the problem at hand. We believe that the provision of smoking and nonsmoking areas on aircraft is such a solution and the one which we now propose.

Recently, the Board's Bureau of Enforcement conducted a survey of the certificated carriers to ascertain their practices with respect to certain in-flight amenities, including the provision of separate compartments for those who wish to smoke and those who do not wish to smoke. From this survey it appears that, as a general rule, the trunkline carriers already segregate smokers from nonsmokers;[2] while, on the other hand, as a general rule smokers are not segregated from nonsmokers by local service carriers,[3] supplemental air carriers,[4] and the Alaskan and Hawaiian carriers.[5]

The rule we propose would require all carriers to provide specially designated "smoking" areas, and prohibit smoking in all other areas. It would include the following minimum requirements: (1) The carriers would be required to set aside at the rear[6] of each compartment of an aircraft a section to be designated as a "smoking" area and prohibit smoking in the remaining seats in such compartment; (2) the number of seats set aside as a "nonsmoking" area must be sufficient so that all persons who prefer not to be seated in proximity to a smoking passenger can be accommodated; and (3) the carriers would be required to enforce their rules prohibiting smoking in nonsmoking areas. Under the proposed rule, carriers will not be required to provide such segregated seating in compartments of three rows or less.

Further, the proposed rule would also require carriers to provide a manual for their employees which shall set forth the company rules with respect to smoking by passengers aboard commercial aircraft. A copy of the manual would be required to be filed with the Board within 30 days after the effective date of the part. The Board may also direct an air carrier to modify any provision in the manual which it finds does not comply with the rules set forth in this part.

FOOTNOTES

[1] Dockets Nos. 11012, 10033, notice 70-14, 35 F.R. 5045, dated Mar. 25, 1970.

[2] The exceptions are: Braniff and National do not provide separate areas except on 747 aircraft or in certain limited markets; Eastern does not segregate on air shuttle flights; Pan American does not segregate in the first-class section of 727 aircraft (eight seats); and Northwest does not designate separate areas for smokers and nonsmokers.

[3] The exceptions are that Air West designates sections for smokers and nonsmokers on all flights; and Texas International segregates on DC-9 flights.

[4] The exceptions are ONA and Trans International which designate separate areas for smokers and nonsmokers.

[5] A chart showing the results of this letter survey is attached to this explanatory statement as an appendix, filed as part of the original document.

[6] Smoke drifts to the rear of an aircraft. For this reason it is the practice among carriers which segregate smokers from nonsmokers aboard commercial aircraft to place the smoking areas in the rear of each compartment. See also the recent ICC decision prohibiting smoking on interstate passenger buses except in a limited area located in the rear. Smoking by Passengers and Operating Personnel on Interstate Buses, 114 M.C.C. 256 (November 17, 1971).

PROPOSED RULE

It is proposed to adopt a new part (Part 252) of the economic regulations as follows:

PART 252—SEGREGATION OF PASSENGERS WHO DESIRE TO BE SEATED IN SPECIFICALLY DESIGNATED "SMOKING" AREAS ABOARD COMMERCIAL AIRCRAFT OPERATED BY CERTIFIED AIR CARRIERS

§ 252.1 Applicability.

This part establishes the rules for the provision of specially designated areas for smoking cigarettes, cigars, and pipes in each compartment of an aircraft (hereinafter "smoking" areas). This part shall apply to each direct air carrier which holds a certificate of public convenience and necessity issued pursuant to section 401 of the Act authorizing the transportation of persons.

§ 252.2 Carriers required to provide specially designated "smoking" areas; smoking prohibited outside of such areas.

Carriers subject to this part shall provide "smoking" areas in the rear of each compartment of the aircraft and no smoking shall be permitted in the remaining seats of such compartment; *Provided, however,* That this requirement shall not apply if the compartment contains three rows or less. Each carrier shall adopt procedures, pursuant to this section, which shall insure that a sufficient number of seats in the "nonsmoking" areas of the aircraft are available to accommodate all persons who do not wish to be seated in proximity to persons who smoke.

§ 252.3 Carrier to enforce its rules for the segregation of passengers in smoking and nonsmoking areas.

Each carrier shall take such action as is necessary to enforce its rules with respect to the segregation of the seating of passengers in smoking and nonsmoking areas.

§ 252.4 Manual containing company rules for smoking by passengers aboard commercial aircraft.

Each air carrier subject to this part shall maintain an employee manual containing company rules for smoking by passengers aboard commercial aircraft. One copy of such manual shall be filed with the Board within thirty (30) days after the effective date of this part, and revisions and amendments shall be filed within fifteen (15) days following adoption by the company.

§ 252.5 Board may modify manual rules to conform them to the provisions of this part.

If the Board finds that one or more company rules set forth in the manual is at variance with any provision of this part, the Board may by order modify such company rule to the extent necessary to conform the rules to the provisions of the part.

[FR Doc. 72-15916 Filed 9-18-72; 8:49 am]

ARKANSAS LEADS NATION IN BROILER PRODUCTION

Mr. FULBRIGHT. Mr. President, recent statistics indicate that Arkansas is now the leading State in the Nation in broiler production, having moved ahead of Georgia in this field.

According to figures released by the Cooperative Extension Service of the University of Arkansas Division of Agriculture, total broiler production in Arkansas in 1971 was 476,143,000, which was an increase of 6 percent over 1970.

Earlier figures made available by the Arkansas Poultry Federation indicate that the poultry industry is Arkansas' largest farm business and that broilers produced the most dollars for Arkansans in the poultry field.

Mr. President, I am pleased to be able to report that Arkansas has attained the No. 1 ranking in broiler production. I ask unanimous consent to have printed in the RECORD two recent articles from the Nashville News which provide details on Arkansas poultry production.

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

ARKANSAS IS FIRST IN CHICKENS

After a decade of ranking second to Georgia in broiler production, Arkansas moved into the top spot in 1971, according to figures released by the Cooperative Extension Service of the University of Arkansas Division of Agriculture.

Howard County was third in the state in total broiler production with 32,031,000 broilers produced locally during the year. Arkansas' total broiler production was 476,143,000 which was an increase of six per cent over 1970.

Washington County was the leading producer in Arkansas with 94,887,000 broilers in 1971. Arkansas' production increase ran against the grain of the national trend which saw one per-cent decrease in broilers. Farm value increased one percent, though, while Arkansas experienced an even healthier gain of ten percent.

The state dropped to fifth place in egg production nationally during 1971 supplying 3,476,000 eggs for the market. Turkey production increased to 7,840,000 which is nearly a 600,000 gain over 1971 and ranks sixth nationally.

From 1970 to 1971 U.S. per capita consumption of "total poultry" (or broilers, other types of chickens, eggs and turkeys) decreased slightly (0.1 pounds) but the long-run trends from 1960–71 show "total poultry" consumption increased by 44 percent. During the same period U.S. consumption of "total red meat" (beef, veal, and pork) increased only 20 percent.

Poultry prices have made it more competitive, especially since housewives seem to be more penny conscious than ever. The average retail price of ready-to-cook broilers in 1971 was 41.0 cents per pound which contrasts vividly with the $1.04 per pound cost of choice cuts of beef. Average pork prices were 70.3 cents per pound.

Total farm value of U.S. poultry and egg production in 1971 was $3,958,948,000 which was nine percent less than 1970. Total farm value of poultry and eggs produced in Arkansas increased by four percent in 1971 again running counter to the national trend.

[From the Nashville News, April 11, 1972]

253,400 ARKANSANS DEPEND ON POULTRY FOR LIVELIHOOD

Poultry is "big business" in Arkansas.

In fact, it is Arkansas' biggest farm business. The total of all poultry products in 1970 amounted to $344,678,000 (farm value) which exceeded the value of second place soybeans as $281,425,000.

Cattle and calves produced $153,881,000.

According to the Arkansas Poultry Federation's figures, broilers produced the most dollars for Arkansans in the poultry field.

The values of broilers, eggs, turkeys and farm chickens were listed in 1970 as follows:

Item	*Value*
Broilers	$200,086,000
Eggs	$102,139,000
Turkeys	$33,910,000
Farm chickens	$8,543,000

In production numbers, these were the figures on the different phases of the poultry business:

Item	*Numbers*
Broilers	452,684,000
Eggs	290,167,999 dozen
Turkeys	7,320,000
Farm chix	16,946,000

Processing the poultry products added greatly in value. According to the 1970 report, the value added by processing amounted to $156,018,000.

An estimated 63,350 persons are employed in the poultry industry, with an annual payroll of $367,263,000, and a plant investment of $407,409,000.

The number of employees in the various segments of the industry include:

Segment	*Employees*
Poultry production	42,120
Poultry processors	7,680
Egg processors	5,730
Feed mills	6,440
Hatcheries	1,380
Total	63,350

Assuming an average of four persons to the family and with 63,350 employed in the industry, it is estimated that 253,400 people in Arkansas depend upon the poultry industry for their livelihood.

A CHERISHED FREEDOM

Mr. SCOTT. Mr. President, the Arizona Republic carried an interesting advertisement by a local businessman. It is entitled "A Cherished Freedom." I ask unanimous consent that it be printed in the RECORD.

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

"FREEDOMS" CONTEST BY PRUITT'S HOME FURNISHINGS—THE THEME WILL BE "A CHERISHED FREEDOM"

As Americans we are blessed with many personal freedoms, some that we are constantly aware of, others we take for granted in our busy everyday life; many that we have just simply forgotten.

We are aware that we cannot enjoy any of our freedoms singularly, as all of our freedoms work jointly, each giving support to the other. However, some of us have a particular freedom that has had or will have an important effect on our individual lives.

Without deleting any of our precious freedoms, select the one that is important to you, and in 100 words or less, tell why it is to you . . . "A Cherished Freedom."

My personal choice is the freedom given me by our great free enterprise system. Through this gift I was able to exercise my abilities to develop my hopes and dreams. Starting very small, working with the freedom afforded me by our free enterprise system, I was fortunate to grow to become one of the largest home furnishings stores in the Southwest, and ultimately to be the recipient of two national awards in the retailing and merchandising field. Because this great freedom made it possible for me to see my dreams become a reality . . . the freedom of free enterprise is to me . . . "A Cherished Freedom."

M. D. PRUITT.

GENOCIDE A FACT IN THE 20TH CENTURY

Mr. PROXMIRE. Mr. President, the U.S. Senate will soon begin its often repeated debate on the U.N. Genocide Convention of December 6, 1949.

Many people do not feel that it is possible to carry out genocide in a supposedly civilized world. Yet in the 20th century we have witnessed some of the most atrocious acts of genocide in the history of the world.

During the years 1915–21 2 million Armenians were the first victims of genocide in the 20th century. One and a half million Armenians were massacred by the Ottoman Turkish Government in 1915. Although these mass murders were later termed by the Allies as "Crimes of Turkey against humanity," nothing was done. As a result, the Armenians not only lost more than half of their people, but nine-tenths of their homeland.

The mass murder of 6 million Jews in World War II has been followed by the occurrence of genocide in Biafra, Bengladesh, and Burundi. Presently, the danger of genocide may be perpetrated upon the Brasilian Amazon Indian tribes.

To prevent future genocides, the U.S. Senate should consider its duty to endorse the Genocide Convention and join the 75 other nations which have already done so. I call for immediate ratification of this important treaty before the end of the second session of the 92d Congress.

ABC'S COVERAGE OF THE OLYMPIC GAMES

Mr. STEVENS. Mr. President, over a period of 18 days the drama of the XX Olympic Games at Munich, Germany, was delivered to the living rooms of more Americans with more impact than any event in history. ABC–TV conducted the magnum opus of sports with its effective coverage of this greatest of all sporting events.

All viewers were able to experience the thrill of victory; with Mark Spitz as he closed in on one gold medal after another until he reached the historical seventh one; with Melissa Belote and her angelic backstroke; with the endurance of marathon runner Frank Shorter and the flight of Randy Williams' long jump. We bobbed and weaved with Ray Seales to help him find the mark on his opponent, and we enjoyed the opportunity to be partisan for each and every one of our American entrants into the Olympic games. Respecting excellence as we do, our hearts went out to athletes from other countries too who displayed superiority and fairness in their competition.

But ABC–TV also showed us the other side of the games where we experienced the agony of defeat; defeat made more agonizing by administrative interventions than by a failing effort by our athletes. We were deeply disappointed when our sprinters Ray Robinson and Eddie Hart were given the wrong starting

times and missed the qualifying race. We were perturbed when our pole vaulters' poles were outlawed. We were stunned when our proven champion Jim Ryun collided with another runner and could not qualify. We were hurt when swimmer Rick Demont's gold medal was rescinded for spurious medical reasons. Worst of all we were outraged at the great Olympic basketball robbery when our team fell prey to a highly questionable timing decision by a Bulgarian official.

We saw it all in our living room through the miracle of modern television. Just as my generation may recall superb radio reporting in another era "from the rooftops of London," today's generation will recall superb TV reporting from "the stadia in Munich." from the transatlantic cable days of the London reports we have entered the era of satellite communications.

The picture ABC delivered to our living room was the distillation of efforts by 250 ABC technicians and reporters utilizing 16 color cameras to supplement 100 German network cameras, 18 video tape machines, and 80 monitors. Our picture was routed from a TV control room in Munich to a video converter at a ground station in Raistag, Germany, up to Comsat's Earlybird satellite, down to a receiving station in Maine, via land lines to ABC in New York and via ABC–TV network across the country.

One must consider as Herculean, ABC's task of presenting to the American audience a portrayal of 195 events in 22 different sports involving 6,500 athletes from 122 countries. ABC performed the task, not only adequately, but with style and interest. Evident was their preparatory work which included vignettes of Olympic athletes at their homes all around the world. How much deeper our understanding of the Japanese women's volleyball team after we saw the film of their demanding training process, and of Mark Spitz when we saw him as he is at home in California asking, "Judge me for what I am."

The assemblage of ABC sports personnel at the Olympics was as star studded as the field of participating athletes and included many former contestants. They, engineers and technicians included in their number, deserve gold medal praise themselves. ABC acquired the insightful reporting of at least one prior games champion for each sport. Knowledgeable commentary from decathlon champion Billy Toomey, runner Marty Liquori, swimmers Murray Rose and Donna deVarona, Bill Russell on basketball, and many other athletes helped relay the thrills and agonies of great competition. The names of ABC's inhouse staff are household words to all Wide World of Sports viewers and were much in evidence at the games. Where would a boxing fan rather be than at ringside with Howard Cosell. Play by play narrative by Jim McKay, Frank Gifford, Bill Flemming, Keith Jackson, Bob Beattie and other ABC regulars provided the continuity to help keep an eager American audience informed.

Certainly, by the time ABC completed its near 65 hours of Olympic games coverage, the face, voice and friendly manner of anchorman Chris Schenkel were familiar to all. He provided the transition between events. His explanations and comments guided many of us through rapid paced occurrences. I felt sure that if I was to knock on one of the doors on my street I would find that Chris Schenkel lived there. He has that quality of neighborliness that brought the Olympic spirit home. It was for this effort and the accompanying effort of crews of reporters, cameramen, and production people that President Nixon telephoned Munich to congratulate ABC's staff for its own superb performance.

The true mark of journalistic expertise is the way in which the unforeseen event is handled. Midway in the games—Olympic glory gave way to an ignominious blot on history perpetrated by Arab terrorists against a valiant Israeli team. Thrust suddenly into the middle of an international incident ABC's coverage geared down for hard reporting of the grim facts.

At some risk to their own lives cameraman-producer John Wilcox dug into position with his camera 50 feet from the Arabs, and Correspondent Peter Jennings became the focal point for passing reports to the anchor desk. ABC's people stayed on the job. Through the terror-filled night and the tragic day that followed, ABC's improvised team, led by Jennings and Wilcox, provided the watching world's only on-the-scene coverage.

Mr. President, the journalism profession is its own best critic. It already appears that ABC will be acclaimed by its own profession.

I look to the Variety of September 6, 1972, for the journalism profession's reaction to ABC's work at the Olympics.

I move and ask unanimous consent to have the Variety article of that date, entitled "ABC–TV Wins a Gold Medal," printed in the RECORD.

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

ABC–TV WINS A GOLD MEDAL—OLYMPICS BOOST WEB'S STATURE

(By Les Brown)

Easily the video hit of the summer are the Olympic Games from Munich—before the political drama and tragedy cast a pall over them—which ABC has been covering so superbly. The achievement carries a special significance in the world of American telecasting, as another milestone in the emergence of a full-fledged third network force.

ABC–TV seems to be coming into flower. Its claim to rating parity with the other networks last year in both daytime and primetime may have been premature—and has been disputed properly, perhaps on the basis of its shorter daytime schedule and nighttime numbers that failed to sustain over the full year. But the network is making a strong bid for supremacy in two conspicuous areas—movies and sports—and in one less conspicuous area, engineering.

The heroes of the hour, while the Olympics are still fresh in mind, are ABC Sports prexy Roone Arledge and ABC v.p. of engineering Julie Barnathan, who together have made these Olympics a talked-up subject everywhere, not only with male sports buffs, but apparently with women and children as well. It's not as though the Olympic Games have never been covered before, or that they've never been exciting before; it's that they've never been covered as well.

Absent has been the lethargy that marked most previous Olympic telecasts, the passivity that seemed to leave it all to the limitations of the camera. If this year's event—this "Super Wide World of Sports"—has spirit and a high quotient of human drama on top of the built-in melodrama, it is because the coverage is more aggressive, more probing, more inventive, more perceptive and finally more passionate than any before it.

A NEW STANDARD

It's a pro job that will put the other networks to their mettle hereinafter, a standard against which all future Olympic coverage or anything like it will be measured, and it establishes beyond question (1) ABC's credibility in the field of sports, if not its preeminence, and (2) ABC's stature in the handling of intricate live remotes against the logistics of satellite relay. Barnathan has an army of cameramen and technicians working along with the international pool, and the complex feed involves live coverage, with instant replay and slow-motion, interwoven with video tape coverage on delay. The beauty of it is that it goes so smoothly few at home are aware of the technical miracle performed night after night.

PRICED TOO LOW

At ABC, the sole regret is that the network priced the minutes too low—but of course much of the selling was done during the business recession last year, and besides, no one foresaw the kind of rating response the Olympics have been getting. In the overnights, the ABC spectacular has gone through the roof and appears to be giving the advertisers a huge bargain.

It's ironic, therefore, that ABC is putting forth such a great effort in a venture that was not fated to make a profit. Devaluation last year in the fluctuating world money market effectively drove up ABC's commitment for the rights by $2,000,000, and the company wrote that off in 1971 as an extraordinary loss. Then when the FCC denied the network a primetime waiver to allow the games to fall into station primetime, it cost the network, by its own estimates, just over $1,000,000 additionally.

On the original deal for the rights, with what then seemed a reasonable price for the participating spots (around $48,000 a minute), ABC envisioned break-even or perhaps a small profit on the Games. Aside from the devaluation, it now stands to lose on the venture what one official described as "a bit of money, not a lot." Reportedly, ABC's total investment, for rights and production, comes to about $13,500,000.

In the long pull, however, and in the intangible areas that don't show up in the annual report, these Olympics should prove immensely profitable to ABC. The company has done extensive research with viewers to learn what areas of programming it is most trusted for, and repeatedly the response has been strongest in movies and sports. Those, incidentally, are areas that have traditionally been NBC's long suits.

BUILT ON MARGINALS

What is remarkable about ABC's movie image is that to a large extent it's been built on non-theatrical features, the 90-minute made-for-tv pix that have been so successful on Tuesday nights. Equally remarkable is that the network's sports image has been achieved without benefit of any of the six major sporting events—the World Series, the All Star Game, the Super Bowl, the Kentucky Derby, the Rose Bowl and Master's Golf. Rather it has been built on lesser sports and particularly on that anthology of marginal events, "Wide World of Sports," with latterly a large boost from primetime professional football.

The network's movie image will surely be

reinforced this fall when it unloads a succession on powerhouse Sunday night titles from "Goldfinger" to "Patton" to "Lawrence of Arabia." And its sports image is already in the process of strengthening with the Olympics, the apotheosis of "Wild World of Sports."

The profit margin may be on the short side with the big features, and the Olympics will finish in the red, but both are making a terrific contribution to ABC's standing with the viewership. The public is coming to trust ABC to provide—and provide dependably—and that is bound eventually to carry a tangible payoff.

SENSELESS HARASSMENT OF SOVIET JEWS

Mr. CRANSTON. Mr. President, today is the day when the Supreme Soviet of the U.S.S.R. will rubberstamp an outrageous policy. That policy forces Soviet Jews who wish to emigrate to pay an exorbitant ransom fee. This money is supposed to represent the cost of education bestowed upon them by the Soviet Government.

Mr. President, I have long drawn attention to the repression of Jews and other minorities in the Soviet Union. This so-called "educational tax" is a giant step backward. Emigrating from one country to another is a basic human right. No one would dare to suggest that a resident of California who decided to move to England, for example, should be forced to pay thousands of dollars to cover the cost of his or her education at UCLA.

The Supreme Soviet's ratification of this new form of harassment follows by only 24 hours the Jewish day of atonement, Yom Kippur. Those responsible for elevating this ransom into law would do better to atone themselves.

PRESIDENT NIXON COMMENDED FOR VISIT TO FLOOD-DAMAGED AREA OF WILKES-BARRE

Mr. SCOTT. Mr. President, a Scranton Times editorial of September 11 commends President Nixon for his recent visit to the flood-damaged area of Wilkes-Barre, terming its net impact as having a good "psychological effect." I join in this commendation. President Nixon's visit could not have been more timely or more necessary. It will have very positive and lasting results.

In addition, Frank J. Blewitt, general manager of the Scranton Times, reiterates the sentiments expressed in the editorial in a letter to President Nixon, stating, in part:

> The warm reception you received leaves no doubt whatsoever as to how happy the people were to see you and to know that you cared enough to come in person . . .

I ask unanimous consent that the editorial and the letter to the President be printed in the RECORD.

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

PRESIDENT NIXON'S TRIP WAS WELCOME

We're pleased that President Nixon was able—finally—to make a visit on Saturday to the flood-ravaged sections of the Wyoming Valley.

The spur of the moment decision to fly by helicopter to Wilkes-Barre from Camp David, Md., was the answer to an appeal made by many voices—including this newspaper. We said in urging a visit on Aug. 24: "The psychological boost that the people would receive would be worth the effort, regardless of how busy he may be with other matters."

We also stated in our appeal to the President: "Recognizing that Tropical Storm Agnes was the worst natural disaster in the history of the nation, as far as property damage is concerned, we don't think it's asking too much of the President to view the area and visit the people where it struck its hardest blow."

With no advance word, President Nixon did come to the area to see for himself the awful damage that was caused by the June storm. We can only hope that what he saw will make the federal government ever more willing to aid the flood victims to fight their way back to normalcy.

Immediately after the storm caused flooding in a wide area along the Atlantic coastline, President Nixon made a visit to Harrisburg. But that ceremonial stop came at a time when it was not generally realized that it was Wilkes-Barre that took the hardest blow of all. The Wyoming Valley was so crippled that only the federal government could perform the job of coping with its massive damage.

The visit by the President was advocated by us and many others to boost the morale of the flooded areas. In addition, we also had the selfish view that if the President saw the terrible damage himself, he might speed up and expand the flood relief program. We hope that all those results are achieved.

We believe that it was the moral duty of Mr. Nixon to visit the flooded area and we commend him for doing it.

The PRESIDENT,
The White House:

Thanks, Mr. President—

Your trip to Wilkes-Barre, even though hastily arranged and catching many of us unprepared, was most welcome and appreciated, particularly by the thousands and thousands of victims in the flood ravaged areas of Wyoming Valley. The warm reception you received leaves no doubt whatsoever as to how happy the people were to see you and to know that you cared enough to come in person and reassure them that the Federal government is doing all it can and hopes to do much more to help them in their time of need and to relieve the depression brought on by this terrible and crippling disaster.

I am enclosing tear sheets containing our editorial comment on your visit and also pages from our Sunday edition showing photographs and stories on your tour of the devastated Wilkes-Barre area.

Thanks again, Mr. President. Your visit not only served to reassure the flood victims but it was also appreciated by all the people of Northeastern Pennsylvania who are most grateful for your deep concern for their destitute neighbors of Wyoming Valley.

We also want to add that your man, Frank Carlucci, is doing a commendable job and we concur with everything you said about this outstanding gentleman.

Respectfully yours,

FRANK J. BLEWITT,
General Manager.

RESOLUTIONS BY LIEUTENANT GOVERNOR HOWELL TO IMPROVE CONSUMER PROTECTION

Mr. HUMPHREY. Mr. President, during the National Lieutenant Governors' Conference, held near Tulsa, Okla., on August 9–13, 1972, two important resolutions submitted by Lt. Gov. Henry E. Howell, Jr., of Virginia, were adopted. These resolutions constitute significant initiatives to protect the rights of the American consumer at the State level.

One resolution by Lieutenant Governor Howell related to the elimination of arbitrary underwriting and renewal policies governing the issuance of automobile insurance, and the other resolution called for the establishment of an adequately staffed Office of Consumer Protection in each of the 50 States, and focused primarily on the need to assure a fair hearing in the determination of public services and utilities charges and regulatory matters.

The adoption of these resolutions provides encouraging evidence of new directions within our States on behalf of the citizen as consumer. Such actions would receive further support under the Consumer Protection Organization Act of 1972, S. 3970, currently awaiting Senate floor action. This bill includes provision for planning and action grants to assist State and local governments to plan and establish more effective consumer protection programs, and it would authorize a newly established Consumer Protection Agency to intervene and participate, by invitation, in State and local agency and court proceedings.

Lieutenant Governor Howell has established a remarkable record of achievement in service to the public and is well known as a man of integrity and commitment in meeting the vital needs of people.

I ask unanimous consent, that resolutions VIII and IX, submitted by Lieutenant Governor Howell and adopted by the National Conference of Lieutenant Governors, be printed in the RECORD.

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

RESOLUTIONS

VII. STATE OFFICES OF CONSUMER PROTECTION

The National Conference of Lieutenant Governors recognized that the determination of fair profits and policies as applied to electrical, telephone, gas, water and other utilities, as well as the fixing of automobile insurance rates, is a complicated and technical procedure.

In many States there is a need for the establishment and funding of a competently staffed Officer of Consumer Protection so that the interests of the public may be fairly represented in rate and regulatory matters concerning those companies which come before the state regulatory bodies. For this reason, and to guarantee a fair hearing to both the banker and the brick mason, the power company and the public; the National Conference of Lieutenant Governors urges that every state legislature enact such legislation as is necessary to create for the public an effective and well funded Office of Consumer Protection.

IX. POLICIES FOR AUTOMOBILE INSURANCE

The necessity for automobile insurance having become essential to the millions upon millions of our citizens, it is necessary that laws be passed which will prohibit the application of any arbitrary standards in the issuance of automobile insurance policies or the renewal of the same.

Accordingly, the National Conference of Lieutenant Governors urges every State in this nation, through their respective legislatures to enact, where necessary, laws that will require that automobile insurance be issued, without discrimination or the employment of arbitrary underwriting or renewal stand-

ards or criteria, to all citizens who apply therefor and who pay the necessary premium and who have safe driving records as defined by statute.

COMMENTS BY SENATOR KENNEDY ON DEVELOPMENTS IN UGANDA

Mr. KENNEDY. Mr. President, press reports continue to tell of a deteriorating situation in Uganda and East Africa. As the war of words and bullets gains momentum, a rising number of innocent people are suffering needless personal tragedy.

Of growing concern to the outside world is the plight of foreign nationals in Uganda. Among them are several hundred Americans, including missionaries, journalists, travelers, Peace Corps volunteers, and diplomatic and AID personnel. Reports suggest, among other things, that several Americans have been arrested by the Ugandan Government, some of whom are being held incommunicado. A spokesman for the Department of State has indicated that our Government has expressed "strong concern" to Uganda authorities over the treatment of Americans. And we can only hope that our Government and others will actively consider every appropriate step—including a halt in foreign aid—to help insure the humane treatment and protection of Americans, and all foreign nationals in Uganda.

But in a rising concern over the plight of our fellow Americans in Uganda, let us not forget the plight of the people in Uganda, especially the tens of thousands of Asians currently being expelled by the Government. As chairman of the Judiciary Subcommittee on Refugees, over the past several weeks I have also followed developments relating to this latest link in the chain of human tragedy over recent years.

In light of what appears to be another case of international apathy toward international people problems—and in view of the growing difficulties regarding the movement and resettlement of the Asians, and possibly others—on September 8, I wrote to the Secretary of State to inquire about America's policy and views toward this latest refugee problem, and to express the hope that our Government is concerning itself on at least three fronts.

First, I suggested that our Government, in concert with others, should seek in every appropriate way to express a concern to the Ugandan Government over its policies toward Asians.

Second, I suggested that our Government should actively support international initiatives to cope with the movement and resettlement of Asians who find it necessary to leave Uganda, including initiatives to involve the United Nations High Commissioner for Refugees—UNHCR—and the Intergovernmental Committee for European Migration—ICEM. I especially feel that the expert counsel and services of ICEM can contribute significantly toward the humane movement of refugees from Uganda and their settlement in ICEM member countries and elsewhere.

And finally, I recommended that our Government declare a refugee problem existing in Uganda, and that the Attorney General invoke section 212(d)(5) of the Immigration and Nationality Act, as amended, to parole a reasonable number of Asians from Uganda into the United States. Although our immigration laws do not expressly contain a comprehensive asylum policy for homeless persons throughout the world, in practice our country has always been generous in providing resettlement opportunities to refugees. Solely for humanitarian reasons, I share the view of many Americans over the importance of continuing this tradition, and strongly feel it should cover a reasonable number of Asians who are currently leaving Uganda under duress.

A similar communication, Mr. President, was sent to the Attorney General, because of his authority under the immigration laws. Hopefully, my recommendations, which are supported by many Americans, are being given every consideration by the executive branch.

Mr. President, in conclusion let me say that world events these days seem to be laced with a rapidly growing thread of personal tragedy for tens of thousands and even millions of people. Perhaps those who deplore this trend cannot ban war and terror and oppression, but we have a responsibility to make the effort and to respond to human tragedy, when it occurs, in the most civilized and humane way possible—in Uganda and Indochina, and throughout the world.

WILLIAM D. RUCKELSHAUS, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Mr. SCOTT. Mr. President, Bill Ruckelshaus, the Administrator of the Environmental Protection Agency, has proven to be a most able and effective leader in protecting and improving our Nation's environment. He is an outstanding individual in every way—one of the best men in the Nixon administration. In a recent column, Nick Thimmesch of Newsday discusses Bill Ruckelshaus and his job as Administrator of EPA. I ask unanimous consent that his article be printed in the RECORD.

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

[From the Chicago Tribune, Aug. 20, 1972]

RUCKELSHAUS PUTS SQUEEZE ON FIRMS

(By Nick Thimmesch)

WASHINGTON.—One of President Nixon's best men is William D. Ruckelshaus, administrator of the Environmental Protection Agency (EPA), the "enforcer" on environmental problems. He's good because while he's not a fanatic, he keeps pushing, preaches realism, and owns a good-natured personality which won't wear out.

He needs that durable personality, especially in an election year. Businessmen complain that he's "the best friend of American industry since Karl Marx." Environmentalists carp, even yell that he caves in to the White House. The Democratic platform screams nonsensical charges. And then there are dissenters in the administration over how EPA sets standards, and there are those with messages from businessmen.

Ruckelshaus responds to the barrage by telling environmentalists there is no conspiracy against them; businessmen to get going for their own sake; and those who charge that he caves in, that he runs his own shops, thank you.

MEANING OF SACRIFICE

Everybody must be reminded by Ruckelshaus that playing out the real roles in cleaning up the environment, so fetchingly pitched in all those lovely color TV commercials, means sacrifice. "The price tag is going to be heavy," he says, "in money, privileges, attitudes, and habits long sanctioned as the American way of life." This could mean the federal government spending $105 billion in the five years ending in 1975. It also means smaller profits, higher prices, and unemployment.

Private industry might have to spend $26 billion by 1980 to meet EPA standards. One study shows the rate of growth of the gross national product could slip, due to the environmental campaign, enough in the next five years to force unemployment up slightly.

Utilities will spend about $11 billion in the period to curb thermal and air pollution and that means consumers' bills going up as much as 7 per cent. Materials for the average house will cost an extra $100 because of environmental standards in cement, copper and other industries. Auto sales will level off, due to higher prices [from $400 to $425 per car] on cars because of new emission devices.

Business knows the score because it keeps books. Environmentalists are painfully learning that they can't have their cake and eat it. And Ruckelshaus develops a nice sense of irony. During the recent smog alert in Washington, motorists were begged to take the bus or ride in car pools to cut the suffocating pollution. According to traffic controllers here, there was even more traffic, probably because many people drove their air-conditioned cars instead of taking the bus as usual.

But wow, comes the first electric failure in a heat wave, due to overload, and the squawks are even louder. Same way with people who holler about solid waste pollution but buy beverages in no-deposit, no-return bottles. Fighting pollution still remains an individual act of decency.

Business has been hit by Ruckelshaus' EPA. Some 606 water enforcement actions were initiated between December, 1970, and June 30, 1972, more than the sum total of all previous decades. And "big guys" got hit. The city governments of Atlanta, Detroit, Cleveland, and smaller towns along mill streams.

Why doesn't EPA brag about its suits against big business, thus stilling Democratic criticism? "I don't go around yelling about how many big firms we've sued," Ruckelshaus says. "I'd rather keep prodding them."

THE BIGGEST RULING

The biggest one was Ruckelshaus' ruling in May against an auto industry plea to extend compliance with the Clean Air Act one year until 1976. Later, when Ford Motor Co. was cited for not properly testing emission controls on its 1973 cars, Henry Ford II himself, according to Ruckelshaus, phoned for an appointment. Ruckelshaus says he told Ford's counsel that he had to "keep an arm's length" from any company. So Ford's 1973 cars can be shipped to dealers, but not sold until the matter is settled, and this could mean late customer delivery.

Good signs? The nation's air is much cleaner, according to the Council on Environmental Quality, and will improve until 1990. Water will be appreciably cleaner by 1975. And the long-range effort showed a visible evidence when Ruckelshaus dedicated a National Environmental Research Center in Cincinnati in June.

THE RUSSIAN WHEAT DEAL

Mr. FULBRIGHT. Mr. President, in an editorial on September 17, the Washington Post pointed out that—

The more the Agriculture Department explains about the Russian wheat deal, the deeper and more disquietening the questions become.

Apparently the cost of the administration's favoritism in this case will have to be borne by American farmers, consumers, and taxpayers who were exploited at the expense of big grain interests, and who will pick up the tab for the special export subsidies under which a number of trading companies have reaped windfall profits.

Moreover, Mr. President, it appears that industries which have important ties to the grain markets will suffer as a result of the Nixon administration's questionable policies in this matter. In my own State, the poultry industry, which leads the Nation in production of broilers and is vital to the well-being of Arkansas' economy is already feeling the inflationary repercussions of the Agriculture Department's price fixing fiasco.

In a letter which I will include in the RECORD, Mr. Don Tyson, chief executive officer of Tyson's Food, Inc., a leading poultry producer which relies on the grain markets for feed, notes that the recent exporting of huge volumes of corn and wheat has caused the price of both to skyrocket. Mr. Tyson states that—

Since higher feed costs mean higher poultry and meat prices, this has got to ultimately cost the American consumer whether it be included in the price of a pound of meat or in the price of a loaf of bread.

Mr. Michael Malloy has written an excellent article which explains how special favors and special interests were involved in the biggest commercial grain sale in history, I ask unanimous consent that the article, published in the National Observer for the week of September 23; editorials concerning the grain sale, published in the New York Times and Washington Post of September 16; and finally, Mr. Tyson's letter of September 12 be printed in the RECORD.

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

[From the National Observer, Sept. 23, 1972]

UNITED STATES-SOVIET WHEAT DEAL CALLED A "SCANDAL" AS FARMERS FUME

(By Michael T. Malloy)

President Nixon announced this summer the biggest commercial grain sale in history to Russian buyers who have since bought so much American wheat that its price has shot up about 30 per cent in two months. So wheat farmers like Paul Whitmer ought to be singing the President's praises all the way to the bank. Right?

Wrong.

"I feel cheated," says the 60-year-old Whitmer. Instead of a bonanza, he says, the wheat deal is a financial blow that will cost him the money he had counted on to pay this year's taxes on his 800 acres near Wilson, Kan.

Whitmer is not alone. Sen. George McGovern has seized on the "apparent Russian wheat scandal" as a potentially hot farm issue. The National Farmers Union, the National Farmers Organization, the Consumers Union, and a clutch of congressmen have attacked aspects of the grain sale. Some contend the Government kept the full implications of the $1 billion deal from the farmers, slipped inside information to the big grain companies, and so allowed these companies to buy grain cheap and reap most of the profits.

SMALL CONSOLATION

The accusation is "wild unsubstantiated, and inaccurate," according to Agriculture Secretary Earl L. Butz, who negotiated the grain deal. He says his department had no secret information to give the grain companies, and makes a strong case that the companies knew more about the Russians' intentions than the department did. But the Government's protestations of ignorance are small consolation to farmers who sold their wheat at $1.30 or less per bushel in July, and saw the price mount to $1.75 or more in September.

"I know a dozen farmers who are as mad as can be," says Harold Boller, who grows wheat with his brother near Junction City, Kans. "I just feel like this thing was shielded from us until the harvest was over. It was a dirty trick on the farmer."

The grain deal was announced by President Nixon on July 8 just two hours after it was signed by Butz and a team of Soviet negotiators in Washington. The Russians promised to buy $750,000,000 worth of grain over a three-year period. The United States offered to lend the Russians up to $500,000,000 in short-term loans to help pay for it.

Few critics oppose this agreement in principle. It will ultimately earn $1 billion or more for American agriculture, help the national balance of payments, and create thousands of new jobs just to ship the grain to American ports. Complaints spring instead from suspicion by some that the Nixon Administration misled the farmers so the grain companies could make more money.

ANOTHER DELEGATION

The impression that Secretary Butz gave at the time was that the Russians wanted to buy a variety of grains to feed to cattle. He noted that they were having a bad wheat harvest in the Soviet Union, but said "they have plenty of wheat for now." He did not believe the sales to the Soviets would put "undue pressure" on grain prices. That would probably have been true if the Russians had stuck to their pledge of buying $200,000,000 worth of mixed grains during the first year of the agreement.

But more than a week before Butz in Washington signed the agreement providing U.S. credit for the sales, another delegation of Russians arrived in New York City to dicker for wheat with the big American grain companies. One shipload of 13,500 tons was already booked from Great Lakes ports by July 3. By early September, the Russians had ordered an estimated 400,000,000 bushels of wheat—fully one-fourth of the American crop. It now looks as though the first year's agricultural purchases by the Russians will be $1 billion instead of $200,000,000.

These enormous purchases did drive up the price of wheat, and may even lead to slightly higher bread prices at the supermarket. The American Bakers Association asked the Price Commission for a special increase this summer that would have led to a 2-cent rise in the cost of a loaf of bread. The association was turned down on the special request, but it says individual companies will be back to seek price increases through the commission's regular procedures.

Farmers should have gained much more than consumers might lose from the Russian spending splurge. But because they were unaware that Russian wheat orders would vastly exceed Butz's expectations, many of them sold their July harvest at ordinary prices. Whitmer says he sold his 9,000 bushels at $1.32 each on July 20, and then saw the price mount to $1.79 in eight weeks. Boller says some of his neighbors sold for as little as $1.25. He held on to his crop on a "lucky guess" and later sold for as much as $1.75.

That's the luck of the poker game that farmers play each summer with the grain companies, holding or selling their wheat on the gamble of catching the season's highest price. "Farmers didn't lose money because of early sales," Butz insisted last week. "They just didn't make the additional money they might have made."

But part of the farmers' income includes Government subsidies, and on these they lost real cash instead of paper profits. The subsidy covers about half the wheat crop, and amounts to the difference between the average price of wheat and a "parity" price of $3.03 per bushel. So when Whitmer sold his wheat for $1.32 he had reason to expect another $1.71 from the Government on half of it. He got an initial Government payment of $1.28 per bushel, with the balance due in December. "I was counting on getting about 40 cents like it has been for the last five years," he says.

But the subsidy is calculated on the average price of wheat during the harvest months of July through November. As the Russian purchases drove up the price, they also drove up the average. If the average reaches $1.75, as it may, the subsidy will drop to $1.28 and wipe out Whitmer's December payment. "We will have nothing coming," he says. "We might even owe them something. That's what I was counting on to pay my taxes."

So the cry from the farmers isn't from thwarted speculators, but from men who lost a piece of income they regularly count on. "What's happening hasn't seeped back into the countryside yet," says an official of the Texas Farmers Union. "But in about two weeks the farmers are going to be mad as hornets." The president of the National Farmers Union estimates that the wheat deal will cost $100,000,000 to farmers in early-harvest states from Texas to South Dakota.

"It's money these guys should have had. It's gone into the pockets of Continental, Cargill, and Bunge," says Boller, referring to some of the biggest grain companies involved in the Russian sales.

If the companies buy wheat cheap and sell it for a higher price, that is normally considered the luck of the annual poker game. But this year the companies' main customer was the Russians, and the Russians were brought to the poker table by the U.S. Government. So Presidential candidate McGovern and other critics suspect the companies got a peek at the Russians' cards that was denied to the farmers.

HARVEST REPORT

"The companies had advance knowledge of this information before the farmers did," says a spokesman for the National Farmers Organization. "It was not until early August when prices began rising sharply that it was generally known they were going to buy one-fourth of our crop. This gave the companies an opportunity to buy large quantities of wheat at a cheap price."

Part of the accusation of what McGovern calls a "conspiracy of silence" involves an August Agriculture Department report of the worsening Russian wheat harvest. Unlike a July report, it was not circulated outside the Government. Butz said last week that this was because several of his experts did not agree with the report, which drew mostly on information from the U.S. agricultural attache in Moscow. "We don't put out reports based on one man's opinion," Butz said.

More serious is the charge of conflict of interest against two former Department of Agriculture officials, Clarence Palmby and

Clifford G. Pulvermacher. Both men accompanied Butz to Moscow in April to begin negotiations on the credit arrangements. Palmby resigned as assistant Secretary of Agriculture June 6 to become a vice president of Continental Grain Co. Pulvermacher retired as the department's chief foreign salesman on June 28, and was hired in July as Washington representative of the Bunge Corp. Implied in the accusations is that they brought their new employers inside information on the intentions of the Russian delegation that arrived in the United States on June 28 to complete the credit negotiations.

Butz stands behind both men's denials of any wrongdoing. They all insist that the Russians kept the Department of Agriculture in the dark about their buying plans, and that the companies knew—and still know—more about the Russian purchases than does the Government.

STILL IN THE DARK

This is because there were two Russian delegations. One of them negotiated exclusively about the credit agreement in Washington and the other dickered with the grain companies in New York City. Butz says he did not even know the New York team was in the country. The transactions were carried out in such secrecy that the department says it still does not know how much grain the companies have sold to the Russians, nor the prices they have charged.

The grain companies support Butz's explanation. Cargill, Inc., said in a statement that no Government agency told it about the Russian interest in wheat. "We learned it from the Soviet buyers themselves," the company said. Instead of windfall profits, Cargill said, it will probably keep less than 1 per cent of the sale price of what it sold to the Russians.

If any companies did have inside information from the Russians or the Government, it gave them an opportunity to speculate against the American taxpayer for still another subsidy. This other subsidy is supposed to make high-priced American wheat competitive in the world market. The way it worked this summer, the Government paid grain companies the difference between the American price and the lower world price of the wheat they sold abroad. When the Russians arrived on June 28, the world price was supposed to be $1.63 and the wholesale price in the United States was $1.64, so the exporters got 1 cent per bushel.

The Russian purchases drove up the price of U.S. wheat, so the companies' export subsidy grew while the subsidy to the farmers shrank. By late August the export subsidy reached 38 cents per bushel. By this time the Agriculture Department was afraid the ballooning subsidy was itself helping to drive up prices, so it called a halt. It said it would lower these subsidies and stop supporting the world price at $1.63. It also offered the exporters a five-day grace period in which they could get 47 cents for each bushel they had sold but for which they had not yet sought a subsidy.

That series of transactions led critics to raise two questions. The first concerns the "world" price of $1.63. Nobody knows whether the companies were selling to the Russians at that price. If they were selling for a higher price, they didn't really need the subsidy.

The second question concerns the Government's policy of letting the companies apply for their subsidy at any time after they make a sale. A company that sold wheat to the Russians when the subsidy was only 1 cent would have been wise to delay its application if it had inside information that prices would continue to rise. By late August, it would get 47 cents for the same transaction.

The department's decision to let the companies clear their books at 47 cents per bushel at the end of August protected such speculators. The companies applied for $128,000,000 in subsidies during that five-day grace period; they applied for only $65,000,000 in all of last year.

HEARINGS IN HOUSE

Butz sought to refute this argument last week by pointing out that the companies also applied for subsidies on large quantities of wheat in July, when subsidies averaged only 22 cents. He said this showed they had no advance word that prices and subsidies would continue to rise.

Butz's figures lumped all the companies together, however, so the question remained whether individual companies with inside information did speculate in this way. The department has so far refused to give a company-by-company breakdown of the subsidies it paid, but Democratic Rep. Graham Purcell of Texas ordered that the breakdown be provided this week to hearings by his subcommittee of the House Agriculture Committee. He said he understood that fully three-fourths of the Russian business had fallen to Palmby's Continental Grain Co.

Purcell's hearings may answer many of the questions about the grain deal. Palmby has volunteered to testify. The congressman has demanded the text of the Soviet credit agreement, which the Government has sought to keep secret.

In the meantime, there is a lot of political hay to be made. Democratic Rep. Benjamin Rosenthal of New York has asked Congress' General Accounting Office to find out whether the big grain companies made contributions to Nixon's re-election campaign. Others have pointed to the "cozy" manner in which grain company executives trade jobs with their counterparts in Butz's department. The man who replaced Palmby used to work for a big grain company. The assistant to Pulvermacher's replacement used to hold Pulvermacher's new position with Bunge. A high White House foreign-trade official made a similar jump from the grain industry last winter. A pleased McGovern noted last week that he had hit "a real sore point" in the Nixon Administration.

[From the New York Times, Sept. 17, 1972]

GRAIN DEAL—AFTER THE HARVEST, WINDFALL PROFITS?

WASHINGTON.—It was first heard in mid-August, the charge that some large grain exporters—Cargill, Continental, Bunge, Cook, Drewfus, Garnack—had made windfall profits from the $750-million U.S.-Soviet grain deal announced by President Nixon on July 8.

At first the charge didn't make much more stir here than a breeze riffling a ripening wheat field. It came into Washington from the early-harvest states of Texas, Oklahoma and Kansas, from farmers who had sold their winter wheat in July at about $1.32 a bushel and suddenly discovered in mid-August that their brothers farther north, or neighbors who had not sold early-harvest wheat, were getting considerably more.

Those who had sold early complained that the Department of Agriculture had let them down by not informing them of the probable size of the Soviet wheat purchase (it quickly mounted to 400 million bushels), with its inevitable upward pressure on wheat prices.

The charge took on a new force and dimension in the first week of September when it was learned that between Aug. 25 and Sept. 1, under an unprecedented arrangement by the department, the exporters had been granted a special export subsidy of 47 cents a bushel on 280 million bushels. The total came to $131.6 million, and critics charged that most of it was a windfall which would come out of the taxpayer's pocket.

Moreover, questions were raised about possible violation of the conflict of interest law which forbids any former Government employee to represent anyone other than the United States in connection with a matter in which the United States is a party and in which the employe had participated "personally and substantially" for the Government. The basis for these questions was the fact that Clarence D. Palmby, former Assistant Secretary for International Affairs, and Clifford G. Pulvermacher, head of the Export Marketing Service, had accompanied Secretary of Agriculture Earl L. Butz to Moscow in April for the initial negotiations on credit terms for the wheat sales, and then had resigned in June—Mr. Palmby to become vice president of Continental, and Mr. Pulvermacher to become Washington representative of Bunge.

Last week, the House Subcommitee on Livestock and Grains held hearings on the grain deal, with particular emphasis on the question of early sales and the special subsidy and with Mr. Butz a key witness.

EARLY SALES

Mr. Butz readily conceded that some farmers had sold in July at $1.32. He said he was sympathetic about any losses as a result, but insisted that the department was not to blame. It, also, had been astounded by the magnitude of the Soviet purchases. The farmers, he said, had known as much as the department or the exporters. "We gave the public notice after notice after notice that the grain deal was down the road," he said.

This did not convince Representative Graham Purcell, Democrat of Texas. Mr. Purcell cited a Wall Street Journal article last Thursday which said that the department had suppressed in mid-August a report by its economic research service which revised sharply downward an earlier estimate on Soviet wheat production and sharply upward estimates of their import requirements. Mr. Butz explained this suppression by saying the report was based on a cable from the agriculture attaché in Moscow, and it was decided to withhold the report until a "consensus of opinion" developed.

SPECIAL SUBSIDY

To make United States wheat competitive in world markets, the department is authorized to pay an export subsidy—called an "equalization payment" to exporters amounting to the difference between the price they pay to American farmers from whom they purchase the wheat, and the usually lower world market price at which they set it. The last three years, the department has been trying, by its subsidy, to maintain a world price of $1.63 to $1.65 a bushel. It had promised the exporters in the Soviet deal a subsidy based on $1.63.

But by mid-August, the huge Soviet purchases had driven up the world price for wheat proportionately even more than they had driven up the American price. In other words, a smaller subsidy than previously would have been sufficient to equalize the two prices. And the department decided that it would, in fact, adjust the subsidy to the actual difference between the two prices, rather than continue to base it on the now unrealistic $1.63.

Thus on Aug. 25, the exporters were notified that they would be given a week—until Sept. 1—to register completed sales agreements up to the close of business on Aug. 24 for a subsidy of 47 cents representing the difference between the $1.63 base and the then domestic price of $2.10. The department's justification for this special subsidy was the assumption that the exporters would have to pay $2.10 a bushel to cover their commitments and would lose money—having agreed to sell to the Russians at $1.63—if they got only a subsidy representing the difference on Aug. 24 between the world and domestic price, which was only 38 cents.

But the critics last week attacked this arrangement, and explanation, on two grounds. One was the contention that such solicitude for the exporters was completely unwarranted since they had certainly covered most of their sales commitments by buying wheat in July at $1.32 a bushel, and thus the special subsidy was an additional windfall.

The second point of attack was a thunderbolt dropped by Representative John Melcher, Democrat of Montana. He asked Mr. Butz whether Charles W. Pence, an official in the Export Marketing Service, had called the exporters some hours before the close of business on Aug. 24 to tell them that the change of policy was imminent. In other words, gave them time to rush through sales agreements before the close of business that day.

Mr. Butz initially denied that any call had been made. Subsequently, the department acknowledged that there was such a call on Aug. 24, but it contended that the exporters could not have benefitted from it because they were told "that the new policy would be effective retroactively to the close of business of the previous day, Aug. 23."

This was not, however, what Mr. Pence had told three reporters, including The New York Times, and Mr. Melcher was quick to point that out. The subcommittee ordered Mr. Butz to produce Mr. Pence for questioning tomorrow.

[From the Washington Post, Sept. 17, 1972]

WHEAT, DOLLARS, AND A FEW FAVORS

The more the Agriculture Department explains about the Russian wheat sale, the deeper and more disquieting the questions become. Secretary Butz's evangelistic enthusiasm for the wheat deal is not contagious. This massive transaction now raises several different kinds of issues. First there is the pecuniary scandal, in which a few trading companies made large profits through inside information furnished to them alone by the department. Next there is the failure of American trade negotiating strategy, in which our government was misled and exploited by the Russians. They have taken us on a gigantic hayride that will cost the American public some hundreds of millions of dollars in subsidies and higher domestic prices. Finally, as a matter of foreign policy, we have given the Russians commercial advantages that we do not apparently offer to anyone else. It is a gratuitous affront to our regular and reliable trading partners.

In the scandal, a new element has now come to light. On Aug. 24, the department decided that the export subsidy was finally getting too high and it prepared to abandon its policy of matching price rises with subsidy rises. Someone at the top level of the department told a lower official to call half a dozen major traders and passed on the message before the market closed that day. Those whom the department neglected to call were, of course, the others who deal on the same market: domestic businesses like the millers and bakers, the grain cooperatives, the farmers and, if Mr. Butz will pardon the expression, the general public.

The generally accepted way for a government agency to announce a change of policy is to tell the news services, and the generally accepted time is after the close of the market. The department ignored both of those rules.

Wheat is bought and sold on a speculative and wildly competitive market where inside information is readily convertible into cash. The public will doubtless hear more about the content of these phone calls when Congressman Purcell of Texas continues his hearings on Monday. But it is already established that the department was feeding valuable information to a few selected middlemen, to the obvious disadvantage of both domestic buyers and the wheat farmers.

More broadly, the wheat deal calls into question the competence of the American negotiators who produced this bargain for the Russian government. The Russians needed to buy the wheat a great deal more than we needed to sell it, but they induced us to shell out well over $100 million in subsidies to entice them. This aspect of the fiasco deserves particular attention, since the administration is now embarking upon further trade agreements with the Russians. In the case of the grain sale, it appears that the people at the top of the department did not fully grasp the meaning of the reports of crop failure from our embassy in Moscow, and the data from the weather satellites. They were persuaded that the Russians mainly wanted to buy feed grain. Instead, Russia went first for wheat and bought one-fourth of the American crop at the low subsidized price.

The Agriculture Department attempts to defend the subsidies by arguing that they are essential to keep our wheat competitive with the world price. As we have said before, the world price this summer was the American selling price. No other nation had wheat for sale in any substantial quantity. This truth is confirmed by the recent announcement of the sale of American wheat to China. The Chinese did not come to the United States to buy it. They went to a French trading company, which came to the United States only after it was unable to buy elsewhere. Our sale to China is also subsidized. China, incidentally, does not suffer a food shortage. It imports wheat because, evidently, it wishes to export its own rice, which it sells at a higher price to earn foreign exchange.

As foreign policy, in the broad sense, the wheat sales are characteristic of the Nixon administration. It has frequently been noted that Mr. Nixon has been much more solicitous, and much more successful, in his dealings with our former adversaries, the Russians and the Chinese, than with our traditional friends and allies. In grain exports, the contrast in our treatment of the Russians and the Japanese is striking.

Congressman Neal Smith of Iowa has pointed out that, in our feed grain sales to Russia late last year, the United States gave the Russians better terms than it was giving the Japanese at that time. In the wheat deal this summer, all buyers presumably got the same price. But the Agriculture Department discriminated in another manner. It held the price low and stable while the Russians were buying. Now that they have bought all they want, the department is letting the price rise. Those who buy steadily, year in and year out, must now pay more. It is an odd way to treat the Japanese at a time when we are berating them for not buying more American products.

Secretary Butz keeps suggesting that this summer's wheat sale opens a vast new market for American grain. Russia is, in fact, a very erratic customer. Russia grows its wheat very far north, where the weather is fierce and the crop fluctuations are extreme. In a bad year like this one, Russia must buy heavily abroad. In a normal year, they buy much less. In a very good year, they put wheat on the world market to compete with ours. Japan, on the other hand, buys American wheat at a constant rate and is, in any normal year, by far our biggest customer for it. Yet it is to the benefit of the Russians that we bend the structure of our subsidies.

TYSON'S FOODS, INC.,
Springdale, Ark., September 12, 1972.

Hon. J. WILLIAM FULBRIGHT,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR BILL: With reference to our conversation concerning the recent exporting of corn and wheat and the impact that this has had on the poultry business in Arkansas, I would like to submit the following comments.

As you know, Arkansas is the nation's leading poultry producing state, and the well being of the industry is vital to the state's economy. The industry has historically operated on a very narrow margin. Since feed costs account for over sixty percent of the cost of producing a pound of poultry meat, any increase in the cost of grain becomes significant. In late June and early July, the December corn futures were trading in the low $1.20–$1.23 per bushel range. Based on crop reports, carryover estimates, etc., we would normally expect the futures to trade in a fairly narrow range until harvest time approaches, then we would expect the December option to drift lower, depending on the condition of the crop.

The recent exporting of huge volumes of corn and wheat has caused the price of both wheat and corn to skyrocket. December corn futures are now trading in the $1.37 per bushel range. This has got to ultimately cost the American consumer, whether it be included in the price of a pound of meat or in the price of a loaf of bread. A ten cent rise in the price of a bushel of corn results in a 2.75% rise in the cost of feed for poultry. The increase would be greater for beef or pork, since chickens are more efficient convertors of feed to meat than either cattle or hogs.

Our best estimates now are that corn will cost our Company fifteen cents per bushel more in 1973 than it cost in 1972 because of the exporting of our feed grains. This fifteen cent increase in the cost of grain alone represents a rise in our feed cost of $2.25 million dollars. We can't afford these kind of cost increases and continue to remain a viable, growing company unless the American consumer pays more for the finished product at the market place.

Sincerely,

DON TYSON,
Chief Executive Officer.

ANOTHER INSTANCE OF THE HARD SELLING OF THE PENTAGON

Mr. FULBRIGHT. Mr. President, we have at hand another instance of hard selling of the Pentagon. A film called "Only the Strong"—purporting to show that the U.S. defenses are in a sorry state—is being shown now on a number of television stations.

I am trying to ascertain to what extent the Pentagon supports this film venture. Although the Pentagon claims no involvement in the film, two active-duty generals are featured with their claims that U.S. defenses are declining as the Soviet Union becomes more menacing.

As the film takes almost no notice of the SALT treaty and agreement signed in Moscow, it is basically unrelated to current realities. Of course, the demonstrated ability of the Soviet Union and the United States to agree on arms limitations would not support the purpose of this film—the stirring-up of citizens to seek more defense spending.

The film—a tremendously one-sided affair—shows, I am informed, Soviet weapon after weapon, and is filled with explosions, ominous music, and stentorian commentary. Footage that would show American military strength is not included. The film well may disturb many who are not well-versed in arms affairs. Undoubtedly, it would be possible for some clever filmmaker to produce a film about American military strength that would scare Russian citizens. At this very difficult juncture in

East-West relations, however, with both sides overly armed as it is, there seems no value in scaring citizens on either side.

The theme of the film is a need for U.S. superiority, not the sufficiency or equality that is stated national policy. If we are to be subjected to propaganda for spending to achieve so-called superiority, it seems to me extremely important that the other side of these issues be made available.

Adm. Gene R. LaRocque, retired, of the Center for Defense Information, and William C. Foster, formerly Director of the Arms Control and Disarmament Agency, have written television stations pointing out their obligation under the fairness doctrine to give opposing viewpoints. At the same time, Admiral LaRocque and Mr. Foster have been pertinent rebuttal to some of the issues raised in the film. I ask unanimous consent to have printed at this point in the RECORD their letter to the stations and a letter being distributed widely by retired Gen. Bruce Holloway in support of the film. General Holloway participated in an interview in the film while still on duty as Commander of the Strategic Air Command.

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

THE ARMS CONTROL ASSOCIATION,
CENTER FOR DEFENSE INFORMATION,
August 28, 1972.

DEAR STATION MANAGER: This letter concerns the Fairness Doctrine.

It has come to our attention that the Institute for American Strategy has recently offered to television stations throughout the country, for prime time showing, a 27-minute color film entitled "Only the Strong." The film already has been broadcast in a number of cities.

The film deals with a highly controversial issue of major public importance: the balance of power between the United States and the Soviet Union, and the related question of whether the balance is maintained through arms limitations or more military spending as the proper route to national security. This issue is particularly controversial at this time, when the SALT agreement is still under Congressional consideration and new SALT negotiations are about to begin.

The Arms Control Association is a nonpartisan, nongovernmental national membership organization dedicated to promoting public understanding of effective policies and programs in arms control and disarmament. Its Board of Directors includes many of the nation's principal authorities on arms control and national security, many of whom have served in high positions in the Departments of State and of Defense, the C.I.A., and the Arms Control and Disarmament Agency. Its chairman, William C. Foster, former Deputy Secretary of Defense, was the first director of the United States Arms Control and Disarmament Agency, which is the government agency charged with formulating and negotiating United States arms control policies.

The Center for Defense Information works to increase informed public opinion on national defense and foreign commitments. Its director is Rear Admiral Gene R. La Rocque (USN, Retired), and its staff includes former defense and intelligence experts on military budgeting, weapons systems, operations analysis, and planning of military force structures. The two organizations represent a breadth and a depth of expertise in military and arms control policy almost without parallel outside the government.

It is our opinion that the film "Only the Strong," provides a biased, one-sided view of the international security situation which grossly exaggerates the military capabilities and intentions of the Soviet Union and wrongly depicts the United States in a position of military weakness and decreasing security.

Among the controversial issues of public importance on which this film presents only one point of view are:

1. The film suggests that only through more armaments can security be attained; no case is made for arms control as a viable alternative.

2. The film purports to show the balance of forces between the Soviet Union and the United States. However, it shows virtually nothing of the military strength of the United States. There are almost no counterpart scenes of U.S. military power to match the many clips of Soviet weapons, and none showing the modernization and extensive qualitative improvement of U.S. forces of recent years. The only point made—an erroneous one—about U.S. military strength is that it is "standing still," and that it once was strong enough to allow the U.S. to impose its will on the Soviet Union.

3. The case for "superiority" is the only one made. There is no recognition that mutual deterrence is a stable situation, and that the quest for superiority has proven to be fruitless, leading only to a continuing arms race at increasingly greater cost, and with perpetually decreasing security for everyone.

4. The film implies that the United States is at a disadvantage because the Soviet Union has certain kinds of weapons and the United States does not. Clearly we made conscious decisions to develop some weapons and not to develop others; the generals and other former government officials shown in the film should be asked why we did not imitate the Russians in developing an SS–9, or building landmobile missiles, or huge air defense systems. They would no doubt be able to provide good reasons why we chose not to emulate the Soviets' mistakes, and developed other weapons instead.

5. The general might also have been asked about Soviet weaknesses; for example, can the United States bombers get through Soviet air defenses? Can the U.S. missiles get through Soviet ABM's? The answer to both would undoubtedly be yes.

In addition to presenting only one side of a number of controversial issues of public importance, in a number of instances the film is seriously misleading. For example:

1. The film suggests that the United States has been standing still in its weapons programs while the Soviet Union has been forging ahead. It completely ignores the United States' qualitative improvements to existing weapons systems, whereby the U.S. is steadily increasing its lead over the Soviet Union in deliverable nuclear warheads, the most significant measure of relative nuclear weapons strength. The term MIRV—the multiple, independently targetable reeentry vehicle—is not even mentioned, although this weapon, which the United States has in abundance, and which the Soviet Union has not even tested, is the single most important (and potentially most destabilizing) new weapons development of the past decade.

2. Against a voice-over narration describing modern Soviet weapons of great power and sophistication, the film shows some obsolete Soviet weapons, ascribes characteristics to others that they do not remotely possess, and shows some objects that are not weapons at all. While the narrator is describing Soviet nuclear missile-launching submarines, for instance, the film is showing diesel-powered attack submarines. While the narrator describes Soviet air and missile defenses, the film shows an imposing-looking space-tracking radar; while he discusses the Soviet "nuclear advantage," the film is showing a "Vostok" manned space capsule (like the U.S. Apollo); when he describes the "Foxbat" MIG–23 "interceptor," the film depicts a "Flogger" experimental plane, instead. (The MIG–23 is a reconnaissance plane. The U.S. SR–71 is its counterpart.) A plane identified as "Backfire" is equated to the projected U.S. B–1 bomber, when in fact it more nearly resembles the already operational U.S. FB–111. The Backfire is at this stage purely experimental.

A narrator describes the awesome power of the Soviet Navy's surface-to-surface missiles, while on-screen small surface-to-air missiles are shown firing. The firing sequence is followed by a huge geyser of water, suggesting that a surface-to-surface missile has just hit its target.

3. The narration repeatedly includes misleading numerical comparisons. For example, the narrator declares that the Soviet Union possesses 840 medium and heavy bombers to the United States' 470 medium and heavy bombers; in fact, the Soviet Union has only 140 heavy bombers capable of reaching the United States, compared to a U.S. fleet of 457 heavy bombers, 475 Europe-based fighter-bombers and 144 carrier-based naval fighter-bombers, all capable of delivering nuclear weapons on Soviet targets.

4. A U.S. Air Force general decries the reduction in U.S. air defense capabilities but fails to note that this reduction has been intentionally brought about because in the missile/nuclear age bomber defense is not much use.

5. Nowhere in the film is there a discussion of overkill (though the term is applied erroneously to the concept of deterrence). In fact, the primary lesson of the arms race and the dominant fact of the present situation is not that the U.S. or the Soviet Union are "ahead" or "behind" but rather that both possess so much nuclear firepower *beyond* any rational need for deterrence that numerical comparisons are meaningless. The lesson of this overweight is not to try to "catch up" but rather to slow down, and that arms control and negotiated reductions are the road to more security. Further arms racing is the road away from it.

6. Although the film in no way purports to represent the views of the United States government, there is clearly sufficient involvement to raise serious questions about the independence of the views and judgments expressed. Two active duty Air Force generals are interviewed in the film to support its thesis. (A recent letter promoting the film and signed by now retired General Holloway, who appears in the film while on active duty, makes clear that his appearance was "with Department of Defense approval, of course.") The film credits indicate that the Air Force provided some, if not all, of the Soviet footage.

On each of the foregoing issues there are a number of contrasting viewpoints which deserve to be heard. The Federal Communications Commission Fairness Doctrine requires balanced programming. We therefore urge that you carefully scrutinize the film before you decide to show it.

If thereafter you plan to show it or if you have already done so, we think you should indicate to us your willingness to present an opposing point of view. We stand ready to provide you with data, information, and persons to present an informed and re-

sponsible alternative position. We are willing to present these views immediately following the showing of "Only the Strong," preferably in the same time segment, or at a reasonable time thereafter.

We look forward to your reply.

Sincerely,

WILLIAM C. FOSTER,
Chairman, The Arms Control Association.
GENE LA ROCQUE,
Rear Admiral, USN (Ret) Director, Center for Defense Information.

WASHINGTON, D.C.,
August 19, 1972.

Dear ———: Several friends have suggested that I write you about a remarkable educational project now underway to warn all Americans about the growing Soviet military threat.

As Commander-in-Chief of the Strategic Air Command from 1968 until I retired four months ago, I saw the tremendous momentum of the Soviet build-up in nuclear weapons. For this reason, I was dismayed that the TV networks did not report on the detailed Statement by seven members of the President's Blue Ribbon Defense Panel concerning the alarming shift in the balance of military power.

This deeply concerns me because I believe that the Soviet military build-up poses the most serious threat the United States has ever faced! The gravity of this should be self-evident to all Americans if they have the facts presented in a way they could clearly understand.

The American people especially need the facts right now because as voters they must decide whether Presidential Candidate McGovern is right in his plan to cut sharply the defense budget.

The only way to reach all the American people in a short time is by television. This is why I am writing to you about ONLY THE STRONG, an outstanding documentary film produced for TV by the Institute for American Strategy.

ONLY THE STRONG features color footage comparing Russian and American nuclear weapons in action. In 27 minutes it does a remarkably good job of holding the viewer's attention and explaining the facts about the shifting balance of military power. You will note in the enclosed brochure that I participated in the film while I was at SAC (with Department of Defense approval, of course).

I recently asked why ONLY THE STRONG had not been shown on network TV, and found that the Institute has tried to buy a half-hour of network prime time from each of the three networks. While the networks said that the documentary was well produced, they declined to sell the time.

So, the Institute is instead making a big effort to reach all Americans through local TV stations.

The goal is to show ONLY THE STRONG five times in every TV market! This would cost over $600,000 if the Institute had to buy all the time. But, the cost will be less because the program is so good that many major TV stations in cities such as New York, Norfolk, and Detroit are showing it as a public service—mostly on prime time. In some cases, companies sponsor it—e.g. two newspapers are sponsoring and promoting it in their cities.

In St. Louis, three different TV stations have shown it on prime time paid for by contributions from Missourians.

This, however, is only a start which proves that it can be done. To complete this project, the Institute needs your help by:

1. Contributing money for both air time and promotion.

2. Urging TV stations, advertisers, and ad agencies to show ONLY THE STRONG several times.

3. Renting or buying the film to show to clubs, employees, schools and churches.

A good friend has just promised a contribution of $100,000 toward getting ONLY THE STRONG on the air if you and I and others will match it. This means that each dollar we contribute will be worth two; and it is fully deductible.

I know of no more worthwhile contribution you could make for the well-being of the United States of America.

Sincerely,

BRUCE K. HOLLOWAY,
General, USAF (Ret.).

P.S. I've enclosed a reply card and envelope for your convenience in making a contribution to get this program on the air.

Here's what a half-hour of prime time TV costs in the Los Angeles market: KNBC, $4000; KABC, $3200; KNXT, $3150; KCOP, $2000; KTLA, $1900; KHJ, $1800; KTTV, $1800.

General Bruce K. Holloway, 1101 17th Street N.W., Washington, D.C. 20036

DEAR GENERAL HOLLOWAY: I am responding to your most urgent letter asking me to help get ONLY THE STRONG on TV nationally with my deductible contribution of $_____.

(Please make check payable to The Institute for American Strategy, a publically supported tax-exempt educational institution.)

Name _____
Address _____
City _____ State _____ Zip _____

☐I'd like to rent only the strong at the contributor discount price of $20.00 (reg. price $42.00) for one day's showing. I will need it on —— (date). Please ask the Institute to bill me for the rental.

☐I'd like to buy only the strong at the contributor discount price of $198.75 (reg. price $265.00). Ask the Institute to bill me. I understand I can send the film back without paying if I don't agree with you that it is *great.*

☐Yes, I'll encourage the local TV stations, ad agencies, and/or possible sponsors to show the film.

NOTE.—Contributors of $100 or more will be prominently listed on the "Roll Call of Sponsors" in the Institute's main office.

Contributors of $500 or $1,000 or more will be listed on a plaque as "Patrons" and will be mentioned in the newsletter (unless they'd prefer not to appear in the newsletter).

All contributors of $15 or more will receive the Institute's monthly newsletter to keep them up to date ($3.00 of each contribution covers the annual subscription).

ONLY THE STRONG

It is now ominously clear that there has been a significant shift in the balance of military power in the world. After a decade of expansion and modernization of its strategic forces, the Soviet Union has not only caught up to the United States but has passed us. Moreover, the Russians show no signs of slowing their arms build-up.

In the opinion of many thoughtful Americans, this constitutes the most serious threat in our history—and makes our national defense the overriding issue of today. Many other Americans—including a few outspoken leaders in Congress disagree. They discount the threat, and are pushing for further reductions in our defense budget.

Every citizen of the United States is entitled to his own opinion. He also has a right to the facts—and that's the objective of this new 27-minute motion picture: to let the American People know exactly where we stand today.

"Only the Strong" documents and graphically compares the various weapon systems of the two superpowers. Dramatic film footage shot inside the Soviet Union by Soviet camera crews shows Russia's strategic might. Experts like famed physicist Dr. Edward Teller, SAC Chief General Bruce Holloway, and others give their views in interviews filmed exclusively for "Only the Strong."

This is a film every American should see and think about. It is our hope that public-minded television stations and groups across the country will help give it the widest possible circulation. Only an informed America can make the kind of decisions that will be called for in the years ahead.

Mr. FULBRIGHT. Mr. President, Mr. Richard J. Levine, of the Wall Street Journal, has written a comprehensive article on the producer of this film, the Institute for American Strategy and its brother organization, the American Security Council. I ask unanimous consent that Mr. Levine's article be printed at this point in the RECORD.

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

COLD-WAR WARRIORS

(By Richard J. Levine)

CULPEPER, VA.—The Kremlin is keeping a wary eye on this small, quiet town in the Virginia farm and horse-breeding country.

In the eyes of Pravda, the Communist Party newspaper, nothing less sinister than "the sixth wing of the Pentagon" lurks here on quiet North Main Street, sandwiched between a savings and loan and a clothing store. It's the storefront headquarters of the American Security Council, a hawkish, fervently anti-Communist organization dedicated to U.S. "victory" in the cold war and to strengthening the nation's military defenses.

Pravda's displeasure is just fine with the council, which has parlayed its anticommunism into a thriving operation. Founded in 1955 as a small, business-financed research and education organization concerned primarily with the "internal Communist threat," it has mushroomed into a formidable national pressure group.

Today, the council claims 135,000 individual contributors and 1,500 corporate members (most of which, it says, don't build weapons). It estimates its annual income at $1.4 million. It maintains close ties to certain congressional committees, and three retired chairmen of the Joint Chiefs of Staff—Generals Nathan Twining, Lyman Lemnitzer and Earle Wheeler—serve as co-chairmen of its national strategy committee.

OUTGUNNED BY MOSCOW?

Now, even as President Nixon reaches for detente with Moscow and Peking, the council is pursuing its most ambitious public-relations campaign yet. It aims to convince Americans that the U.S. has fallen dangerously behind the Soviet Union in nuclear weaponry. Convinced that peace is assured only if the U.S. regains—and then retains—"clear military superiority," the council's president, 50-year-old John M. Fisher, asserts:

"We no longer have the capacity to put a gun on them (the Soviets) because we find they have two guns on us."

While the council hailed the President's decision to mine North Vietnam's ports as "courageous," it takes a dark view of the strategic arms limitation agreement he brought back from the Moscow summit.

The council's national strategy committee is still making a formal, detailed analysis of the arms-control pact, but Mr. Fisher has already made up his mind. He sees the agreement as an "enormous victory for the McGoverns" in Congress, and he feels it freezes the U.S. in a position of nuclear inferiority.

Recently the council president wrote his members urging them, by implication, to work for the defeat of the agreement in the Senate through a letter-writing campaign. He calls the accord a triumph for "the powerful antidefense lobby" and warns that

"America is in danger." As a realist, however, Mr. Fisher sees little prospect that the Senate will follow his advice; he would be satisfied if it would simply register "reservations" about the arms accord.

A THREE-PRONGED CAMPAIGN

To beam its controversial views to the public, the council works closely with an outfit called the Institute for American Strategy. The institute, also headed by Mr. Fisher, shares office space, mail facilities and many contributors with the council. On an isolated estate near here, the institute has started building a "Cold War College" to train leaders for the battle against communism. The three-pronged campaign of the council and the institute consists of:

Production of a slickly professional, 27-minute television film that focuses on the Soviet strategic weapons buildup. Entitled "Only the Strong," the color film was written and directed by Harry Treleaven, President Nixon's TV adviser during the 1968 campaign. It is built around chilling footage of Russian weapons, and though the institute hasn't been able to get national network time to show it, the film has made about 30 local television appearances, including airings in Indianapolis and St. Louis. The institute hopes for five showings in each of 211 local television markets.

Compilation of a national security voting index, rating all 535 members of Congress according to their stands on defense issues. The council bills itself as "nonpartisan," but it knows whom it doesn't like—mostly liberal Democrats. In a letter soliciting money to prepare and publicize the index, Mr. Fisher says: "Many voters aren't aware of how some Senators such as Kennedy, Muskie, Humphrey and McGovern and others have taken positions on national security matters which weaken America's defense against communism." Over three million of these letters have already gone into the mail, and the council plans to send out a million more. Thus far, well over $500,000 has been collected, they say.

Mail distribution of up to seven million brochures reprinting a statement by seven of 14 members of President Nixon's civilian blue-ribbon panel appointed to review national defense. The statement warns that the nuclear balance of power it "shifting . . . against the U.S. and in favor of the Soviet Union," declaring: "Among the great nations, only the strong survive." Recipients are also asked for donations.

GENERALS TO JANITORS

The council started using direct-mail campaigns in 1969, when it distributed one million pieces of literature stating the case for building the antiballistic missile defense system, and also soliciting money. Today it uses an array of mailing lists to identify likely targets for its broadsides (the lists include Standard & Poor's register of directors, Epilepsy Foundation contributors, Fortune magazine subscribers and members of leading country and yachting clubs). Then it sends out the tracts to everyone from military officers to janitors and housewives from an automated mailroom that can churn out 200,000 pieces a day.

The mail campaigns supplement the council's regular channels of communication. It publishes a twice-monthly Washington Report Newsletter (circulation 75,000) that analyzes national security issues; a recent copy warned that the President's China trip lengthened "the odds against the ultimate survival of free societies." It also produces a daily 3½-minute radio program carried by 350 stations in such diverse cities as Window Rock, Ariz., and Washington, D.C., as well as a daily Spanish-language radio program that reaches as far as Ecuador, Uruguay, Bolivia and Argentina.

All this activity upsets more than the Kremlin. It also riles many liberal organizations working to reduce military spending.

Sandford Persons, executive director of the Members of Congress for Peace Through Law, a group of 132 Democratic and Republican legislators that has been attacked by the council, views the council as a "holdover form the cold war." And Sanford Gottlieb, executive director of SANE, the antiwar group, believes the council represents the "institutionalized establishment hawks with very close ties to the military-industrial complex."

Recently, an article in The Nation, a liberal magazine of political comment, declared that if the American Security Council "doesn't constitute the heart of the military-industrial complex, it is unquestionably the soul."

"We're not warmongers," responds a council spokesman, accustomed to such criticism. "Our objective is to insure an adequate defense. We just don't want to get behind the Soviets." Mr. Fisher denies that the council is a front for the military-industrial complex. In fact, he wishes more defense contractors were members; as it is, he says, only $29,000 of the council's $1.4 million income comes from corporations involved in defense work.

(A partial list of active corporate members, supplied by Mr. Fisher, includes Lumbermens Mutual Casualty Co., McDonnell Douglas Corp., General Electric Co., Motorola, Inc., Joseph E. Seagram & Sons Inc. and Southern California Edison Co.)

Mr. Fisher, the driving force and dominant personality in both the council and the institute, is keenly aware that both organizations could be badly damaged if they were labeled as "right-wing" or "extremist." To avoid this, both carefully refrain from engaging in personal attacks on public officials or impugning their patriotism and loyalty.

Mr. Fisher says he personally doesn't "support or endorse" the John Birch Society—which has questioned the loyalty of such public officials as the late President Eisenhower. Though he says he isn't aware of any John Birch members who belong to the council, he won't attack the society. "They're not the enemy," he says.

RESPONDING IN A REASONABLE WAY

Liberal legislators concerned about the rapid growth of the Pentagon budget disagree heartily with the council's positions, but few attack the organization itself.

"The council isn't really what you'd classically call extremist because they purport to have reasons for what they believe," says Rep. Robert Leggett, a liberal California Democrat who sits on the Armed Services Committee. "They have to be responded to in a reasonable way. The danger is that the material generated by organizations such as the council is used in our war colleges."

Sen. William Proxmire, the Wisconsin Democrat who is one of the Pentagon's sharpest critics, charges that the council's information campaigns on the strategic balance are "very misleading." The council, he says, has an "automatic blind spot that those who are critical of the Pentagon are in favor of enfeebling the nation." While declining to pin a "right or left" label on the council, Mr. Proxmire sees it as a "scare-hell-out-of-'em-the-Russians-are-coming" organization.

Officials say the image that both the Council and the institute seek is that of a "progressive bank"—"moderate, rational, respectable." So it helps that the council can point to kind words from President Nixon (who thanked it for its "important work" in the 1969 legislative fight over the ABM) and President Eisenhower ("Your work will keep the lights of freedom burning brightly"). And in 1966 the institute was commended by President Johnson for its commitment to "defending freedom and promoting peace."

Respectability was a big criterion when Mr. Fisher went shopping for a site for the Cold War College and the eventual headquarters for both the institute and the council. He found the perfect location in 1966—an estate of hundreds of acres, complete with 24-room English style manor house, nine miles west of here. Now Mr. Fisher proudly shows visitors through the elegant mansion, with its wood-paneled library, leather chairs and chess sets on display.

Mr. Fisher, a soft-spoken Ohioan who frequently punctuates his attacks on communism with bursts of good-natured laughter, has devoted 17 years to council work. An ex-FBI agent, he went to work for Sears, Roebuck & Co. in 1953. In 1955, Sears assigned him the task of finding financial support from companies to acquire a private library on communism that had become available.

The result was formation that same year of the Mid-American Research Library Inc., later renamed the American Security Council, with the backing of such companies as Sears, Motorola Inc. and Stewart-Warner Corp. (Today, Robert Galvin, chairman of Motorola, is chairman of the council's senior advisory board.)

It was anticipated that the library would be used to publish papers on communism. But it also had a more controversial use, a place for companies to check the personal histories of speakers or employees who might need security clearances. Council officials vigorously deny, however, that the library was ever used to compile blacklists. The personnel checks "never amounted to much in the way of volume," Mr. Fisher insists, and now have been phased out entirely.

"If we didn't have the library, we'd be accused of just shooting from the hip" in making statements about communism, Mr. Fisher complains. "If we have a library, we're blacklisters."

Over the years, the council has maintained close ties with the hawkish House Armed Services Committee and the House Committee on Internal Security, formerly known as the House Committee on Un-American Activities.

NOT WITHOUT PROBLEMS

At the request of the House Armed Services panel, the council prepared studies on "the changing strategic military balance" in 1967 and on the balance of naval power in 1968. The chairman of the Internal Security Committee, Democratic Rep. Richard Ichord of Missouri, is the legislative editor of the radio program and is heard on the air.

Mr. Fisher isn't without his problems. Plans for the $12 million college are behind schedule because of insufficient funds. And the council's radio program is struggling to recover from a 1969 tailspin after Eversharp Inc. stopped footing the monthly $20,000 bill for production and distribution. The number of stations carrying the program dropped to 300 from 1,100 but has since climbed back to 350.

But Mr. Fisher has big plans. He wants to put the radio show on a commercial basis (300 of the 350 stations now get it free) and envisions a nonaccredited college that could enroll about 400 students at a time. The idea is that after about a year of course work, many graduates (who would receive no degree) would become leaders in the network of "local security councils" Mr. Fisher wants to set up around the country. Among other things, the councils would promote area broadcasts of the TV film, "Only the Strong."

But for all his activity, Mr. Fisher insists that what he desires most is to work himself out of this $27,500-a-year job. "I don't think anyone connected with the council is interested in the continuation of the cold war," he says. "In most cases we could make more doing something else."

Mr. FULBRIGHT. Mr. President, I have no quibble with sensible spending for military purposes. I do object, however, to attempt to plunge the United States into more ruinous defense spending through distorted appeals to emotions, rather than to reason. The Nation cannot afford at this point to take illogical steps in national defense. We have before us the prospect of eventually stopping the nuclear arms race and hopefully moving away from the strategic arms approaches that have plagued us since World War II. But we can only do this through approaches based on honest appraisal and reason.

ADOPTION OF CONFERENCE REPORT ON S. 3442

Mr. JAVITS. Mr. President, I am gratified that the Senate yesterday passed the conference report on the "Communicable Diseases Control Amendments Act of 1971" (S. 3442), and wish personally to comment on title II of the bill which deals with the establishment of venereal disease prevention and control programs.

I was the author of the "National Venereal Disease Prevention and Control Act" (S. 3187) which had the bipartisan support of 40 Senators, and I am pleased to commend to their attention, and to the attention of all my colleagues, that, in essence, this bill has been incorporated by the managers on the part of the House and Senate as title II of the legislation. I am very grateful to all the conferees for adopting as the conference substitute my provision for a separate program of assistance for veneral disease.

Venereal disease has reached epidemic proportions—witnesses estimated that there were 2,500,000 cases of gonorrhea and 100,000 cases of infectious syphilis in the United States during 1971—and no level of society is immune. The sad statistics are that VD strikes our affluent suburbs as well as our inner cities.

To allow us to be effective in combating this tragic disease, title II of the bill authorizes $7,500,000 for project grants for the conduct of research, demonstrations, and training with respect to the prevention and control of venereal disease; $25,000,000 for formula grants to States for establishing and maintaining public health programs for the diagnosis and treatment of venereal disease; and $30,000,000 for project grants to States and political subdivisions for the conduct of defined, comprehensive venereal disease prevention and control programs.

The grant funds authorized by this title of the bill, a total of $62,500,000, will provide the Federal commitment and resources to enable States and communities to once again start down the road toward the eradication of syphilis.

THE INTERNATIONAL NARCOTIC DRUG PROBLEM

Mr. COOK. Mr. President, I would like to reemphasize today the importance of international cooperation in the area of drug abuse. Yesterday the Senate unanimously approved the U.S. ratification of the Protocol Amending the Single Convention on Narcotic Drugs of 1961. This protocol, under the auspices of the United Nations Commission on Narcotic Drugs, would give the International Narcotics Control Board sufficient authority to organize a truly international offensive against the growing illegal traffic in narcotic drugs. Yesterday I rose in support of those amendments and their importance to this administration's continuing efforts to stem the tide of illegal narcotic drugs entering this country from abroad.

At the same time yesterday President Nixon, delivering his opening remarks to the 3-day International Narcotics Control Conference sponsored by the State Department, reaffirmed his intention to withhold both economic and military assistance from any country which he determined had willfully contributed to this Nation's narcotics problem by not taking adequate measures to prevent illegal drugs from entering the United States or from being supplied to her citizens. I applaud this stance. Authority to take such a position was specifically granted the President in a special provision attached to the foreign aid authorization passed last year. I am convinced that a strong, coordinated effort on the international front is our only possible hope in eliminating the illegal drug traffic which grows more diffuse each day, and I am proud of President Nixon's two-pronged effort to enlist both the strength of an international organization to coordinate this fight and the cooperation of individual governments whose assistance is absolutely essential to control efforts along this line.

BILL OF RIGHTS FOR THE MENTALLY RETARDED

Mr. JAVITS. Mr. President, as the author of the bill of rights for the mentally retarded (S. 3759), legislation which would for the first time establish strict standards to protect the human rights of the mentally retarded and stimulate alternative programs of community care, I commend to the attention of Senators an article entitled "Congress Awakens to MR Needs; First 'Bill of Rights' Proposed," written by Marjory Scarlet and published in the September issue of APA Monitor, published by the American Psychological Association.

The tragic circumstances of the mentally retarded throughout history—ancient civilizations even slaughtered retarded infants—have improved substantially since the indifference of the 1930's and 1940's. Federal courts this year affirmed the civil rights of the mentally retarded. But Congress now must understand and accept the realities of dealing with the unresolved plight of the mentally retarded and move forward with respect to responsible, humane legislation. The bill of rights for the mentally retarded, which I introduced with the Senator from New Jersey (Mr. WILLIAMS), now has more than 25 cosponsors, and the Senator from Texas (Mr. TOWER), one of the bill's cosponsors, spoke eloquently on the Senate floor urging the passage of the legislation.

I believe that Congress has an obligation to move forward with this legislation, and I am today asking the Senator from West Virginia (Mr. RANDOLPH), chairman of the Subcommittee on Handicapped of the Labor and Public Welfare Committee, and a cosponsor of the bill, urging him to initiate hearings on the bill. I recognize the difficulty of scheduling hearings at this late date but I believe we have a responsibility to begin hearings on the issue so that we can continue to focus the public's attention on the plight of the mentally retarded, and in this way, we will be able to expedite the consideration of this problem in the next Congress.

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

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

CONGRESS AWAKENS TO MR NEED; FIRST "BILL OF RIGHTS" PROPOSED

(By Marjory Scarlet)

"Almost all mentally retarded individuals can develop and learn something, only it takes them longer and puts greater demands upon the environment than it does with non-retarded persons. We must not only understand these realities, but accept them and be willing to act on them if we truly want to effect responsible humane legislation for the mentally retarded."—Sen. Jacob Javits (R-N.Y.) statement to the Senate, June 30, 1972.

Ancient civilizations left retarded infants to perish on mountainsides or be thrown into rivers. Later cultures sent retarded children out to beg and built up superstitions around them.

The first scientific and humane attempt to assist the mentally retarded did not occur until the turn of the 18th century.

By the 1840's, European physicians were beginning to study, care for, and treat the mentally retarded and asylums were being established in the U.S.

During the 1870's, custodial institutions to protect the mentally retarded from society were established. But, at the turn of the 20th century, there was a reversal of public opinion and society tried to protect itself from the institutionalized.

The 1930's and 1940's were a time of general indifference while the 1950's ushered in a new era of concern. And in 1961, President Kennedy appointed a panel to report to him on a comprehensive national plan for mental retardation.

MR RIGHTS AFFIRMED

This spring, an Alabama federal court ordered implementation of precedent-setting standards for institutional care of the mentally ill and the mentally retarded. The civil rights of the institutionalized were affirmed.

Now, Congress has awakened to the problems and needs of the mentally retarded.

Prior to the national political conventions, Sen. Jacob Javits (R-N.Y.) and Rep. James Hastings (R-N.Y.) introduced bills to establish, for the first time, strict standards to protect the human rights of the mentally retarded.

On the Senate side, the bill, S. 3759, already has over 20 sponsors, and on the House side, H.R. 15729, has over 50.

"Almost all mentally retarded individuals can develop and learn something, only it takes them longer and puts greater demands upon the environment than it does with non-retarded persons. We must not only understand these realities, but accept them and be willing to act on them if we truly want to effect responsible humane legislation for the mentally retarded," Javits urged the Senate.

BILLS ASK PROTECTION

The bills call for the humane care, treatment, habilitation, and protection of the mentally retarded in residential facilities through the establishment of strict quality operation and control standards and the support of the implementation of such standards by federal assistance.

If passed, the bills would:

Establish standards with which a residential facility for the mentally retarded must comply in order to qualify for assistance under the Act, and eventually, for assistance and funds under any federal program;

Establish a 15-member National Advisory Council on Standards for Residential Facilities for the Mentally Retarded composed of essentially the same people from the professional groups serving the mentally retarded which prepared the standards;

Initiate Congressional investigations regarding the mentally retarded in the U.S.;

Authorize $15 million over three years to assist the states in conducting comprehensive surveys and analyses of the cost of bringing existing residential facilities into compliance with the standards established;

Authorize $15 million over three years to assist states by demonstration grants to improve the services provided by existing residential facilities for the mentally retarded;

Authorize necessary funds to assist nonprofit institutions to develop, improve, extend, or expand community resources and community living situations for the mentally retarded as alternative programs of care other than living in residential facilities;

Authorize necessary funds through grants to states to help meet direct and indirect expenses for bringing residential facilities into conformance with the standards established under the Act;

Provide that five years after enactment, a residential facility that does not comply with the standards will not be eligible to receive any direct or indirect payments under any federal law on behalf of an individual resident.

The standards to be used—"Standards for Residential Facilities for the Mentally Retarded"—were developed by the Accreditation Council for Facilities for the Mentally Retarded of the Joint Commission on Accreditation of Hospitals.

ENVIRONMENTAL QUALITY

Mr. MUSKIE. Mr. President, the Congressional Action Fund has prepared a detailed issues paper on environmental quality which, as a result of diligent research, presents in one place a factual discussion of many issues relating to the environment. This factual discussion is particularly interesting in light of recent revelations that air pollution is responsible for a much higher incidence of lung cancer in urban areas. It is relevant because of the current discussions surrounding the need for an effective well-funded program to control water pollution.

It is relevant because, as revealed in recent hearings of my Subcommittee on Air and Water Pollution, the administration is ignoring the direction of the Resource Recovery Act that Federal policies be shifted from emphasis on disposal and use of raw materials to emphasis on recovery and recycling of materials to preserve resources for future needs.

It is relevant because of continuing important discussions about the economics of environmental controls and the energy crisis.

Mr. President, I ask unanimous consent that a discussion paper on environmental quality be printed in the RECORD.

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

ENVIRONMENTAL QUALITY

AIR POLLUTION

According to the Council on Environmental Quality, air quality on a nationwide basis improved between 1969 and 1970 (most recent data). Three of the five pollution sources stayed the same or grew worse (sulphur oxides and hydrocarbons were constant, nitrogen dioxide increased) while two improved (carbon monoxide and particulates).

In a survey of 82 sites nationally, there was improvement in every category. However, the least improvement between 1969 and 1970 was recorded in cities with populations from 100,000 to 400,000—where most Americans live. Furthermore, improvements in severe air pollution proceeded at a much slower rate in all of the test areas between 1969 and 1970 than between 1968 and 1969. For example, the percent improvement in medium-sized cities (pop. 100,000 to 400,000) was 18.5% from 1969–70, while in preceding year percent improvement was more than double (38%).

The data used by CEQ in its annual report is itself a subject of controversy. Variations in the location of monitoring stations and in the size of the region being monitored are often considerable. A complete presentation of current air pollution data will be found in the fact sheet which follows this introduction.

Under present law, the states have primary responsibility for air pollution abatement, as defined in their air pollution control plans—which are reviewed by the federal government. The first drafts of these plans were submitted this spring to the Environmental Protection Agency.

Federal standards, which have been set for the five pollutants mentioned above, are to be achieved by 1973 or by 1975 at the latest. To achieve the standards, the states must develop abatement strategies for both stationary sources and mobile sources.

A leading controversy during Congressional consideration of the Clean Air Act was the impact of the new federal standards on the automobile manufacturers. Thus, many environmentalists were when the Environmental Protection Agency ruled earlier this year that the auto industry would not be entitled to the one-year extension provided in the law. The catch is that the issue may be taken up again after January 1, 1973, when, assuming President Nixon is reelected, there will be few political risks in reversing the EPA decision.

Another issue which is expected to cause political turmoil is the role of traffic restrictions to control air pollution in urban areas. EPA now insists that the states incorporate traffic reduction strategies in their air pollution plans and has hired consultants to prepare local officials for the outcry which is feared from motorists and the highway lobby.

Air pollution fact sheet

Composition of air pollution particles and gases

Carbon monoxide: 151.4 million tons (53.8% of total pollution) arising from incomplete combustion were emitted in 1969 (Stat. Abstract 1971).

Hydrocarbons: 37.4 million tons (13.3% of total pollution) were released into the air in 1969 (Stat. Abstract 1971).

Particulates: 35.2 million tons (12.5% of total pollution) including fly ash from coal and lead from gasoline were emitted into the atmosphere in 1969 (Stat. Abstract 1971).

Sulfur oxides: 33.4 million tons (11.9% of total pollution) coming largely from burning of coal and oil were emitted in 1969 (Stat. Abstract 1971).

Nitrogen oxides: 23.8 million tons (8.5% of total air pollution) were emitted in 1969 (Stat. Abstract 1971).

Carbon dioxide: This gas is not usually measured as an air pollutant since it has no adverse health effects. Nevertheless, excessive CO_2 may result in destructive changes in the climate.

Sources of air pollution

Transportation almost exclusively contributes more motor vehicle pollution (144.4 million tons in 1969, 51.3% of the total) than all other sources combined; it produces 73.7% of all carbon monoxide pollution, 52.9% of hydrocarbons, and 47.1% of nitrogen oxides (Stat. Abstract 1971). Pollution from this source declined 1% from 1968 to 1969 (Stat. Abstract 1971).

There are 90 million motor vehicles in the U.S. and this number is expected to quadruple by the year 2000. (EHP, 1970).

Even if the strict new 1975 limits on auto emissions can be met by the auto industry, the expected increase in auto traffic will reverse the decline in pollution and begin increasing total auto emissions again by 1985. (CEQ 1970).

Fuel combustion in stationary sources such as home heating and power production produce only 15.8% of total pollution by weight (44.3 million tons), but 73.0% of sulfur oxides, 42.0% of nitrogen oxides, and 20.4% of particulates. About 50% of the sulfur oxides come from electric power production. (Stat. Abstract 1971).

Industrial processes such as chemical manufacturing produce 14.1% of total pollution by weight (39.6 million tons) but 40.9% of the particulates and 22.5% of the sulfur oxides. (Stat. Abstract 1971).

Solid waste disposal (incineration) results in 4.2% of total pollution (Stat. Abstract 1971); in 1965 75% of all municipal incinerators were without pollution control devices.

Miscellaneous sources such as forest fires product 14.6% of total pollution. (Stat. Abstract 1971).

Scientific evidence of air pollution's impact on human health

In the 1948 smog attack in Donora, Pa., an industrial town in western Pennsylvania, half of the 14,000 residents and 20 died. (CEQ 1970).

In London, 4,000 persons died during a 4-day smog in 1952 arising from high rates of coal burning; only 2,400 would have normally died during this same time period. (CEQ 1970).

Studies show that exposure to 10 parts per million (ppm) of carbon monoxide for 8 hours may dull mental preformance. Such levels are commonly found in cities throughout the world, and in heavy traffic frequently rise to 70 to 100 ppm. (CEQ 1970).

Sulfur oxides pollution becomes a serious threat of respiratory disease when it exceeds .04 ppm annual mean concentration; in 1968 Chicago's rate was .12 and Philadelphia's .08. (CEQ 1970).

Emphysema has doubled every 5 years since World War II. (CEQ 1970).

The cost of air pollution

In Los Angeles, every year 10,000 persons are advised by their doctors to move out of the city because the smog may injure their health. (Ehrlich).

Damage to materials and vegetation is about $4.9 billion each year. (CEQ 1971).

Commercial laundry, cleaning and dying of fabrics soiled by air pollution costs about $800 million annually. (CEQ 1970).

The annual toll of air pollution on health, vegetation, material and property values has been estimated by EPA at more than $16 billion annually—over $320 for each family of four in the U.S. (CEQ 1971).

In one recent year low visibility from air pollution was the expected cause of 20 plane crashes. (CEQ 1970).

Smog in the Los Angeles basin is harming the citrus groves south of the city and killing trees in the San Bernardino National Forest 50 miles away. (CEQ 1970).

The cost of air pollution in human mortality is about $6 billion annually. (CEQ 1971).

Air pollution increases

In 1969 air pollution increased 3.2% (to 281.2 million tons) by weight over 1968 (CEQ 1971).

Particulates, such as lead, asbestos, rubber particles, dust and ash increased 10% in one year (1969). (CEQ 1971).

The National Oceanographic and Atmospheric Agency (NOAA) reports that the rate of increase of carbon dioxide in the air has doubled, from a yearly increase of .7 ppm in 1968 to a rate of 1.35 ppm each year in 1969 and 1970; increases in the atmosphere's carbon dioxide may trap the sun's heat and produce enough warming to melt the polar icecaps, raising sea level 400 feet (CEQ 1971).

A 1968 UNESCO conference concluded that man had only 20 more years before the planet started to become uninhabitable because of air pollution. (Ehrlich).

A 1971 EPA study shows that lead levels in the air have increased 2 to 64% over the past 7 years in Cincinnati, L.A., and Philadelphia; the Council on Environmental Quality states that "atmospheric levels of lead may be reaching the point at which widespread adverse health effects are likely." (CEQ 1971).

WATER POLLUTION

A brief history

Prior to the Water Quality Act of 1965, federal policy toward water pollution was fragmented and ineffective. Availability of water for recreation or for natural populations of fish and wildlife was permitted only in so far as it did not interfere with profitable economic benefit. According to experts with the Environmental Policy Division, Library of Congress: "This 'no policy' policy resulted in the degradation of the waters of the United States to a degree that it now may be impossible to reclaim them to an 'unpolluted' status in more than a few places."

Passage of the Water Quality Act of 1965 institutionalized the comprehensive federal policy for abatement of water pollution. The water quality standards program demanded that all waters would be examined in order to determine the beneficial uses to which they could reasonably be put. Specific uses were identified: public water supplies, propagation of fish and wildlife, recreation, agriculture, and industrial water supply. Each segment of the Nation's interstate and boundary waters and their tributaries was zoned for one or more of these specific uses by a process of public hearings and State determinations.

This legislation proved ineffective in arresting or even slowing water pollution. As the statistics in the attached water pollution fact sheet demonstrate, water quality is still deteriorating. In 1971 29% of the U.S. stream and shoreline miles were polluted, whereas 27% were polluted in 1970.

Bureaucratic inefficiency had much to do with the failure of the Water Quality Act (see Water Wasteland by David Zwick, et al) but reluctance on the part of the Nixon Administration to fully fund the programs was also instrumental. During his first year in office, President Nixon requested only $241 million for construction of sewage treatment plants, less than one-fourth the legal authorization. The House Appropriations Public Works Subcommittee raised the amount to $450 million and the full Committee recommended $600 million. The Senate voted the full $1 billion authorized under law and the conferees agreed on $800 million.

In 1970, the President announced a new innovation in the federal water pollution abatement effort. In a speech December 23, 1970, he announced regulations (which took effect July 1, 1971) to require that from 40,000 to 100,000 manufacturing plants apply for permits to continue discharging wastes, as prescribed in the Refuge Act of 1899. Non-compliance with the permit program would, Mr. Nixon promised, result in penalties for industrial leaders including fines up to $2500 and jail terms up to one year.

This program, too, was a failure. According to David Hudich, a consultant hired by the White House to evaluate this permit program, "the program has very little chance of success." Only 17,000 of the companies required to file pollution reports did so and no legal action was taken to enforce the new regulations: either against those who reported their pollution or against those who refused.

Amendments to the Water Pollution Control Act: 1971–72

Debate over water pollution abatement at the federal level currently focuses on the amendments to the Water Pollution Control Act, or the Muskie Water Bill. The bill, which passed the Senate 86 to 0 on November 2, 1971, is now in a Senate-House conference committee awaiting action. The House-passed bill was considerably weaker than the original Senate-passed legislation, which included the following new policies:

1. The discharge of pollutants into navigable waters is to be eliminated by 1985;

2. Wherever attainable, an interim goal of water quality is to be met which provides for the protection and propagation of fish, shellfish and wildlife and provides for recreation in and on the water by 1981;

3. The discharge of toxic pollutants in toxic amounts is prohibited;

4. Federal financial assistance is to be provided to communities for the construction of waste treatment facilities;

5. Regional waste treatment management programs are to be developed and implemented to assure adequate control of all sources of water pollutants in each State; and,

6. Major research and demonstration efforts are to be initiated to develop the technology needed to eliminate the discharge of pollutants into navigable waters, waters of the contiguous zone, and the oceans.

These policies are to be implemented and the goals achieved by increasing Federal monies for construction and research, streamlining enforcement procedures, and broadening the areas of Federal jurisdiction. However, the states will retain their primary responsibility for water pollution abatement and the primary right of implementing the new National abatement goals. Whereas, under the original act, water use (including pollution) was to be controlled and regulated; under the Water Bill, use of waters for pollution will not be tolerated after 1985.

Several important amendments were brought during debate in the Senate including a proposal for effluent charges by Senator William Proxmire (D-Wis.), a proposal to increase assistance to affected small businesses by Senator Gaylord Nelson (D-Wis.), and a proposal to institute state-imposed user fees by Senator Howard Baker (R-Tenn.). The Proxmire amendment, defeated on a voice vote, would have called for a system of effluent charges to be levied on all discharges, other than municipal, which degrade the quality of receiving waters. The revenue realized from these charges would be applied toward assisting the water pollution control programs of states and interstate agencies.

The Nelson amendment, which passed unanimously, provides for loans to small businesses through the Small Business Administration to make additions or alterations in equipment, facilities or methods of operation which would be necessary to meet the requirements of the Water Pollution Act.

The Baker amendment, which was rejected 38–50, sought to make the State share of construction monies recoverable by user fees. Opponents of the amendment, including Senator Muskie, argued:

"If we make loans equally eligible for increased Federal support, why should not States with grant programs wipe out the grant programs, substitute loan programs, and get the increased Federal support? That would impose a penalty upon the municipalities, which would then have to put up that extra 10 percent, and relieve the States of an obligation which they had willingly assumed."

Water pollution fact sheet

1. 29% of the U.S. stream and shoreline miles are now (1971 data) polluted. This is an increase over 1970 water pollution, when 27% of the shoreline miles were polluted (CEQ 1972).

2. One-half the nation's drinking supply systems do not meet federal standards. Eight million Americans (5%) served by community water systems drink water with a bacteria content higher than U.S. Public Health Service limits. (CEQ 1972).

3. 40,000 cases of water-borne illness occur every year in the United States.

4. As of 1968, only 55% of the urban population was receiving adequate waste treatment services (i.e., primary and secondary treatment).

5. 41 million fish were killed by water pollution in 1969 or seven times the number in 1960. (CEQ 1970).

6. Over one-fifth of the nation's shellfish beds have been closed because of pollution (CEQ 1971).

7. The annual commercial harvest of shrimp from coastal areas dropped from over 6.3 million pounds before 1936 to only 10,000 pounds in 1965. (CEQ 1971).

8. 90% of the oil spilled into the earth's waters is not spilled but comes from routine activities or oil tankers, refineries, and gasoline filling stations. (CEQ 1971).

9. Soil erosion is the largest single cause of water pollution, exceeding sewage by 500 to 1,000 times.

10. A 1970 Public Health Service report found that 30% of the nation's drinking water contains potentially hazardous amounts of chemicals.

11. Over 90% of U.S. watershed are more than moderately polluted. (CEQ 1971).

12. 34% of the nation's sewage goes untreated and over half of the existing water treatment plants are overloaded.

13. According to a survey taken by the National League of Cities, U.S. Conference of Mayors, between $33 and $37 billion must be spent from 1970 to 1976 in order to meet the minimum needs for water pollution control (an average of $5–$6 billion per annum).

14. For fiscal years, 1972 through 1974, the administration has proposed spending only $12 billion: $6 billion from federal sources and $6 billion from the cities themselves.

15. During fiscal years 1970 and 1971, the administration only requested half the amounts authorized by Congress for water pollution ($1.2 billion as compared with the $2.2 billion authorized).

SOLID WASTE DISPOSAL

Solid waste disposal, as a political issue, was thought to be completely lifeless three years ago. But, after the national publicity surrounding Earth Day (1970), it took on a popular, grassroots character—due largely to the public's interest in recycling. The following pages, taken from one of the chapters withheld from the CEQ Annual Report and later released, describes in detail the progress of recycling since 1970. The table below summarizes the savings which would result if recycling were implemented on a large scale,

and lists the major components of solid waste by material.

POTENTIAL VALUE OF MIXED SOLID WASTE COMPONENTS

Waste component	Estimated quantity in mixed waste (million tons)	Potential value at source (ton)	Potential total value (million)
MATERIALS			
Metals:			
Ferous metals	14.0	$12	$168
Copper	.03	640	19
Aluminum	.9	200	180
Glass	10.0	10	100
Rubber (tires)	3.0	8	24
Paper:			
Newspaper	6.8	18	122
Corrugated	9.5	23	219
Mixed	24.0	5	120
Total			952

Paper

In 1970, the nation consumed 59 million tons of paper products, in more than 100,000 end uses. Waste paper accounted for 10.5 million tons or about 17.8 percent by weight, the remainder being derived almost exclusively from virgin timber sources. Wastes from paper production processes, called mill broke, are generated and reused within the same paper mill. In this study, mill broke is excluded from the recycled category because it never really becomes a waste, nor is there any potential for a change in these circumstances. Recycled paper fibers are primarily conversion wastes which are generated within the paper production or fabrication process but sold to other manufacturers rather than being used internally. The few post-consumer wastes that are recycled generally are recovered not from mixed wastes but from homogenous waste sources such as department and office buildings where they are presorted prior to collection and reuse.

Both the consumption and production of paper have increased rapidly in the last two decades, but recycling as a percentage of total production has been decreasing (see Figure 3). The peak recycling rate was reached in 1944 when 35 percent of paper production came from waste paper. The ratio has declined steadily since then to its present level of about 19 percent.

In the last 15 years the number of products made of virgin fiber has increased about three times as fast as the number of products made of secondary fiber, in part because paper producers have decided to upgrade their products in appearance and purity by using more and more virgin materials. Table 2 summarizes the relative uses wastepaper in the three basic grades of paper products: paper (writing bond, tissue, etc.), paperboard (cardboard and other packaging), and construction paper (wallboard, etc.).

TABLE 2.—RELATIVE USE OF WASTEPAPER

Raw material	Paper		Paperboard		Construction		Total	
	Tons	Percent	Tons	Percent	Tons	Percent	Tons	Percent
Wood pulp	19,136	92.5	15,944	66.5	1,920	59.0	37,000	77
Waste paper	1,354	6.5	8,000	33.4	728	22.4	10,082	21
Other fibers	198	1.0	33	.1	605	18.6	886	1
Total	20,688	100.0	23,977	100.0	3,253	100.0	47,918	100

Source: Midwest Research Institute

The predominant use of waste paper is for production of paperboard, accounting for 80 percent of such use. But in paperboard, market trends indicate a growing shift to virgin pulp use. Table 3 shows the change in market share of paperboard made from waste paper and paperboard made from wood pulp. As the table shows, virgin fiber use became dominant in the 1959 to 1970 period. The output of paperboard using waste barely increased while the output of virgin paperboard more than doubled.

TABLE 3.—USE OF WASTE VERSUS VIRGIN FIBER

	Total paperboard		Paperboard made from waste use		Paperboard made from virgin	
	Tons	Percent	Tons	Percent	Tons	Percent
1959	16.0	100	7.0	44	9.0	56
1969	26.4	100	7.3	28	19.11	72
Percent increased 1959–69	65		5		112	

Source: Midwest Research Institute.

Use of waste paper for paper production accounts for 13 percent and construction accounts for 7 percent of total waste paper use. Neither of these categories hold much potential for increased post-consumer waste use. Construction paper can use large quantities of waste, but it is a small and relatively stagnant market. Paper is a large volume item but only small quantities of waste can typically be used and much of it must be of a higher quality than that which can be derived from post-consumer sources.

These trends will continue as the industry continues to construct vertically integrated paper mills, i.e., located near and exclusively dependent on virgin timber. Because these plants are located in or near forests, transportation costs make waste paper from urban areas uncommercial to use. Waste paper is used predominantly in older, nonintegrated paperboard mills whose economic viability has suffered in recent years and which, ironically, may be most heavily impacted by stringent water pollution regulations.

Hence, the prognosis for use of post-consumer paper wastes is not good. Higher quality and less contaminated wastes increasingly will get first preference by paper mills due to less contamination. Conversion wastes, which now account for 40 percent of total waste paper use, will be preferred increasingly over post-consumer wastes. This suggests that if trends continue or accelerate and if less waste is required, post-consumer waste paper will be most severely affected, and a demand for post-consumer wastes from mixed sources may never develop.

Ferrous metals recovery

The level of waste used in steel production is higher than in paper production. In 1969, the last year for which data is available, 28 million tons of scrap steel (excluding scrap generated in the mill) were consumed in the steel industry and 9 million tons were shipped abroad, for a total of 37 million tons, compared with total U.S. steel production in 1970 of 90 million tons. Of the 37 million tons used, industrial process wastes accounted for 13 million tons and post-consumer scrap, chiefly from automobile bulks and construction steel, for 24 million tons. Almost all post-consumer scrap goes to electric steel furnaces and exports as well as foundries while the basic oxygen furnaces and open hearth furnace rely largely on their own wastes and industrial scrap.

Historically, the steel industry has used a stable level of scrap—about 50 percent of total production. Recent changes in the technology of the industry will affect scrap use patterns. The Basic Oxygen Furnace (BOF) replaced the open hearth furnace, and electric furnaces have become more important.

As the BOF replaced the open hearth, the demand for ferrous scrap decreased because the BOF itself generates most of the scrap it uses while using less scrap in total at the same time. As scrap prices fell, electric furnaces, which use post-consumer scrap almost exclusively became economical. The prices of scrap have since returned to higher levels and the industry is back again in equilibrium. The steel production and scrap use patterns for three primary production processes are shown in Table 5.

TABLE 5.—CHANGES IN STEEL PRODUCTION MIX

Furnace type	Percent of steel production, 1960	Percent of steel production, 1969	Percent of scrap in process
Electric	8.4	14.2	98
BOF	13.3	42.6	29
Open hearth	87.0	42.2	44

Source: Midwest Research Institute.

In total, however, the use of industrial scrap has increased in relation to other scrap sources. In fact, post-consumer scrap as a percentage of total 1 scrap decreased from 29 percent in the 1948–53 period to 24 percent in the 1964–69 period.

Greatly expanding markets for post-consumer scrap probably will not occur in other sectors of the industry either. Although the foundry industry uses 11 million tons of industrial and post-consumer scrap, this segment of the industry is not expanding. There has also been a limited use of steel cans in copper precipitation at copper mines, but this is a very limited market as well.

As in the case of paper, the outlook for increased use of mixed post-consumer waste is not encouraging. The major markets are for high quality scrap that is near transportation and available in large quantities. These criteria favor industrial scrap first and then auto hulks, and demolition debris.

Steel scrap from mixed municipal wastes seldom has any of the above three desirable characteristics. Usually in low concentrations, it must be segregated from garbage, paper, nonferrous metals, plastics, and rubber. Post-consumer scrap usually is low in density and contains many impurities. These impurities can damage the steel furnace and adversely affect the quality of the product.

The future prognosis for all post-consumer steel scrap use is poor. The basic production trends are towards more steel making from furnaces which use less post-consumer steel scrap. If these trends continue, high quality industrial scrap will make up a larger and larger percentage of total scrap use.

Glass recovery

In 1970, the United States consumer 3.0 billion glass containers or about 11.2 million tons of glass. This contrasts with 22.3 billion units or about 6.5 million tons in 1960. The increased uses of the nonreturnable beverage container has been the principal cause of this substantial increase

All segments of the glass manufacturing industry use waste glass known as "cullet" usually derived from internal plant operations. Only about 5 percent of raw materials consumption is waste which is now generated outside the manufacturing plant, and virtually all of this is industrial waste from breakage at bottling plants, not post-consumer wastes.

Although purchased cullet is a highly desirable raw material, it has declined because predictable supplies at prices competitive with raw materials—sand, limestone, and soda ash—have all but disappeared. The few surviving cullet dealers face rising costs and dwindling supplies. The glass industry recently has made a substantial effort to recover containers from post-consumers waste through consumer collection centers such as those operated by aluminum and steel producers. This collection technique holds very little promise, however, to recover a major share of waste glass in the long term because it is unlikely that significant percentages of total solid waste can be collected at these centers.

Rubber recovery

Rubber consumption in 1969 was about 3.2 million tons per year, contrasted with 1.7 million tons in 1960. Tires accounted for about two-thirds of these amounts. During this period, reclaimed rubber production remained steady at about 300,000 tons annually. Hence, rubber reclamation has declined from about 19 percent of consumption in 1958 to about 9 percent of consumption in 1969. Natural and synthetic rubber have greatly reduced the importance of secondary sources of supply.

Plastics recovery

Plastics output has showed spectacular growth in the 1960's, from 3.1 million tons in 1960 to 9.3 million tons in 1970. Consumer products and packaging account for a large share of the increase.

Although there is extensive in-plant recovery of fabrication scrap among the new plastics such as polyethelene and polystyrene, once a produce leave the fabrication plant, there is literally no recovery.

As the plastic industry grew from infancy in the 1950's, there was speculation that a scrap trade would flourish. However, due to the numerous formulations of plastics, there are no generally acceptable methods to economically sort and reuse the waste. Only for a few high value plastics or those which do not need to meet quality control specifications, is recycling currently conducted.

Textiles recovery

The use of textiles increased from 3.9 million tons in 1960 to 5.7 million tons in 1968, during which time synthetic fibers virtually took over the market. About a quarter of a million tons of waste, 4.3 percent of consumption were recovered, usually for other applications, such as high quality paper, wiping rags and stuffings for furniture, etc.

Secondary uses of textiles have declined steadily as synthetic fibers have increased in proportion to wool and cotton. In general, domestic uses for cotton and wool are declining, and export markets have remained static in recent years. Small amounts of textiles are recovered for wool reweaving, but reweaving is declining as synthetics have gained consumer acceptance.

Non-ferrous metals recovery

Aluminum is the principal nonferrous metal found in mixed wastes. The other nonferrous metals—copper, brass, zinc, and lead—occur in minute quantities. Total aluminum shipments in 1969 were 5.4 million tons compared to 2.4 million tons in 1960. Shipments of aluminum containers and packaging increased from 160 thousand tons in 1960 to 600 thousand tons in 1969.

Scrap aluminum has remained about 19 to 23 percent of total aluminum consumption since the 1960's. However, the use of scrap from fabricating operations has increased from 15 percent to 19 percent, while the use of post-consumer scrap has declined from nearly 6 percent to less than 4 percent. Despite the success of consumer waste collection centers, they can recover only a small portion of the rapidly increasing post-consumer waste.

Like most other industries based on virgin raw material use, the aluminum industry is using an ever greater percentage of raw materials derived from ore and internal scrap and these trends are likely to continue.

Summary of trends

The preceding trend analyses indicate that current recycling from post-consumer wastes is limited, and in most cases declining compared to the use of virgin raw materials. Moreover, most of the post-consumer waste that is recovered is from homogeneous waste sources rather than from mixed or contaminated sources. Current trends for the major material components of mixed municipal waste do not indicate any likelihood of significantly increased demand for recovery of post-consumer wastes. In fact, trends in industrial processes and plant locations will probably decrease the economic desirability of post-consumer waste reuse. Unless these trends are reversed or modified, the demand for waste materials will be the limiting factor in recycling of municipal wastes.

Solid waste fact sheet

1. Over 25% (190 million tons) of all residential, commercial and institutional wastes go uncollected. (CEQ 1970).

2. The U.S. consumes 578 pounds of packaging material per person every year. (CEQ 1971)

3. Of the 4.3 billion tons of waste produced in 1969, 2.3 billion was from agriculture, 1.7 billion from mineral activities, .1 billion from industrial activities, and .3 billion (6%) from residential, commercial or institutional sources.

4. 94% of existing land disposal operations and 75% of incinerator facilities are substandard. (HEW and Bureau of Solid Waste Management estimates; CEQ 1970 at 106)

5. 70% of the U.S.'s 500 central incinerators are without adequate air and water pollution control devices.

6. 1.4 million automobiles are abandoned on the nation's roads every year.

50,000 cars are abandoned on the streets of New York City alone every year.

7. In 1969, there were an estimated 4.3 billion tons of solid wastes, 92% of which were from mining and agriculture.

8. The collection and disposal of the approximately 200 million tons of municipal wastes now handled annually was estimated to cost $4.4 billion in 1970. Half of that was paid directly by the municipalities, half by the private sector which passed on the costs to the city or the consumers.

9. If the current annual 4% (by weight) increase in municipal wastes continues as it has for many years, municipal wastes will increase to 810 million tons by 2000—an increase of 225%. Note: municipal wastes increase by 4% while population grows by only 1%/year.

10. Collection=75% of total municipal solid waste management costs.

11. Currently, 90% of municipal solid wastes are disposed in landfills. Of that amount, 90% are disposed of in open dumps where environmental and health problems may occur.

12. Disposal typically costs about 50 cents/tons in these sites. Upgrading an open dump to a sanitary landfill can increase disposal costs to between $1.50 and $3 per ton.

13. 10% of municipal solid wastes are incinerated with the residues disposed of in a dump or landfill. A good incinerator will reduce solid waste volume by up to 90%.

14. Composition of Municipal Waste: (% by weight)

Paper, 36%; Yard Waste, 20%; Food Waste, 18.8%; Glass, 8.5%; Ferrous Metals, 7.6%; Other, ——.

15. The total energy value of typical municipal waste, with excess moisture removed, is approximately 9.1 million Btu's/ton or about 40% of the heat value of an equivalent amount of coal.

16. With respect to recycling of tires, the number of retreads increased from 29.9 million tires in 1958 to 36.5 million in 1969 or about 2.1% annual growth. However, because new tire consumption rose by 68% annually during the same period, tire retreading as a % of total new tire consumption decreased from 27.3% in 1958 to 18.5% in 1969.

17. Less than 20% of the 60 million tons of paper and fiberboard we consume in this country is recycled, although industry has the technical know-how to recycle 40%. This inefficiency is particularly expensive since almost 50% of the cost of solid waste treatment in major urban areas is accounted for by paper. (William L. Ruckelshaus, EPA Administrator).

18. The U.S. annually consumes about 190 million tons of major metals, paper, glass, rubber and textiles. Of this consumption, 143 million tons come from virgin resources; the remaining 48 million tons—about a quarter of the total—are obtained from resource recovery operations. (Ruckelshaus)

19. According to a National Survey of Community Solid Waste Practices published in 1968, only 6% of the Nation's land disposal sites met accepted minimum requirements for sanitary landfill. Some 14,000 communities relied on open dumps, a majority of which were, by design or by accident, open burning.

20. Underfunding of the Resource Recovery Act of 1970 has hampered progress in solid waste disposal. Of the $409 million authorized by Congress over a 3 year period, the government expects to spend only $69 million. Some $220 million of the total was allocated to R & D for improved disposal facilities. But, only $15 million of this amount has been requested by EPA (for FY 72) and none has been budgeted for the current fiscal year.

ENERGY AND ELECTRICITY

What is causing our "energy crisis"? Why, all of a sudden, are we faced with shortages in fuel resources—such as natural gas and petroleum—and with brownouts in our major cities? Is it true that the American consumer is to blame, or are the industrial users causing our escalating demand for energy? Most of these questions have been answered in the energy chapter of the CEQ annual report (1972) which was withheld and later released. It is printed, in part, below:

"Dramatic increases in energy utilization have been experienced in recent years, largely because of even greater increases in industrial productivity. For example, the American mining industry employed 628,000 workers in 1969 as compared to 792,000 in 1955—a decline of 21%. During the same period mineral production rose 42%. This represents a 78% increase in labor productivity in just 15 years, primarily as a result of new mining techniques which rely heavily on the extensive use of energy-intensive mining equipment. Similarly, the manufacturing production index rose from 75 in 1950 to 166 in 1968, while the number of man-hours worked only increased from 23,717 million to 28,287 million—a worker productivity in-

crease of 85%. In agriculture as well, energy consuming machines such as tractors and combines have replaced the horse and scythe causing agricultural productivity to spiral.

This increasing industrial productivity through automation is likely to continue. Capital and energy intensive processes have replaced human labor, partly because energy has been inexpensive compared with wages.

Although industry is the largest consumer of energy, the average person sees energy consumption in the context of his daily living. Changing patterns of energy use in homes has had a direct effect on the growing importance of this sector. In the 1960's annual residential electricity consumption rose by 125% from 200 to 450 billion kilowatt-hours.

Americans heat and cool their ever larger homes with vast amounts of energy, today accounting for a substantial percent of all energy consumption. Not only is residential use increasing, but its form is changing, as more residential users (as well as other sectors) switch to greater electricity consumption. New electric appliances are being continually added to our homes. Only a few years ago, the refrigerators was a luxury to be found in less than 50 percent of American homes. Today, virtually all homes have this necessity and the list of other energy dependent appliances includes washers, dryers, dishwashers, toasters, vacuum cleaners, and lawn mowers, as well as frost-free refrigerators and freezers. The trend is shown below.

TABLE I.—MARKET SATURATION PERCENT OF HOMES WITH APPLIANCE

Type	1960	1970
Electric range	37.3	55.5
Water heater	18.9	31.6
Freezer	23.4	31.2
Air Conditioner	15.1	40.6
Washer	85.4	92.1
Dryer	19.6	44.6
Vacuum cleaner	74.3	92.0
Dish washer	7.1	26.5
Waste disposal	10.5	25.5
Television	89.4	141.2

Source: Statistical Issues of Merchandising Week, EEI.

Continued growth in residential energy demand is virtually assured as the percentage of homes with these appliances continues to rise. Not only can we expect increased utilization of these appliances, perhaps exceeding one in every home for many of today's luxuries, but the size of these appliances is likely to increase and additional energy-intensive components may be added. The 12 cu. ft. refrigerator of the past has now been replaced by 14 cu. ft. and larger frost-free refrigerator-freezers that may consume over 2.5 times more energy than a standard refrigerator. Central air conditioning is superseding single window units. While there may be certain energy economies of scale, the cumulative effect is one of growing energy demands.

As in the case of industrial decisions to use more energy, residential consumer decisions to use more power are certainly influenced by the fact that increased convenience from electric or other energy intensive devices is not very costly.

These trends in the residential sector are, indeed, being exceeded in the commercial sector, where increased use of electricity for all types of appliances is growing without any near term limit in sight. Indoor heated garages, escalators and temperature controlled sports stadiums are all physical indicators of increased energy use in the commercial sector.

Our transportation system, too, has come to rely increasingly on energy. Twenty-five percent of all energy consumed in the Nation is used to transport people and materials. Of this total, 55 percent is consumed by automobiles, and an additional 21 percent is consumed by trucks, while aircraft and railroads consume 8 and 3 percent respectively. The remainder is used by barges, pipelines and miscellaneous equipment.

We are continually demanding greater speed and convenience in transportation systems. As indicated in the table below, energy consumption per passenger-mile traveled rises markedly with increasing speed.

TABLE II—ENERGY PER UNIT OF SERVICE

System (Btu/Passenger-mile)

Bicycle	200
Walking	300
Buses	1,200
Railroads	1,700
Automobile	4,500
Airplanes	9,700

Source: Energy Consumption for Transportation in U.S., Hirst, ORNL, March 1972.

The increasing rates of energy use reflect the change to more convenient modes of transportation, but speed is clearly the cause of much greater energy use.

TABLE III

Type of aircraft	Year	Speed	Energy use (B.t.u.'s per passenger-seat mile
DC-3	1040's	150	2,630
DC-6	1950's	270	3,130
DC-8	1960's	525	4,000
SST	Proposed	1,200	6,250

Source: Hirst, ORNL, March 1972.

In the case of aircraft, the rate of increase in energy use per passenger-mile has been less than the increase in speed. This has been accomplished by enlarging the airplane and achieving economies of scale. A Boeing 747, for example, while 50 mph faster than a DC-8 utilizes only 2000 BTU's per seat-mile as contrasted with 4000 for the DC-8. Nonetheless, we have generally been willing to increase the rate of energy use to reduce travel time.

In every area of transportation there is a growing demand for more energy, and this trend unless counter-efforts are undertaken is likely to continue at an increasing rate. There is no more than one automobile for every two people. The two car family is a way of life for many people, and three and four car families are increasingly common.

The overall trend toward increased per capita consumption of energy occurs in all major economic sectors. While the causes for increased energy demand tend to differ between sectors—and by use within each sector—it is apparent that there are strong forces within our economy that suggest it will continue. Increasing concentration of population in expanding urban areas, increased speed and convenience of travel for people and merchandise, as well as increased use of labor saving devices by all sectors leave little doubt as to future trends in energy use. In large part this growth is fostered by the convenience of electric power, which is likely to become the dominant form of energy use by the Twenty-first Century.

Both total energy use and the increasing dependence on electricity are largely due to electricity's low cost. Because increased convenience or efficiency through the use of more energy is not expensive, homeowners and industry are increasing their consumption. Even with greater energy efficiency and conservation, energy growth will almost certainly increase in the future. Hence, the task of policymakers is to plan for energy supply systems that cause least damage to the environment.

Environmental effects of energy consumption

The following fact sheet describes how the existing systems for extraction, transportation, and combustion of fuel resources intrudes on the total environment. As you will see, energy is perhaps the greatest single cause of environmental degradation in the U.S. today. Data is from CEQ annual report for 1972.

1. The nation now consumes seventy million billion (70×10^{15}) BTU's of energy each year.

2. Energy consumption accounts for over 72% of the total air pollution by weight. Transportation emissions from the combustion of fossil fuel derivatives, diesel oil and gasoline, constitute the largest source of pollutants. Next largest are emissions from stationary sources used to heat residential, commercial, and industrial facilities.

3. For sulfur oxides and nitrogen oxides, energy consumption accounts for 76% and 89% of total emissions respectively.

4. While industrial processes rather than energy production account for the major share of BOD (Biological oxygen demand) and other physical and chemical forms of water pollution, the major source of thermal discharges is from electric powerplants.

5. Of the 50 trillion gallons of cooling water used by all industry in the U.S. in 1969, almost 41 trillion gallons, or 81% was used by electric powerplants.

6. Fossil fuel transportation is responsible for over 1,000 oil spills in 1969 alone. Extraction of fuels and ores has polluted about 18,000 miles of streams and 145,000 acres of lakes according to the Department of Interior.

7. Extraction of minerals by surface mining has already affected over three million acres of land, about two-thirds of which needs treatment to restore it to a stable condition. Energy is responsible for 41% of this total.

8. Another nine million acres of land have been undermined by deep coal mines, of which two million acres have subsided. By the year 2000, over 30 million acres may have been adversely affected by mining.

9. Electric utilities now operate 300,000 miles of overhead transmission lines, which use 4 million acres of right-of-way and are projected to require 4.5 million acres of additional land by the year 2000.

10. In 1970, electric power generation from nuclear plants produced about 100,000 gallons of high level radioactive wastes. One million cubic feet of low level radioactive wastes were buried in 1970 and this quantity will triple by 1980.

Economic impact of abatement

The most damaging popular misconception about environmental quality is that it is incompatible with economic prosperity. The following speech, presented by EPA Administrator William L. Ruckelshaus in March, 1972 gives a persuasive refutation of this myth.

At first glance, pollution control looks like a prohibitively expensive proposition. For example, the annual EPA report to Congress on the economics of clean air forecasts expenditures of around 42 billion in the period fiscal 1973–77 just to control air pollution alone. The Council on Environmental Quality estimated that the combined cost to industry and government of air and water clean-up plus better management of solid wastes would amount to around $105 billion between 1970–75. In other words, about one percent of the cumulative gross national product in those years.

As a check on these estimates, a task force of impartial consultants was commissioned by EPA and CEQ to estimate the long-term costs of a major environmental renovation. The panel analyzed eleven major industry groups and found that current pollution control requirements will compel the closing

of 200 to 300 plants by the end of 1976. However, none of the eleven will be hurt severely as a whole.

Most of the 12,000 plants now operating will stay in business and be profitable, except for 800 that are expected to close down due to obsolescence or other reasons not connected with the environment. The task force estimates that the overwhelming majority of plants that will close to avoid installation of expensive pollution control equipment would fold up anyway in the period 1976–1980 because they are outmoded and unprofitable.

With regard to employment, 50,000 to 125,000 jobs may be wiped out, many of them in smaller communities where the economic impact will be substantial. However, that amounts to only one to four percent of the workers in the 11 industries—in other terms, about 0.05% (five hundreths of one percent) of the U.S. labor force in 1970.

EPA is now cooperating with the Labor Department to ensure that those who lose their jobs will be retained or relocated if they wish. Federal development loans will be offered to the communities affected.

What about other industries? Will their experience be different? We think not. The task force reached similar conclusions in a broader study of 25 industries representing 80–90% of our national factory output. Existing and anticipated pollution controls would reduce the average annual GNP about 0.6% (sixth tenths of one percent) between 1972 and 1980. Unemployment overall would rise one tenth of one percent, which amounts to 80 to 100,000 jobs.

However, it is possible under optional conditions that the pollution control industry will provide more jobs than are lost in premature shut-downs.

Naturally the foregoing calculations are tentative. Not all industries will be affected in the same way. The magnitude of control expenses depends to a large degree upon the nature of production technique, abatement processes, volume of pollutants, feasibility of waste by-product recovery and the size and location of a given plant.

Some companies have discovered that there is great wealth in what we throw out, burn up and pour down the drain—possibly enough in certain cases to pay for a substantial part of control equipment. The very act of redesigning factory processes to incorporate clean technology opens up opportunities for higher productivity, expanded profits, rising real wages, better products and growing tax revenues.

Dow Chemical's experience offers encouraging evidence that well-managed companies can save money right now by controlling or recovering various effluents. At Midland, Michigan the company is building 28 cooling towers at a cost of $7.2 million to reduce the thermal load on the Tittabawassee River. The towers will more than pay for themselves by reducing corrosion and cutting daily water intake by 100 million gallons.

Indeed, anti-pollution efforts at Midland have saved chemicals worth more than $6 million over the past 3 years. At a Dow plant in Texas, $900,000 put into controls saves $265,000 worth of chemicals every year. Not every anti-polution project results in net savings, but in a highly-competitive industry, Dow's profit margin of 24.5 percent is well above the industry average of 18.7 percent.

It should be noted that companies which find the initial control expenditures too burdensome can often finance their equipment with tax-exempt industrial development revenue bonds.

Finally, in calculating outlays we must not overlook the social and personal savings that will accrue once our air and water are reasonably pure. Air contamination alone may cost this country $16 billion a year in damages to human health, materials, crops and urban vegetation and may rise to $25 billion per annum by 1977. These figures are only approximate. But the AMA estimates that disease induced by the environment as a whole costs $38 billion each year.

The overwhelming majority of the American people, as attested by the polls, believes that a cleaner environment is worth a little inconvenience and temporary expense. I'll admit this sentiment has not really been put to the test. We haven't held the ultimate consumer's feet to the fire long enough. But EPA is betting that the new public awareness is not for sale.

I think the average man and woman will look forward to a world free of smog, roadside litter, and putrid waterways, a world liberated from noise, ugliness, stench and urban decay. And that expectation ought to become outright enthusiasm when they realize that the cash savings alone may total $200 per year per family by 1980.

Considering the total evidence, therefore, I think all this talk about environmentalism ruining the economy is just nonsense. We are going to get back much more than we pay out. Far from retarding progress an ecological sensibility, carried to its logical conclusion, will guarantee the good life indefinitely.

WHY WE NEED A $240 BILLION CEILING NOW

Mr. PROXMIRE. Mr. President, can we bring Federal spending under control? Mr. President, that is a very serious question. In my view spending has gotten out of control when our Federal spending, even if we hold it at the President's proposed ceiling this year, will exceed revenues at full employment levels by a whopping and highly inflationary $10 billion. The deficit will probably be $30 billion or more, and it is a shame. But the full-employment deficit is an economic crime.

This is why I intend to introduce an amendment to the debt-limit bill to limit spending to $240 billion. Even that sum is far too high in my judgment, but it will represent an effort by the Congress to hold the level of spending to a less inflationary level, and it will require the administration as well as the Congress to exert some discipline in cutting down the immense new expenditures that the administration has asked for and that this Congress has provided.

Today's Wall Street Journal carries an excellent article by one of the Nation's most distinguished economists, Dr. Paul McCracken, a man who served the Nixon administration as Chairman of the Council of Economic Advisers until a few months ago and served with great distinction.

Dr. McCracken calls attention to the dismal performance of the Federal Government in the past 8 years. He shows that the failure to hold Government spending under control has become international, that Germany and Japan have also been plagued with an inability to use their fiscal policy to secure price stability and economic growth. Our performance has probably been the worst and Dr. McCracken's analysis and his suggestions are well worth congressional consideration.

For these reasons I ask unanimous consent that the article by Dr. McCracken, who is now the Edmund Ezra Day University professor of business administration at the University of Michigan, be printed at this point in the RECORD.

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

CAN FISCAL POLICY BE CONTROLLED?

(By Paul W. McCracken)

Is it possible that modern governments cannot manage fiscal policy? Only a few years ago to raise such a question would be to mark one as a troglodyte, a hair shirt who had not yet discovered that the thing to do with budgets was not necessarily to balance them but to manage them in ways that would produce the right economic conditions. That might call for a surplus, or a balance or a deficit. It would all depend.

Why the new skepticism?

It is not all home grown. Part of it grows out of international experience. In the early part of last year, for example, Germany was concerned about inflationary pressures on her economy. The concern was understandable. The German price level was rising at the rate of over 6% per year. This was about our rate at its worst in 1969, and it was particularly unacceptable to an inflation-conscious country like Germany. The fiscal prescription for this problem was obviously to limit spending and run a good strong budget surplus. The fiscal program that actually unfolded involved deficits and expenditures which rose 12% in 1971. Fiscal restraint, never popular politically, apparently looked particularly unattractive to the government with its thin parliamentary majority. A tough monetary policy was, therefore, deployed, but this drove interest rates above world levels and attracted a flow of funds into the country which aggravated the international monetary problems of that period.

It might be assumed that modern fiscal policy could at least be worked in the expansionist direction. Yet Japan has had its problems putting in place a sufficiently easy fiscal policy. Their sluggish domestic economy has had more slack than ours. This has, of course, produced sluggish imports, a large trade surplus, and emergent pressure for another upward revaluation of the yen (something which they very much want to avoid). Moreover, Japan needs to spend more on social facilities to bring them more into line with those needed by an advanced and high-income nation. Yet the required degree of fiscal expansion never really has been put in place.

A look over the world economy during recent years, in short, produces a picture of economic conditions which called for fiscal policies that the political process did not, and presumably could not, provide.

It is when we examine our fiscal problems at home, however, that doubts about how maneuverable fiscal policy really is have begun to emerge. Before we dismiss Japan's difficulty in achieving a sufficiently expansive fiscal policy as a special case, we should recall our own major excursion into tax reduction almost a decade ago. President Kennedy recommended tax reduction in January 1963, and indicated earlier that he would do so, but the actual tax reduction could not be achieved until March 1964.

RISING PUBLIC OUTLAYS

The real problem for modern fiscal policy, however, is the relentless rise in public outlays. The magnitudes are impressive. In 1965 the economy regained reasonably full employment. Yet from 1965 to 1968 the rise in federal, state, and local outlays (on a national accounts basis) was equal to almost 57% of the rise in national income, and the figure for the period 1968 to 1972 (first quarter) was almost 48%. With roughly half of the increase in national income absorbed by rising government outlays, the groundswell of public concern about taxes becomes understable. Somehow our expenditure deci-

sion-making process has been giving us a larger rise in outlays than people are ready to pay for. The result is a trend that will carry expenditures for this fiscal year at least $10 billion beyond revenues that the tax system would produce at reasonably full employment.

Part of the problem is that to a growing extent federal outlays reflect permanent programs with yearly increases built in. They are thus uncontrollable in the literal sense unless legislation is changed. Social Security, agriculture, welfare—these are programs whose aggregate outlays will be determined by specified benefit levels and the number of eligible recipients. We thus have outlays on a path that is rising more rapidly than the increment of revenues that on-going economic growth will provide from any given tax system. The fiscal dividend of the 1960s has been replaced by the fiscal mortgage of the 1970s. If outlays continue to rise this rapidly, periodic increases in tax rates or new taxes will be required, something that the political process will not find it easy to deliver.

The problem has many roots, but a major one is the "new" fiscal policy itself. In retrospect it seems clear that the "new" fiscal policy threw a baby out with bath water—namely, the idea of fiscal discipline. The old always-balanced budget philosophy did seem at times to call for perverse actions, such as increased taxes or slashed spending in recessions, but it did impose a discipline. It, in principle, required that governments couple with the delectabilities of spending the distasteful task of raising taxes. Thereby a rough cost-benefit equilibrium was achieved.

It was achieved intellectually, and it worked surprisingly well practically. Up to the Great Depression the budget had a surplus in two nonwar years out of three, while in the postwar period there have been deficits in two out of three years. "Marriage is popular," observed George Bernard Shaw, "because it combines the maximum of temptation with the maximum of opportunity." Something like this seems to have characterized the actual workings of modern fiscal policy. Having been told that there are times when the budget ought not to be balanced, the political process finds it tempting to assume that "now" is one of those times. And the always-balanced principle has metamorphosed into a never-balanced budget.

If modern fiscal policy is ever to live up to its potential, the concept of fiscal discipline must regain a central position in budget policy.

The President put forward a helpful concept with the idea that outlays should not exceed the revenues the tax system would generate at reasonably full employment. This would enable the budget to be expansive during a period of sluggish economic conditions, but it would assure that the budget would come back into equilibrium, with revenues covering outlays, when no further economic stimulus was needed.

CONGRESS IS THE KEY

The key to regaining a greater sense of fiscal discipline is in the Congress. Present congressional procedures do a reasonably effective job of screening the merits of individual requests for money. In that sense the budget problem is not waste and foolish spending. What one person considers "waste" or "unessential spending" is, of course, another's high-priority program. The problem is that the aggregate of individually meritorious programs will always exceed any viable total. In that important sense the federal government's budget problem *is* similar to that of a family or a business. There are other respects in which it is different, but economists have been so preoccupied with the differences that this important parallel has been overlooked.

Good budgetry, therefore, requires a procedure for deciding not only whether each proposed outlay is good but whether it is good enough to be included within some viable limit or total. This is the missing element in the congressional process. Without it the whole process has a bias toward larger spending than the citizenry will want—want in the only meaningful sense of what it is willing to forego in the way of private spending for these public programs.

The Appropriations Committees have made a small beginning by initial hearings on the budget as a whole. This is a good start. It should develop further into some meaningful actions about each year's budget as a whole.

What is essential is some procedure by which the Congress itself will decide what total outlays should be, and by which Congress also explicitly accepts responsibility for the aggregate expenditures which are the result of their individual program decisions. The initial congressional overview of the whole budget might be extended to include a total within which individual program decisions would have to fit (though early postwar attempts along this line were quickly dropped). Individual appropriations bills could be held until all are passed in order to see what the results would be for total outlays, with perhaps an amendatory bill to keep the total within a viable limit.

Whether modern fiscal policy can yet become a powerful tool for economic adjustment, or whether it must remain a theoretical idea with little substance in reality and largely immobilized by a relentlessly rising outlay trend, is going to depend heavily on whether a greater degree of fiscal discipline can be injected into the budgetary process. Because fiscal policy has substantial potential for domestic economic management and for harmonizing divergent national objectives in the world economy, it is important that the budgetary process be subjected to this greater sense of discipline.

On this both the "new" fiscalists and the "old" budget balancers have common ground.

RAILROAD LAND HOLDINGS

Mr. HARRIS. Mr. President, on August 30, 12 other Members of Congress joined with me in a request to the Secretary of the Interior that he report to Congress immediately concerning nineteenth century grants of Federal lands to certain railroad companies.

The action comes as a result of an administrative complaint filed with the Interior Department by the National Coalition for Land Reform and the California Coalition of Migrant and Seasonal Farmworkers.

We wrote to Interior Secretary Rogers Morton:

As we understand it, the administrative complaint alleges that a number of western railroads have a continuing obligation to comply with certain conditions imposed upon them by the terms of statutes granting land to the railroads to finance construction of new lines and there is evidence that the railroads are violating some of these conditions.

Together with Representative ROBERT KASTENMEIER, Democrat, Wisconsin, and me, the group included Democratic Senators GAYLORD NELSON, Wisconsin, and EDWARD KENNEDY, Massachusetts, and Democratic Congressmen JAMES ABOUREZK, South Dakota, PHILLIP BURTON, RONALD DELLUMS, DON EDWARDS, and JEROME WALDIE, California, BOB ECKHARDT, Texas, WILLIAM F. RYAN, New York, JOHN F. SEIBERLING, Ohio, and Republican Congressman PAUL MCCLOSKEY of California.

The U.S. Government granted approximately 8 percent of its total land area to the railroads to finance rail construction in the West during the 19th century. The original grants provided that the railroads could obtain title to land extending 20 miles on either side of the proposed tracks. Once 20 miles of tracks were completed, the railroad could sell or mortgage the land to finance further construction.

Under the terms of the contracts, the land was to be sold at $2.50 per acre as an aid in transferring public lands to settlers. If the railroads failed to build a proposed line, the land was to be sold in 160-acre homesteads after 3 years.

We know that the railroads still hold title to a great deal of land which they received under the original grants. The Southern Pacific Railroad alone holds 2.4 million acres in California.

We are concerned that the Secretary of the Interior fulfill his duty in making sure that the original conditions under which the lands were granted have been met.

Among the questions asked of Secretary Morton were that he provide maps of each land grant or successor railroad showing the land-grant land presently held and specifying for each the amount of land being used for agricultural purposes, the harvesting of timber and the extracting of minerals, and the yearly income derived from all of those industries on land-grant land.

Mr. President, I ask unanimous consent that a copy of our letter and questions to Secretary Morton, as well as a copy of the administrative complaint filed by the National Coalition for Land Reform, and the California Coalition of Migrant and Seasonal Farmworkers, be printed 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., August 30, 1972.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
U.S. Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: An administrative complaint filed with you by the National Coalition for Land Reform and the California Coalition of Migrant and Seasonal Farmworkers has come to our attention. As we understand it, the complaint alleges that a number of western railroads have a continuing obligation to comply with certain conditions imposed upon them by the terms of statutes granting land to the railroads to finance construction of new lines, that there is evidence that the railroads are violating some of those conditions, and that the Secretary of the Interior has a duty to, among other things, report to Congress concerning compliance with those conditions by the railroads or their successors.

To assist us in determining Congress's responsibilities with regard to lands granted railroads and subject to conditions, we would appreciate your supplying the information requested below. It should be noted that our inquiry is directed solely to lands granted to finance construction and that we are not seeking responses with respect to right-of-way grants.

In many cases, one of the various predecessor agencies of the Department of the Interior may have had duties and performed functions in respect of railroad land grants. Similarly, many of the railroads named as grantees in the granting statutes have been merged into or acquired by presently exist-

ing railroad companies. For clarity, we have used the Department of the Interior to represent all of the relevant predecessors and successors and we ask that the attached list of questions be read and answered accordingly.

We recognize that some of the questions are susceptible of being answered more promptly than others. We would ask, however, that you not withhold your response until you are prepared to answer all questions fully, but rather that you respond immediately to those which do not require substantial and time-consuming factual research and respond to others as quickly as is feasible.

We all regard this as a matter of considerable significance and urgently and look forward to receiving your responses as quickly as possible.

Very truly yours,

FRED R. HARRIS,
EDWARD M. KENNEDY,
GAYLORD NELSON,
U.S. Senators.
ROBERT W. KASTENMEIER,
JAMES ABOUREZK,
PHILLIP BURTON,
RONALD V. DELLUMS,
BOB ECKHARDT,
DON EDWARDS,
PAUL N. MCCLOSKEY, Jr.,
WILLIAM F. RYAN,
JOHN F. SEIBERLING,
JEROME R. WALDIE,
Members of Congress.

RE RAILROAD LAND GRANTS

(Requested Information From: Hon. Rogers C. B. Morton, Secretary of the Interior and U.S. Department of the Interior)

1. For each land grant railroad or its successor, enumerate all federal statutes, Congressional Resolutions and other Acts of Congress, including the granting statutes themselves, which have any bearing, direct or indirect, upon the disposition or use of land so granted or upon the obligation of any grantee railroad or its successor in interest to comply with conditions specified in any granting statutes.

2. For each land grant railroad or its successor, set forth the following:

(a) The total acreage of land withdrawn;

(b) The total acreage of any and all adjustments (selection of "in lieu" lands) made with respect to withdrawn lands;

(c) The total acreage covered by any and all patents issued to railroads;

(d) The total acreage of any and all forfeitures of lands and the reasons for such forfeitures;

(e) The total acreage of patented lands presently held; and

(f) Any land grant conditions, the performance of which were excused by statutes, regulations, agreements, understandings, opinions or otherwise.

3. Provide a map of each land grant railroad and/or its successor showing the land grant land presently held by each, and for each such railroad specify:

(a) Grant lands presently being used for agricultural purposes or potentially usable for such purposes;

(b) Grant lands as to which the United States has reserved mineral rights;

(c) Grant lands on which railroads are harvesting timber and the yearly income derived therefrom;

(d) Grant lands from which the railroads are presently extracting minerals and the yearly income derived therefrom.

4. Enumerate all sales of land grant land by grantee railroads or their successors since 1920, indicating with respect to each railroad:

(a) The price per acre received by the railroad;

(b) The size of each parcel sold;

(c) The purchaser;

(d) The character of the land sold (agricultural, timber, commercial, industrial, residential, non-arable, etc.); and

(e) Whether mineral or other surface or subsurface extraction or harvesting rights were retained and reserved by the selling railroad and, if so, the yearly income derived from such retained or reserved rights by the railroad.

5. State the opinion of the Department of the Interior as to whether grantee railroads or their successors have a present and continuing duty to comply with conditions in land grant statutes and set forth in detail the reasons for your opinion.

6. With respect to the Transportation Act of 1940, indicate:

(a) Whether, in the opinion of the Department, the Act had any effect upon the obligations of grantee railroads or their successors to comply with grant conditions, and, if so, what that effect was.

(b) The specific claims relinquished by grantee railroads pursuant to the Act.

(c) The present status of land, claims to which were relinquished by the railroads pursuant to the Act.

(d) Any unpatented lands still held by the railroads.

7. What effect did the Transportation Act of 1945 have upon the obligation of land grant railroads or their successors to comply with land grant conditions?

8. If there are any Acts of Congress subsequent to 1945 which have been interpreted to affect obligations to comply with land grant conditions, enumerate those Acts and describe their effect.

9. State whether, in the Department's view, grantee railroads or their successors may harvest timber or extract minerals from patented or unpatented lands, mineral or other rights to which were reserved to the United States in the granting statutes.

10. Set forth or attach copies of all correspondence, agreements or memoranda between the Department or its predecessors and any grantee or its successor which had an impact upon any grantee's obligation to comply with grant conditions.

11. Specify any and all procedures employed by the Department of the Interior for monitoring the status of railroad land grant lands.

12. Enumerate and attach copies of all reports made by the Department or its predecessors to Congress or any agency of the United States Government annually or otherwise with respect to railroad land grants generally or compliance with land grant conditions specifically.

13. For any year after 1916 for which no such report has been made to Congress regarding the status of railroad land grants generally or grant conditions specifically, state the reasons why such report(s) has (have) not been made.

14. Enumerate and attach copies of all reports made from 1950 to date to the Department of the Interior and any other federal agencies by any railroads regarding or touching upon disposition and use of railroad grant lands.

15. Enumerate any studies by Commissions, organizations, or agencies other than the Department of the Interior which bear upon the obligations of the railroads with regard to compliance upon land grant conditions.

16. Set forth the duties of the Department of the Interior and its procedures with respect to railroad land grants, indicating, among other relevant facts, specifically how it has in the past and presently discharges its duty to:

(a) ". . . adjust, in accordance with decisions of the United States Supreme Court, each of the railroad land grants made by Congress to aid in the construction of the railroads and heretofore unadjusted," 43 U.S.C. 894;

(b) Supervise the administration of public lands and the sale and issuance of patents for such lands, 43 U.S.C. 2; and

(c) Seek return of railroad grant lands that have been erroneously certified or patented, 43 U.S.C. 895.

17. Set forth, or attach copies of the following documents bearing upon the discharge by the Department of its duties and responsibilities with respect to railroad land grants.

(a) All Department Solicitor's opinions;

(b) All interpretations; and

(c) All internal guidelines.

U.S. DEPARTMENT OF THE INTERIOR—ADMINISTRATIVE COMPLAINT

NATIONAL COALITION FOR LAND REFORM, CALIFORNIA COALITION OF SEASONAL AND MIGRANT FARM WORKERS, v. ROGERS C. B. MORTON, INDIVIDUALLY AND AS SECRETARY OF THE INTERIOR, AND THE UNITED STATES DEPARTMENT OF THE INTERIOR

I. INTRODUCTION: BACKGROUND OF THE COMPLAINT

During the third quarter of the 19th century, the Congress of the United States gave the American railroads an empire of approximately 150 million acres of public land, almost eight percent of the total land area of the United States. The purpose of this land grant scheme was two-fold: first, to finance construction of new lines, and second, to encourage purchase and settlement of the granted lands by small farmers. To implement these goals many grants of public land were subject to forfeiture if the line was not completed within a specified period. Others contained a further condition obligating the railroads to sell off the land in family farm size parcels at no more than $2.50 per acre. The granting statutes thus adopted a carrot-and-stick approach. The carrot was the land, which the grantee railroads were free to sell or mortgage in accordance with maximum size and price limitations such as those described above. The stick was the threat of forfeiture of the granted lands if the railroads failed to build the new lines.

The first objective of the railroad land grants, construction of a transcontinental rail network, was largely fulfilled. The second objective—small farmer settlement—has not been fully accomplished, particularly in the far western states, for the Pacific railroads continue to hold millions of acres in fertile farm and forest land, as well as land on which mineral rights are now being exploited commercially. From their initial investigation Petitioners feel some or all of these lands may be held and exploited in violation of the original grant conditions.

Late in the Nineteenth Century, Congressional investigations uncovered numerous instances of non-compliance with grant conditions, claims to lands in excess of those granted and claims for patents based on false affidavits that railroad rights of way had been constructed. As a result Congress took back 28 million acres of railroad lands and imposed upon the Secretary of the Interior a duty to investigate the railroad land grants and to report to Congress the extent to which railroads may be in default of the forfeiture and sale requirements. 43 U.S.C.A. §§ 2, 894, 895.

The law continues to impose that duty on the Secretary of the Interior, and Petitioners seek to require the Secretary of the In-

terior to perform that duty. To properly discharge that duty he should ascertain the extent of nonconformity with original grant conditions and report to Congress so that it or the Attorney General might take action to:

(1) impose a trust on the land to assure its use in conformity with the original grant conditions,

(2) return the land to the public domain,

(3) seek an accounting for profits derived from use of the land in a manner violative of the terms of such grant conditions, or

(4) forgive the defaults.

II. PETITIONERS

Petitioners are organizations and coalitions of organizations concerned about the effects that large, corporate, land holding patterns are having on the farm worker and small farmer in rural areas. Time and again they have observed the lessons of Walter Goldschmidt's 1946 study, *Small Business and the Community*, known as the Arvin-Dinuba study. The report showed that rural areas dominated by large corporations have large welfare rolls, poor schools, and all manner of social and econmoic problems, while rural areas characterized by small farmer operations have strong civic organizations, have better schools, are better maintained, and have less unemployment.

The National Coalition for Land Reform is a nonprofit corporation with membership consisting of citizens and organizations from all sections of the country, who recognize the need for a more equitable distribution of land in rural America. The Coalition disseminates information on the need for land reform, is studying the effects of large land holding patterns on the vitality of rural life, and advocates legislation which it feels will benefit small farmers or farm workers who wish to become farmers.

The California Coalition of Seasonal and Migrant Farm Workers is an organization of groups trying to meet the needs of farm workers in todays changing agricultural industry. In addition to running a number of educational programs for farm workers, these organizations place a high priority on projects which will directly improve the economic position of the rural poor. A number of the groups are assisting farm workers who want to organize themselves into agricultural cooperatives.

III. HISTORY OF THE LAND-GRANT SCHEME

A. The land grant procedure

Beginning in about 1860, transcontinental railroad promoters began a vigorous lobbying effort to generate some form of public financing for railroad construction. Out of this came one of the most ambitious private commercial ventures ever to be financed with public treasure: the construction of railroads linking the Eastern seaboard with the Pacific coast. Relatively little in the way of federal public money was injected directly. Instead, an elaborate scheme of land grants was authorized through a series of statutes.

Two grant procedures were employed. By the first, thirty-seven million acres of public lands were granted to states which in turn sold lands to settlers to finance railroad construction costs.

The second procedure, by far the most prevalent, and the one which Petitioners believe demands the closest possible scrutiny, resulted in the granting of over one hundred twenty million acres of public land directly to the railroads. Under this procedure once the grantee railroad had charted its route, it then reserved alternate sections[1] in a checkerboard pattern along the entire planned right of way. In the event that for some reason one or more sections abutting the right of way was unavailable (i.e., it was already occupied), the roalroad could choose another section in lieu of the occupied one, within twenty miles of either side of the right of way. When construction of a specified portion of the line was completed, the United States Public Land Office, at the request of the railroad, would issue a patent to the selected sections. The railroad would then either sell or mortgage those patented lands to finance further construction.

B. Grant conditions

Many of the grants were subject to a critical condition: in the event that the railroad line for which the grant was made was not completed all lands granted to finance its construction were to be forfeited to the United States. In addition, many of the largest grants contained a further critical condition requiring that patented lands be sold to settlers at a price not to exceed, in some cases, $1.25 per acre and, in other cases, $2.50 per acre. Three of the largest grants, in the most unequivocal terms, set forth the sale requirement as follows:

"*all such lands so granted* by this section, which shall *not be sold or disposed of* by said company *within three years after the entire road shall be completed, shall be subject to settlement and preemption*, like other lands, *at a price not exceeding one dollar and twenty-five cents per acre, to be paid to said company.*" (emphasis added) [12 Stat. 489, § 3 (Union and Central Pacific); 16 Stat. 47, § 1 (Oregon nad California subsidiary of the Central Pacific); 16 Stat. 573, § 9 (Texas Pacific).]

What the granting acts contemplated was a scheme that would both encourage construction of the railroads and prevent those same railroads from holding in perpetuity land area equal in size to the states of Florida and California combined.

The limited nature of the railroads' interest in the land was best stated by the United States Supreme Court in its landmark opinion in *Oregon and California R. Co. v. U.S.*, 243 U.S. 549 (1917). The Court said that once the railroad lines were completed "*the interest that the granting acts conferred upon the railroad was $2.50 per acre,*" and the rights to sell at that price were nothing more than "aides to the *duty of transmitting the land to settlers.*" (emphasis added) (243 U.S. at 559–560).

C. The turn of the century: Multiple instances of intentional noncompliance

In the late Nineteenth and early Twentieth Centuries, innumerable frauds, mistakes and violations of the terms of the land grant covenants by the railroads were disclosed by periodic inquiries and investigations.

Before 1890, Congress had adopted 15 special forfeiture acts causing over 25 million acres to revert to the public domain because railroads failed to complete rights of way or in some cases even to begin them. Nevertheless, government studies disclosed that the special forfeiture acts returned at best only one half the public land which could have reverted to the public due to railroad defaults. (Report of the Commissioner of the General Land Office, 1885).

In 1890, Congress declared a general forfeiture of all lands granted for the construction of lines which were not yet completed and in violation of their completion date. [21 Stat. 496]. Under the act the lands were to be restored to the public domain. [21 Stat. 496 § 1].

Several of the most flagrant instances of fraudulent patenting of public lands by railroads are memorialized in reports of lawsuits commenced by the Justice Department against the railroads to nullify the patents and recoup the land.

Perhaps the most extensive litigation was the *Oregon and California* case, supra, which found its way to the Supreme Court not once but twice. The litigation centered on over two million acres of land granted to a subsidiary of the Southern Pacific Railroad. The Court found that some of that land had been disposed of by the railroad in parcels larger than the 160 acre parcels authorized in the grant and at a price substantially in excess of the $1.25 mandated by the grant. In the first *Oregon and California* case, (238 U.S. 393 (1915) the Court forthrightly stated the purpose of the grant scheme was to restrict the sale of the granted lands to actual settlers. (238 U S. 561). Finding that the railroad had violated the grant terms, the Court states:

"By the conduct of the railroad company, the policy of the granting acts [to encourage small holder settlement] have become impractical of performance . . . inviting more to speculation than to settlement." (243 U.S. at 560).

The railroad also maintained that since it had the power to mortgage the land, that same land could be sold on foreclosure free of maximum size and price grant conditions. The implication of this argument was that financing arrangements could be engineered to "wash" the grant lands of restrictions imposed by the grants. The Supreme Court in a statement obviously intended to apply generally to the railroads' conduct in respect of these grants, rejected that suggestion, stating that its effect would be:

"To declare that covenants violated are the same as covenants performed, wrongs done the same as rights exercised and, by confounding these essential distinctions give to the transgression of the law what its observances alone are entitled to." (243 U.S. at 562).

Most significant, perhaps, for the present day is the Court's declaration that the railroad had no right to harvest timber or extract minerals from grant lands but rather held such lands solely "for the purpose of transmission of actual settlers" at the price established in the granting statutes. (243 U.S. at 561).

In another case, concerning these timber and mineral rights, the Southern Pacific Railroad obtained patents to known oil lands although the grant to it has expressly prohibited it from receiving mineral lands. Evidence at the trial established that the Southern Pacific's land agent was aware of the oil bearing potential of the land but had been advised by his superior to file false affidavits claiming that the land was strictly agricultural and disclaiming mineral values. The Supreme Court found that the lands had been fraudulently obtained and cancelled the patents. *U.S. v. Southern Pacific R. Co.*, 251 U.S. 1 (1919). A similar result was reached in *U.S. v. Central Pacific R. Co.*, 84 Fed. 218 (D.C.N.D. Cal. (1898). The facts here were almost identical with the 1919 Southern Pacific case, except that here the Court held that purchasers of the mineral lands from the railroad has constructive notice of the invalidity of the railroad's patent and thus had no better title than the railroad. In still another case, the resale by a railroad of grant lands subject to acreage and sale price limitations to speculators through an intermediary was invalid and all subsequent purchasers were charged with knowledge of the conditions of the grant. *Southern Oregon R. Co. v. U.S.*, 241 Fed. 16 (9th Cir. 1917)).

[1] A section is a surveying unit of land. It consists of 640 acres or one square mile.

D. *A more recent attempt by Congress to recoup railroad lands*

Notwithstanding the General Forfeiture Act and court cases, in 1939, having sold or forfeited approximately 90% of the 131 million acres granted, the Pacific Railroads still held an estimated 15 million acres. By that time Congress recognized the need for a more comprehensive scheme of regulation, and enacted the Transportation Act of 1940, in which the government gave up its right to reduced rates, and the railroads, in return, relinquished claims to grant lands. (54 Stat. 898 at 954 § 321 and 326.)

The legislative history of the Transportation Act of 1940 indicates that the United States agreed to pay "full applicable commercial rates" to railroads relinquishing a preferential rate except for military transport.[2] In return, the railroads released:

". . . claims against the United States to lands, interests in lands, compensation or reimbursements on account of lands, or interests in lands which had been granted, or which it was claimed should have been granted to such carrier, under any grant from the United States." (House Committee Miscellaneous Reports II, April 26, 1940, Conference Report Accompanying § 2009, 76 Cong. 3rd Sess. HR Report H2016 at 87.)

Similarly, the committee hearings on the bill confirm the purpose of the section to obtain the return to the public domain of the remaining unpatented or undisputed acreage held by the railroads.[3]

Although Congress again attempted to recover some of the railroad grant lands, the results were less than Congress intended.

IV. EVIDENCE OF POSSIBLE CURRENT BREACHES OF LAND GRANT CONDITIONS

Notwithstanding the terms of the original grants and the language of the General Forfeiture Act of 1890, and court cases and the 1940 Transportation Act, several Pacific Railroads continue to hold and use vast tracts of land in possible excess of their rights.

Prior to the 1940 Transportation Act the railroads held at least 15 million acres under the land grants. According to the Interior Department, the implementation of the reversion provision returned 8 million acres to the public domain. Yet land statistics indicate that in fact the railroads, at least the largest landowner, the Southern Pacific, possibly never returned a large block of the land. In 1939, prior to the Transportation Act, the Southern Pacific had 3,895,000 patented acres. By 1941 the Southern Pacific claimed to have 8 million patented acres. In 1971 after the ostensible reversion to the United States of the remaining land grants, the Southern Pacific still had 3,845,000 acres, much of which still appeared to be subject to the sale requirements of the land grant. It can be concluded from these comparative data that some of the unpatented land claimed by the Southern Pacific was not recouped by the United States, although the 1940 Transportation Act required the reversion of unpatented land. Analysis of more exact data in Interior Department records should cast further light on this question. The following facts about some of that land raise questions of sufficient magnitude to warrant an investigation by the Department of the Interior of all grant lands presently held by railroads.

(1) The Central and Western Pacific Companies, subsidiaries of the Southern Pacific Companies, hold lands between San Francisco and Tahoe in California pursuant to a federal Pacific Railroad land grant. [12 Stat. 489, § 9; 13 Stat. 504 § 2.] The land held is explicity subject to the size and price limitation of the granting legislation. [12 Stat. 489, § 9.] Those conditions require that:

". . . All such lands so granted by this section, which shall not be sold or disposed of by said company within three years after the entire road shall have been completed, shall be subject to settlement and preemption, like other lands, at a price not exceeding one dollar and twenty-five cents per acre, to be paid to said company." 12 Stat. 489 § 3.

The rail line referred to in the condition was completed before 1900. Therefore, in light of the land management condition of the grant, the remaining land should have been, but was not, made available for homestead purposes.

(2) In 1970, the Southern Pacific earned 24 million dollars from timber and agricultural leases on some of its 3,845,000 acres of real estate holdings, as well as from mineral rights reservations on an additional 1.3 million acres. In *Oregon and California, supra*, the Supreme Court specifically rejected the railroad's claims that it could legally exploit the land commercially. 243 U.S. at 561 (1917). The following chart, reprinted from the statistical supplement to the 1970 Southern Pacific Company, in summarizing its land operations, suggest that this Supreme Court holding is currently being violated.

Acres of outlying lands owned and managed for continued income and other land not used for railroad or related purposes:

California	2,042,651.96
Nevada	1,582,303.46
Oregon	21,516.60
Texas	7,216.83
Utah	180,943.90
Other states	11,336.18
Total	3,845,968.93

Acres in which rights to oil, gas, and other minerals have been reserved in lands previously sold:

California	58,960.16
Nevada	1,053,788.55
Oregon	3,265.09
Texas	126,741.84
Utah	83,690.32
Other states	8,295.24
Total	1,334.741.20

Gross income from natural resources and rentals of land and structures for industrial and other commercial purposes; and such income from real estate held for operating and related purposes:

Oil and gas leases	$2,780,382
Agricultural leases	2,624,747
Grazing leases	155,030
Timber stumpage sales	2,557,873
Mining leases	408,143
Miscellaneous	213,198
Gross income from natural resources	8,739,373
Industrial and other commercial rentals	15,418,151
Total	$24,157,524
Receipts during the year—outlying lands, cash sales of land	$3,174,083

Annual Report, 1970, Southern Pacific Co., p. 6.

Current operations include development and construction of industrial and commercial parks, land packaging and sales and the creation of mobile home communities. Plans are also under way to develop the geothermal fields under Southern Pacific lands in the Imperial Valley as well.

The above examples suggest that railroads are currently holding grant lands which their original grants required them to sell to the public subject to maximum size and price limitations or forbid them to exploit commercially as they now appear to be doing. Such illegal uses support nullification of patents and return of the land to the public domain, as well as a careful investigation of the propriety of demanding an accounting for profits which rightfully belong to the United States.

V. THE PASSAGE OF TIME DOES NOT EXCUSE LAND GRANT VIOLATIONS

Nowhere in the statutory or case authority is there any support for the argument that the federal government intended to forgive breaches of grant conditions merely because of the passage of time. The *Oregon and California* case, *supra*, was unmistakably clear on this issue. The lawsuit, filed originally in 1908, challenged patents issued as early as 1871 on the grounds, among other things, that the railroad had refused to sell the land to settlers in amounts of 160 acres or less for no more than $2.50 per acre. The Court rejected claims that the passage of 37 years affected the rights of the railroad, holding that:

". . . the acts of Congress are laws as well as grants, and have the constancy of laws as well as their command, and are operative and obligatory until repealed. This comment applies to and answers all other contentions of the railroad company based on waiver, acquiescence, and estoppel, and even to the defenses of laches and the statute of limitations." 238 U.S. at 427.

For other suits denying the statute of limitations or laches as a bar to forfeiture proceedings, see also *U.S. v. Whited & Wheless*, 246 U.S. 552 (1918); *U.S. v. Southern Pacific*, 251 U.S. 1 (1919); *U.S. v. Northern Pacific R. Co.*, 311 U.S. 317, 358 (1940); *Southern Oregon Co. v. U.S.*, 241 Fed. 16 (9th Cir. (1917)).

VI. THE DUTY OF THE SECRETARY OF THE INTERIOR

The Secretary of the Interior, or the officer who exercised his functions with respect to land grants prior to the creation of the Department of the Interior, has since 1875 been obligated to review railroad land grant compliance. 43 U.S.C. Section 2. Section 894 of Title 43 U.S.C. requires the Secretary to make adjustments of railroad grant lands in conformity with Supreme Court decisions. Section 895 of Title 43 U.S.C. requires the Secretary to cancel patents to lands issued erroneously.

The Secretary of the Interior did in fact regularly investigate violations of the Pacific Railroad land grants until the disposition in 1916 of the previously mentioned *Oregon and California Railroad* case. Subsequent investigations were made sporadically by the Department of the Interior at the request of Congress and/or other agencies until 1925.

After a period of inaction the Secretary of the Interior reported in his Annual Report for June 30, 1941 that investigation resulted in the release of all claims by the railroads and the "restoration to Federal ownership of approximately 8,000,000 acres of land . . ." Although Petitioners can find no subsequent reports of land grant investigations, the Pacific Railroads continue to hold millions of acres, some or all of which are still subject to the review of the Secretary of the Interior.

Subsequent executive reorganization has left the Secretary's duties intact. In 1946, and again in 1950, Congress shifted responsibilities for land management but made no change in the obligation of the Secretary of the Interior to report to Congress on the status of grant lands. In 1946, the General Land Office was abolished but the responsibilities of that agency were transferred to the

[2] The preferential rate for military transport was eliminated in 1945. Nothing in this amendment eliminated the original land grant conditions. Act of December 12, 1945, 49 Stat. 606, Chapter 573, Section 1.

[3] While the exact acreage is not available to the Petitioners one Congressional source asserted that it was 15.8 million acres.

Bureau of Land Management, an agency of the Department of the Interior. Act of May 16, 1946, 79th Cong. 2d Sess. Plan No. 3, 60 Stat. 1099, 1100, Section 401. In 1950, the powers and duties of the Interior Department were vested in the Secretary of the Interior. 1950 Reorganization Plan No. 3 Sections 1 and 2, May 24, 1950, 15 FR 3174, 64 Stat. 1962, 87 Cong. 2nd Sess. March 13, 1950.

VII. CONCLUSION

Petitioners therefore request the Department of the Interior to initiate an immediate and detailed investigation into the status of the railroad land grants and the disposition of the railroad lands to ascertain the extent of noncompliance with land grant conditions applicable to original land grantees and their successors in interest.

Petitioners believe that such a detailed investigation will demonstrate the propriety of some or all of the following remedial actions:

(1) An administrative or court order requiring the railroads to make available to petitioners and other similarly situated a reasonable amount of arable land at prices not to exceed $2.50 an acre;

(2) Forfeiture by said railroads to the federal government of lands held in violation of law. Such land would then enter the public domain and be opened to settlement under the Homestead and related acts, or retained for national forests, wildlife refuges, open spaces, and other uses in the public interest;

(3) An accounting for, and reimbursement to the general treasury by said railroads of all profits made from uses of such lands prohibited by the land grant laws.

Respectfully submitted,

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Dated June 21, 1972.

TRADING WITH MOSCOW: A QUESTION OF VALUES

Mr. RIBICOFF. Mr. President, last Saturday both the New York Times and the Washington Post editorial pages carried strong condemnations of the Soviet headtax on exit visa applicants.

In his article, James Michener forthrightly describes the Soviet decree as "extraordinary blackmail" and calls for "everyone interested in education, in the intellectual life, in science, in art and in industry to voice his protest now."

In its lead editorial, "Trading With Moscow: A Question of Values," the Washington Post describes the tax as "a gross violation of human rights" and notes that in terms of the human rights "the Soviet Union has probably gone backwards over the last 10 years." The editorial concludes that political pressure to link American trade concessions with the question of persecution of Soviet Jewry is justified in this instance.

I am certain that as more Senators speak out on this subject, our Government will realize that trade arrangements now being negotiated with the Soviet Union might well face defeat in Congress if this unconscionable headtax is not removed. Given the relatively greater need by the Soviet Union for a trade agreement at this time, it is not too much for our negotiators to insist that this be a precondition for the conclusion of an agreement. As the Post stated:

Better relations with the Soviet Government do not imply and cannot require a sacrifice of American values.

I ask unanimous consent that the article by James Michener and the Washington Post editorial be printed in the RECORD.

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

[From the New York Times, Sept. 16, 1972]

SOVIET JEWRY: 'WE WANT MORAL OUTCRY'

(By James A. Michener)

Even in normal times, for a Soviet Jew to apply for an exit visa is an act of courage. As soon as his intention becomes known he suffers reprisals. First, he usually loses his job. Next, his movements are checked by the police. Then, impediments of every kind are placed in his way. Finally, he must sell his belongings at a fearful loss in order to pay $480 for his visa and $600 for permission to renounce Soviet citizenship, a requirement of Soviet law.

Last month the Council of Ministers of the Supreme Soviet quietly passed a resolution calling for additional taxes on any educated Jews wishing to emigrate. The fact that most families cannot assemble the money required for their "ransom," and are thus condemned to a life of harassment, has led well-meaning people in the rest of the world to consider the possibility of collecting some $200 million to effect the ransom of thousands of leading Jewish intellectuals. But distinguished Russians scientists of Jewish origin have told Western friends, "Don't pay this robbery."

There is one escape. The law establishing the systematic blackmail has not yet been officially promulgated. It is scheduled to be ratified by the Supreme Soviet on Tuesday. If, before that date, a general worldwide protest can be mobilized, the Soviet Government may reconsider. It therefore behooves everyone interested in education, in the intellectual life, in science, in art and in industry to voice his protest now.

In an age when international blackmail threatens all organized societies, we must protest vigorously this blackmail of educated people. It is the duty of any society to educate its young and then to let them apply that education wherever it will prove most productive. Education is not a boon which society confers upon a few, holding them up to prescribed standards of repayment later on. It is a vote of confidence in the future, an expression of faith that these young will make their contribution in unforeseen ways. The Soviet assessment of taxes for a high school education is a total perversion.

Two reasons have been advanced as to why the Soviets have introduced this extraordinary blackmail. The first argues that Russia suffers from an acute shortage of educated personnel, that it has a heavy financial investment in its educated Jews, and that it cannot afford to see this investment converted into an asset for Israel. This argument falls when Russia fires its Jews who wish to emigrate and refuses to allow them to exercise their skills.

The second argument is ugly. Today Russia suffers from an acknowledged shortage of food. Wheat must be imported from the United States, but hard currency to pay for it is difficult to find. What better way to get the wheat free than by luring American Jews to raise ransom money which could then be handed out to American grain dealers to pay for the wheat?

Why do I concern myself? For one thing, I like Soviet Russia. I have traveled widely there and have been courteously received. I have friends in Russia and try to keep abreast of what they are accomplishing. I have written favorably of Russia and will probably do so again in the future.

But some years ago, when I wrote a novel depicting Jewish values through some nine millennia, Jews in Russia got hold of a copy and even though they were forbidden to do so, they translated it, printed it secretly and circulated copies through Jewish communities. They took this considerable risk because they wanted to know why their culture had persisted. Some who read the book in secret ultimately joined the 100,000 Jews who had the courage to apply for exit visas, knowing the impediments that awaited them.

Prof. Mikhail Zand, who was fortunate enough to get out before the new taxes, has summarized the reasoning of many intellectuals: "I had a good life. I had privileges . . . the small house in the country . . . the books. But I could not live as a Jew. I could never attain a top position . . . nor travel abroad. And I could not consent to being a privileged slave."

Even though Soviet authorities have since 1970 allowed some like Zand to emigrate, the escape of one Jew infuriates them, because they interpret his departure as a vote against the system. It is for this reason that they now charge distinguished men like Roman Rutman and Benjamin Levich some $35,000 each for permission to go.

We must say no. Every American writer, scientist, artist with a voice must protest this inhuman blackmail. As Rutman says, "We do not want ransom money. We want moral outcry."

TRADING WITH MOSCOW: A QUESTION OF VALUES

Reports of new progress in trade negotiations with Russia and China sharpen the question of whether the United States should put human rights issues, such as the harsh new Soviet "education tax" on would-be emigrants to Israel, on the table, too. Senator Ribicoff, a leader in earlier congressional efforts to end tariff discrimination against Communist countries, now says that such discrimination should not be ended and other trading "concessions" should not be granted until the education tax is taken off. "If it is appropriate to link trade issues with political objectives," he says, "it is certainly just as appropriate to establish a linkage (with) the overriding moral issues raised here."

We find the question real and difficult. It is easy only to establish its extremes. On one side, trade plainly cannot evolve in a vacuum, either political or moral. But neither can trade be linked to attaining satisfaction on every political and moral issue. The differences in Soviet and American interests and values are so many and significant that to await satisfaction would preclude any trade at all.

In setting appropriate limits, two standards ought to be applied; a third will be applied, regardless. First, is the Soviet action a gross violation of human rights? All too many Soviet practices—trampling on cultural nationalism in Lithuania and the Ukraine, abusing writers, for instance—qualify under this standard. Second, is the offending action within the reach of remedy by the United States or private Americans or other foreign parties? Third—and this is the standard that will be applied in any event—how much effective leverage can be brought to bear?

Unquestionably, in our judgment, the new education tax constitutes a gross violation of human rights, and it is a matter on which Kremlin decision could be affected by outside pressure. Moreover, political leverage, the thrust of it emanating from the American Jewish community, is being put on it. It is precisely because the cause is just and because there is some reason to believe the

Soviets are vulnerable on it that we believe the application of political pressure to be justified in this instance.

We realize that this does not dispose of the broad issue of improving ties with a government many of whose values and ways are alien to those of most Americans. The issue did not have to be faced while Soviet-American (and Chinese-American) relations were tense and limited; it will have to be faced now. Given the overarching American interest in the conventional, political and economic benefits of detente, the case for slowing down the process for the sake of one or another human rights issue will always tend to be an uphill one to make. It would be nice if, by virtue of increased contacts with the United States or internal evolution, the Soviet Union were to "mellow." But there is little evidence on which to expect such a transformation. On the contrary, in terms of human rights, the Soviet Union has probably gone backwards over the last 10 years. Khrushchev's successors have not followed his example and loosened controls; they have tightened them.

It remains the fact that, however compelling the elements of conventional national interest, conscience and decency assert an irrefutable claim for an influence on official policy. Just how that claim will be defined and expressed will—must—be debated. But it cannot be denied. Better relations with the Soviet government do not imply and cannot require a sacrifice of American values.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time allotted for the transaction of routine morning business has expired. Morning business is closed.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

The ACTING PRESIDENT pro tempore. In accordance with the previous order, the Chair lays before the Senate S. 632, which the clerk will please report.

The assistant legislative clerk read as follows:

A bill (S. 632) to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

Mr. JACKSON. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side.

The ACTING PRESIDENT pro tempore. The pending question is amendment No. 1520 by the Senator from Wyoming (Mr. HANSEN). Time is under control.

Without objection, the time for the quorum call will not be charged to either side.

The clerk will please call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Washington will state it.

Mr. JACKSON. Do I understand correctly that the pending question is on the amendment offered by the Senator from Wyoming (Mr. HANSEN)?

The PRESIDING OFFICER. No. 1520—that is correct.

Mr. JACKSON. Mr. President, the Senator from Wyoming, the mover of the amendment, is tied up in a committee meeting this morning and will be until 12 noon. We had an understanding yesterday that his amendment would be temporarily laid aside until he had completed the morning hearing.

So, Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside until the Senator from Wyoming arrives and is able to offer his amendment, in any event, no later than 12:30 p.m. today.

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

Mr. JACKSON. Mr. President, I yield myself 10 minutes on the general debate.

The PRESIDING OFFICER. The Senator from Washington is recognized for 10 minutes.

Mr. JACKSON. Mr. President, for the purpose of assisting Members of the Senate who have not followed the committee's deliberations over the past 3 years on the pending measure, S. 632, the Land Use Policy and Planning Assistance Act of 1972, I would like to review the purpose of the bill, its background, and how it operates.

This review will, I believe, clarify a number of questions individual Members have about land-use planning in general and the pending measure in particular.

Factual clarification in and of itself will not, of course, resolve all of the important issues posed by the bill and the pending amendments. It will, however, enhance understanding of the real issues presented and enable individual Members to take a knowledgeable position on the bill and on the amendments.

Mr. President, the remainder of my statement is divided into three sections:

1. A brief review of the history of government involvement in land use planning and an outline of the basic legal authority involved;

2. A discussion of what the bill *does not* do and a discussion of what the bill *does* do; and

3. A summary review of the respective roles of State and Federal government in the administration of the Land Use Policy Assistance Act of 1972.

A. HISTORY

1. The police power of the respective States is an inherent power of government to take such actions as are necessary and Constitutionally permissible to protect public health, safety and welfare.

2. The power to plan for and to regulate land use derives from the police powers of the individual States.

3. The Federal government has no police power to regulate lands within a State which are privately owned or owned by the State. Only the State has Constitutional authority to control and regulate these lands.

4. The Federal government does have police power authority as well as express Constitutional authority to regulate the use of the public lands.

5. The States have exercised land use controls for hundreds of years in one form or another. It was only in the early part of the 20th Century, however, that the States began to do so in a broad and general way. This came with the adoption of model State laws which generally delegated zoning powers—to units of local government. The purpose of these delegations of police power autority to counties, cities and other units of local government was to enable them to develop master plans, to zone for permissible uses, and to establish local planning bodies.

6. The development of land use planning and local zoning was in response to very real problems that were costly, wasteful, and unfair to the public;

Dirty industrial developments would take place in the middle of residential communities;

Unsightly and aesthetically offensive developments—slaughterhouses, tanneries, etc.—would drive down the value of adjacent business and residential property;

Business activities thought by many to be undesirable if not closely regulated—taverns, movie theatres, dance halls, nightclubs—would be located near schools, churches or in quiet residential areas.

Land use planning and the exercise of zoning authority were designed to deal with these and other problems of a purely local nature.

7. Prior to the development of a statutory framework for land use planning at the State level the only remedies available to injured parties were litigation in the courts based upon the inadequate common law doctrines of "nuisance" and "trespass."

8. Today, the growing litigation over land use questions at all levels of government—power plant siting, location of heavy industry, projects such as the trans-Alaska pipeline, etc.—indicate land use problems are no longer entirely local in scope and that the planning concepts of the 1920's are no longer adequate to the changing public values and increasingly complex problems of the 1970's.

9. Today, after a half of a century of experience, many public officials and citizens feel that traditional zoning concepts and practices leave a great deal of room for improvement. The Committee recognizes this, but in S. 632 "does not require . . . radical or sweeping changes in the traditional relationship and responsibility of local government for land use management." (Report p. 22) S. 632 does not propose Federal zoning as it is both unconstitutional and unwise. Nor does it propose "statewide zoning" or "comprehensive master planning" which would only produce costly, dilatory, duplicative and often inflexible regulation of the vast majority of land use problems that are of concern, interest and knowledge only to the local units of government.

10. Instead, S. 632 encourages a continual "process of planning" wherein the right of local government to exercise land use powers is reasserted on all land use decisions and the State government is asked to join in partnership with local government on land use decisions of more than local concern, both governments acting in response to the decisions of state and local legislative bodies on substantive issues and with full citizen participation.

11. In S. 632, the State governments are encouraged to assist localities with guidelines for local planning or through cooperative planning only on those land use questions which are of *more than local concern* which go beyond the boundaries of only one locality and have an impact upon a number of local units of government and which determine the shape of the future environment—decisions concerning highways, airports, and mass transit systems; major power plants and transmission corridors, areas to be preserved or closely regulated (environmental areas, flood plains) and areas for intense development (housing complexes or industrial parks).

12. The trend in most States today is to reverse the process begun in the 1920's of delegating *all* land use planning authority

to units of local government. Increasingly States are selectively assuming an important role with respect to land use problems which are of more than local concern such as power plant siting, location of industrial parks, and the protection of park, beach, coastal or estuarine areas. Over 40 States now have laws regulating one or more critical *areas* of more than local concern. S. 632 encourages this trend toward active State responsibility and the elevation of land use decisions of more than local concern to the level of government—county, regional or State—most appropriately suited to decide the question in view of all legitimate values and interests.

B. WHAT S. 632 DOES AND DOES NOT DO

S. 632 does *not* do any of the following:

1. *Does not mandate, require, or allow "Federal planning" or "Federal Zoning."* The zoning power is based on the State's police power and the Federal government does not have authority to zone State or privately owned lands (with the exception of the District of Columbia which is a special and unique case).

2. *Does not substitute Federal authority or review of State and local decisions on the use of State and local lands.* S. 632 is an "enabling act" which encourages the States to exercise "States' rights" and develop land use programs. Consistent with the enabling act concept, the Federal government is granted very little authority to review the substance of State land use programs.

3. *Does not provide inflexible Federal standards which require strict State compliance.* Specific Federal substantive requirements are ill-advised because they do not reflect the rich diversity of the States; they are invariably the lowest common denominator; States and local governments know best their own land use problems and their possible solutions; and the Federal zoning which such standards would create is plainly undesirable.

4. *Does not require comprehensive State planning over all its land.* The State land use program is definitely not to be a comprehensive statewide program which preempts the myriad of local decisions, but rather one focused on four critical areas and uses of more than local concern.

5. *Does not mandate State zoning, rather reasserts local zoning powers.* The States are encouraged to develop their programs not by zoning or by producing a master plan, but by reasserting the whole range of local governments, land use authority, and providing guidelines for the exercise of that authority. For example, a State would not, could not, make a basic zoning decision such as on which corner shall the gas station be, but it would have a duty to provide guidelines for local decisionmaking to insure, for example, that one community does not site a massive industrial park directly adjacent to another community's recreational park or wildlife refuge.

6. *Not only does not impinge upon or alter the traditional land use responsibilities of urban government, but also does not focus on urban lands.* S. 632 encourages a balanced and rational planning process for the opportunity areas—those areas where mistakes have not already been made or irreversible actions already taken—i.e., the rural areas and areas on the urban periphery.

7. *Does not tell a State how much or what specific land must be included in the State program.* The extent of and type of land use to be included in the four critical areas and uses is dependent upon on how the States defines those four areas or uses. e.g., is a shoreline 100 feet wide or a mile? Does large scale development include a subdivision of 20 units or 200?

8. *Does not alter any landowner's rights to seek judicial redress for what he regards as a "taking."* The provisions of S. 632 do not change the body of law—Federal and State constitutions, statutes and judicial decisions—regarding the police powers and eminent domain. Any State or local restriction of property rights sufficient enough to constitute a "taking" still would require fair compensation.

5. 632 does do the following:

1. *Does contain a strong penalty provision to* encourage good faith compliance on the part of all States with the reasonable requirements of the bill.

2. *Does require States to exercise "State's rights" and State responsibility* over those land use planning decisions which are of "more than local concern" and which provide the framework that determines the shape of the future.

3. *Does require State governments to develop a process of planning and a State land use program that is "balanced";* that is, a program which protects the environment and assures recreational opportunity, but at the same time provides for necessary social services and essential economic activities—for highways, for reliable energy systems, for housing, and residential development.

4. *Does contain provisions which insure its compatibility with the HUD 701 planning program, with the Air and Water Quality Acts, with other Federal legislation, and with the Senate-passed Coastal Zone Management Act.*

5. *Does provide State government with funds—$100 million a year*—to develop State land use planning inventories, to improve the size and competence of professional staff, and to establish an appropriate State planning agency.

6. *Does provide the States with wide latitude in determining the method of implementing the Act*—reassertion of all local land USE POWERS WITH State administrative review under State guidelines such as in most State coastal zone, wetlands, flood plain and power plant siting laws, or the rare instance of direct State planning, as in Hawaii or the unincorporated areas of Alaska. The intent of the Committee is embodied in the amendment endorsed by the League of Cities which adds the provision that "selection of methods of implementation shall be made so as to encourage the employment of land use controls by local governments."

7. *Does endorse the concept that local land use decisions should be MADE BY LOCAL GOVERNMENT:* "The Act does not require or contemplate radical or sweeping changes in the traditional relationship and responsibility of local government for land use management. Decisions of local concern will continue to be made by local government." (page 22, Comm. Rept. No. 92-869).

8. *Does provide new authority to State government and encourages coordinated State-Federal planning for Federal lands within a State's boundaries.*

C. THE ROLE OF THE STATE AND LOCAL GOVERNMENT AND THE FEDERAL GOVERNMENT

Under S. 632 the States are asked to undertake two tasks:

(i) develop a *statewide land use planning process within three years*

(ii) develop a *land use program* within five years and administer it thereafter.

1. *Statewide Land Use Planning Process:*

Each State is asked to conduct a statewide land use planning process to insure that the State possesses a sound knowledge of and data on the State's social, economic, and environmental requirements; well-trained professionals; and the necessary authority to develop and administer the program.

(a) *content and administration.* The major components of the Process Are (1) the inventorying of State land use requirements; (2) the establishment of primary authority in a single State agency to develop and administer the state land use program; (3) development of adequate professional expertise; and (4) formulation of methods to identify those activities and portions of the State subject to the land use program.

(b) *federal review.* As no state planning would be undertaken, the Federal review would focus *only* on whether the planning process is being developed and would not include any oversight of state planning or substitution of Federal judgment.

2. *State Land Use Program:*

The States are asked to develop a state land use program within *five* years of date of enactment. This program does not call for statewide planning or control.

(a) *Content.* The State program would involve four critical areas or uses which are of significant interest to or would have an impact upon inhabitants of an area far beyond the local jurisdiction which possesses the zoning power. These four critical areas and uses are: (1) *critical areas of environmental concern* (wetlands, beaches, flood plains, historic areas, etc., (2) *key facilities* (major airports, electrical power plants, highway interchanges, etc.) (3) *uses and development of regional benefit,* (recreational facilities, mass transit corridors, sewage treatment facilities; and (4) *large scale development* (major subdivisions, industrial parks, etc.) No other uses or areas would be included in the program and the State is given great flexibility in defining those four selected areas and uses.

(b) *Administrative implementation.* The State need not, and is not necessarily expected to, directly plan for these areas and uses. Two alternative methods of implementation would be required by the Act. Both "encourage the employment of land use controls by local government." The first is State review of selected aspects of local planning. The second is direct State planning for selected aspects of land use.

(c) *Federal review.* In the Federal review process to determine continued grant eligibility, the review would not focus on the "substance" of the State land use program. Rather, the review would be *limited* to determining whether the State has: (1) the ability to implement the program; and (2) provides adequate procedural safeguards for the participation of industry, citizens, and local governments in the development and administration of the program. In short, the review would be for the purpose of determining whether the program will be *effective,* not whether it is "good" or "bad."

THE FEDERAL ROLE

The Federal government would be asked to undertake two principal tasks:

(i) administration of a grant-in-aid program, and

(ii) interagency coordination of Federal programs which have a land use impact.

1. *Federal-State Relations: The Grant-in-Aid Program:*

The Federal role in relation to the States would be largely that normally assigned to the grantor in a grant-in-aid program; dispersal of money and review. The funds are $100 million per year at 90/10 cost sharing for five years and ⅔ Federal and ⅓ State thereafter. The States complying with the Act would be given new authority over the Federal Government in that Federal activities which have a land use impact must be in compliance with approved State programs. The Federal government would be given authority over the States in that: (1) *if* no land use program is submitted, the grant-in-aid program is temporarily suspended, and (2) if the program is not approved, there is a phased reduction in the developmental (not research, planning, or safety) portions of three grant-in-aid programs (airways, highways, Land and Water Conservation Fund).

2. *Interagency Coordination:*

While the States are developing the land use programs with Federal assistance, the Federal government is asked to put its "own

house in order" by encouraging interagency coordination of programs with land use impacts.

3. *Organization:*

(a) *Grant-in-Aid Program:* The Secretary of the Interior would administer the grant program and, with consultation and the advice of other agencies, would review the State efforts which the program would finance.

(b) *Interagency coordination* would be assisted through the creation, within the Department of the Interior, of a National Land Use Policy Advisory Board consisting of representatives from the principal Federal agencies which have programs affecting the uses of land.

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

AMENDMENT NO. 1549

Mr. TALMADGE. Mr. President, I call up my amendment No. 1549 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

At the end of page 107, add a new subsection as follows:

(d) granting to the Federal Government any of the constitutional or statutory authority now possessed by State and local governments to zone non-Federal lands.

Mr. TALMADGE. Mr. President, I modify my amendment by adding the word "as" between the letter "(d)" and the word "granting" on line 1.

That is section 512 on page 106 of the bill.

The amendment would read:

Nothing in this Act shall be construed . . .

(d) as granting to the Federal Government any of the constitutional statutory authority now possessed by State and local governments to zone non-Federal lands.

The PRESIDING OFFICER. The amendment is accordingly modified.

Mr. TALMADGE. I have listened with much interest to the discussion of my distinguished friend, the Senator from Washington (Mr. JACKSON), the floor manager of the bill. I agree with him implicitly. There is no inherent power in the Federal Government in the zoning of land. That is traditionally State power under State law which has been delegated in most instances to local boards.

This bill is very broad. It is very complex. It is more than 100 pages in length. It delegates to the Federal Government broad new power that has not heretofore been delegated.

It would vest in the Secretary of the Interior the authority to receive the land use programs from the Governors of the respective States setting out their proposals for utilizing land within their jurisdictions.

Mr. President, it would also authorize the Secretary of the Interior under certain conditions and in his discretion to cut off funds previously authorized under Federal law to the States. In other words, it gives the Secretary of the Interior a punitive power, because he would determine whether the States could receive funds under existing Federal law.

In my amendment, I want to make it implicitly clear, Mr. President, that this legislation makes no such delegation of power to any Federal authorities whatever and gives them no right to go to a State and its political subdivisions and dictate how they can zone land for use within their respective jurisdictions. There is nothing that is more peculiarly local than the authority to determine whether a man can build a dairy, a poultry house, a home, a filling station, or how he can use property that he owns in fee simple and pays taxes on year after year.

Virtually every local county government in the Nation now has a zoning authority. The zoning authority determines the best use of land within its particular jurisdiction. The local government officials elected by the people normally appoint that zoning authority. Appointments and zoning decisions are usually matters of controversy. People who live in a residential neighborhood, for instance, may not want a filling station located on the corner. However, under existing law, that is determined by the local officials elected at the local level who are responsible to local people for the decision they make which affects local property.

I think we ought to keep it that way. That is what this amendment is designed to do. I have discussed it with the distinguished floor manager of the bill. And from his comments, I understand there is nothing in the bill that would prohibit this. However, I want to make it implicitly clear, and he wants to make it implicitly clear, that the zoning decisions would remain with the local people, at the local level.

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

Mr. TALMADGE. Mr. President, I am delighted to yield to the Senator from Nevada.

Mr. BIBLE. Mr. President, I compliment the Senator from Georgia for this amendment. I know that he has worked on allied problems over the years. I would hope that the chairman would accept the amendment, as I think he is inclined to do. However, has the Senator not found over his years in Congress that more and more and more the tendency has been to move the government from whatever county it might be in Georgia or from whatever county it might be in the State of Nevada to the halls of the mighty in Washington, D.C.? Has not the Senator found that to be true constantly in incident after incident and in area after area?

Mr. TALMADGE. Not only have I found it to be true in incident after incident, but I have also found that if we give the Federal bureaucracy an inch, it will take 2 miles.

Mr. BIBLE. Does the Senator think this might broaden that?

Mr. TALMADGE. The bureaucrats will say that this bill gives them authority to tell State and local officials how they will utilize their land. If the local people do not do it the way the bureaucrats want it done, the Federal Establishment will then cut out money for highway construction, for airport construction, and for various other Federal programs.

Mr. BIBLE. For land and water conservation?

Mr. TALMADGE. For land and water conservation and other programs where there are contributions from the Federal Government.

Mr. BIBLE. I am in complete agreement with the Senator. I hope the chairman accepts the amendment. I think it is a good safeguard, because the Senator is correct that once you give them a little authority and open the door a crack they will drive a Mack truck through it.

Mr. TALMADGE. I thank the Senator. I hope the Senator from Washington will accept the amendment.

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

Mr. MUSKIE. Mr. President, I wish to ask the Senator from Georgia a question.

The authors of this legislation argued that what it does is to simply set up a procedure or process designed to prod the States and communities into making wiser land use decisions. As I interpret the legislation it is more than a procedure or process, because in the statement of national policy objectives at the outset, it lays down some criteria that ought to be followed by whatever governmental entities are involved. Somebody has to decide whether or not the State and local governments have met that criteria. In my judgment, that is the Secretary of the Interior.

I am not sure what the effect of the Senator's amendment would be on the legislation with regard to that point.

I turn to the statement of policy in the legislation. For example it says on page 60, line 15, if the Senator will turn to it:

(b) The Congress further declares that it is the national policy to—

(1) favor patterns of land use planning, management, and development which are in accord with sound environmental, economic, and social values and which encourage the wise and balanced use of the Nation's land resources;

Certainly, I do not quarrel with that objective. But on page 61, line 17, it states:

(c) The Congress further declares that intelligent land use planning and management can and should be a singularly important process for preserving and enhancing the environment, encouraging beneficial economic development, and maintaining conditions capable of improving the quality of life.

If that, indeed, becomes national policy upon the enactment of this legislation, then it seems to me inevitable that the Secretary of Interior, using whatever authority the legislation gives him, must prod State and local governments to make their land use decisions in accordance with his interpretation of what these policies require.

So I ask the Senator this question. It seems to me that even though his amendment is adopted, this authority, if it exists, and I think it does, would mandate the Secretary of Interior to require of local government the kind of land use decision it would make even though he cannot directly zone local lands.

Mr. TALMADGE. That is what I was apprehensive about. Such a broad delegation of policymaking authority to a national official is exactly what this amendment prohibits.

The Senator from Georgia wanted to make certain that this legislation would not take from the States and their political subdivisions their inherent police power in the use of their land. That is all the amendment is designed to achieve.

The Senator from Washington may desire to explain his position further, because I am not the author of the bill; I am merely the author of the amendment.

Mr. MUSKIE. I wish to make one observation. I thank the Senator, and I shall disagree on an amendment I am going to offer later. But it has been my view that if this kind of authority is granted to the Secretary, the legislation itself should spell out the parameters within which he will exercise the authority. Without that kind of guidance in the legislation itself, that authority could be exercised arbitrarily.

I shall support the Senator's amendment.

Mr. TALMADGE. I thank the Senator.

Mr. MUSKIE. But I do not think it gets to the question I will raise later with my amendment. I wanted to make that clear.

Mr. TALMADGE. I will consider the Senator's amendment when it is offered.

I want to make it clear that no Federal official can sit here in Washington and determine how every acre of land in the United States will be used.

Mr. JACKSON. Mr. President, maybe I can be helpful. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. JACKSON. In further response to the question by the Senator from Maine to the Senator from Georgia, may we turn to page 61 of the pending bill, starting on line 23 where the purpose is set out in section 103(a):

It is the purpose of this Act—

(a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs designed to achieve economically and environmentally sound uses of the Nation's land resources;

Mr. President, I submit that the amendment of the Senator from Georgia is in keeping with the stated purpose of the bill as found on page 61 which I have just read. So, Mr. President, I support the amendment by the Senator from Georgia. I think it helps to make very clear the intent of Congress in connection with this matter. It is in keeping with the philosophy of the bill, which is to add to the capacity, if one wishes to put it that way, of State and local government to exercise responsibility for land use planning and not to expand the Federal Government authority to control land use.

Mr. President, I just want to say that section 103, which I have just read into the RECORD, is corroborated once again in the report. I wish to read from the report, which states:

It is the view of the Committee that the Federal government is not sufficiently wise nor prepared to lay down a series of national policies on land use to which strict adherence by the States and localities should be required. Rather, the national policy should be that the Federal government will render financial and technical assistance to the States to enable them to develop their own land use policies. The Federal review of the individual States' performances should focus on whether they have methods for, and are making good faith efforts toward, implementation of their policies and not on what is the substance of those policies (p. 25).

This [limited Federal review] is in keeping with the Act's purpose to encourage better land use decisionmaking at the State and local levels, and not to provide substantial new land use decisionmaking authority on the Federal level (p. 22).

The Act does not require or contemplate radical or sweeping changes in the traditional relationship and responsibility of local government for land use mangement. Decisions of local concern will continue to be made by local government. It does, however, require that the States play an active role in major land use planning and management decisions which are of regional, State or national concern (p. 22).

The State need not, and indeed in most cases is not expected to, directly plan for the areas and uses within its land use program. Two alternative but not mutually exclusive methods of implementation would be required by the Act: (1) direct State planning; and (2) State establishment of guidelines for, and administrative review of, local land use planning, zoning, and regulating. In the latter case, the State would reaffirm the authority of local governments to continue to exercise all their land use powers and, through guidelines, criteria and an appeals process, would exercise guidance and oversight over the local efforts. In most of the recent innovative State land use legislation, this local government—State partnership approach has been chosen over the less flexible and less "local" approach of direct State planning (pp. 27–28).

Mr. President, it completely corroborates the efforts of the Senator from Georgia to see to it that the constitutional and statutory responsibilities of the several States and their subdivisions to zone for or otherwise regulate land use under the police power are not invaded.

I want to conclude by saying that the amendment reinforces both the provisions contained in section 103(a) and the provisions of the report to be found on page 25 to which I have just referred. So I hope that the amendment would be adopted.

I yield such time as he may require to the Senator from Idaho.

Mr. JORDAN of Idaho. I thank the Senator.

Mr. President, I think the amendment offered by the distinguished Senator from Georgia is entirely consonant with the purposes of this act. I think it defines and clarifies certain relationships between the States and the Federal Government that need clarification. He has done a good job of clarification of that relationship. I urge its adoption.

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum and desire that the aides notify Senators in the proximity of the Chamber that we need two more Members on the floor in order to request the yeas and nays. I anticipate that we will vote immediately thereafter.

The PRESIDING OFFICER. The Senator does not have enough time to suggest the absence of a quorum.

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

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

Mr. TALMADGE. Mr. President, I suggest the absence of a quorum. I suggest that the aides notify absent Senators that we need a sufficient number of Senators to order the yeas and nays and that there will be a vote immediately thereafter.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Wyoming (Mr. MCGEE), and the Senator from Iowa (Mr. HUGHES) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Texas (Mr. TOWER), and the Senator from Massachusetts (Mr. BROOKE) would each vote "yea."

The result was announced—yeas 75, nays 0, as follows:

[No. 450 Leg.]

YEAS—75

Aiken	Beall	Burdick
Allen	Bennett	Byrd, Harry F., Jr.
Anderson	Bentsen	Byrd, Robert C.
Bayh	Bible	

Case	Hollings	Proxmire
Chiles	Hruska	Randolph
Church	Inouye	Ribicoff
Cook	Jackson	Roth
Cooper	Jordan, N.C.	Saxbe
Cotton	Jordan, Idaho	Schweiker
Cranston	Kennedy	Scott
Curtis	Long	Smith
Dole	Magnuson	Spong
Eastland	Mansfield	Stafford
Edwards	Mathias	Stevens
Ervin	McClellan	Stevenson
Fannin	McIntyre	Symington
Fong	Miller	Taft
Fulbright	Mondale	Talmadge
Gambrell	Montoya	Thurmond
Griffin	Muskie	Tunney
Gurney	Nelson	Weicker
Hansen	Packwood	Williams
Hart	Pastore	Young
Hartke	Pearson	
Hatfield	Percy	

NAYS—0

NOT VOTING—25

Allott	Eagleton	Metcalf
Baker	Goldwater	Moss
Bellmon	Gravel	Mundt
Boggs	Harris	Pell
Brock	Hughes	Sparkman
Brooke	Humphrey	Stennis
Buckley	Javits	Tower
Cannon	McGee	
Dominick	McGovern	

So Mr. TALMADGE's amendment was agreed to.

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

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

The motion was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that Marilyn Kester of Senator HANSEN's staff and Barbara Holliday of Senator PACKWOOD's staff may have the privilege of the floor during consideration of the pending measure, excluding rollcall votes.

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

Mr. KENNEDY. Mr. President, I ask unanimous consent that Ellis Mottur have the privilege of the floor.

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

Mr. MILLER. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read, as follows:

On page 74, line 21, delete all after the word "by".

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

Mr. MILLER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on each remaining rollcall vote today there be a time limitation of 10 minutes, with the warning bell to be sounded after the first two and a half minutes.

Mr. COOK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MILLER. Mr. President, I yield myself such time as I may require.

I have coordinated this amendment with both the manager of the bill, the distinguished Senator from Washington, and the manager of the bill on this side of the aisle, the distinguished Senator from Idaho (Mr. JORDAN).

This amendment would merely strike out the words "the public and the." The reason for doing so is that in the previous paragraph, item 12, on page 74, the conducting of public hearings concerning State land use planning process or aspect thereof, the language is broad enough to cover the matter referred to in the next paragraph, item 13. So that item 13 would now read: "the provision, and continuation thereof, of opportunities for participation by appropriate officials or representatives of local governments in the planning process and in the formulation of guidelines, rules, and regulations for the administration of the planning process."

If we do not delete the four words to which I have referred, I suggest that there will be some ambivalence and confusion as to what is intended. By deleting them and using the conducting of public hearings in item 12, I think there will be no confusion, and it will be clearcut that public hearings are going to be involved in the planning process and in all aspects thereof.

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

Mr. MILLER. I yield.

Mr. JACKSON. Mr. President, the distinguished ranking minority member of the committee and I have reviewed this amendment, and I think it would help to clarify the matter. It is a purely technical amendment. I am pleased to accept it.

Mr. MILLER. I thank the Senator from Washington.

Mr. JACKSON. Mr. President, I am supporting the amendment of the Senator from Iowa because I view it as a technical amendment designed to avoid redundancy.

The intent of S. 632 is to encourage public participation at all stages of the State planning process. I endorse this concept.

I do not view or understand the amendment of the Senator from Iowa as in any way being contrary to this concept.

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

Mr. MILLER. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I say to the Senator that I am concerned that the effect of his amendment may be to narrow the role that nongovernmental citizens may play in this planning process.

Subsection 12, which precedes, refers to public hearings. Those, I take it, would usually take place somewhere down the road in the planning process.

I found it useful in my own community to get the public involved before you get to the stage of public hearings—in committees and the actual development of propositions and policies.

It seems to me that the effect of the Senator's amendment would be to foreclose that possibility. If the participation of the public has to do only with formal hearings at some stage after the input of ideas has been made, after tentative policies have been framed, that may be a little late, I say to the Senator. I would support his motion of eliminating the redundancy, but I do not really think this is a redundancy in the place it is found in the bill. I did not write the bill.

Mr. MILLER. The Senator is correct that this is not purely a redundant thing. The point I am making is that the conducting of public hearings concerning the State land use planning process or aspects thereof—as the Senator can understand, there are many aspects thereof—is very broad. If we go beyond that, I do not know what kind of thicket we are going to get into.

What I would hope the Senator from Maine would like to see is something not unlike what we have at the Federal level now, where, in connection with a proposed regulation, for example, there is public notice, opportunity for people who feel aggrieved to come in for a hearing. I think that this type of procedure at the State level would be helpful. I think item 12 will cover that.

But I think that to require that a State plan be open to participation by the public in other than public hearings is a pretty far-reaching and rather dangerous approach, because this could admit of all kinds of public action or actions by the public apart from a public hearing. The public hearing is where the public really has a chance to manifest its views. If item 12 permits the public to participate in all aspects, I do not know what more we need.

Mr. MUSKIE. The language on line 21 to which the Senator takes objection reads: "the provision of opportunities for participation."

It does not specify what form those opportunities ought to take or at what place in the process they ought to be provided. I do not consider that far reaching.

When we wrote the first zoning law in my community, it was not left to the city fathers to write it. They invited several members of the public, including myself, including other lawyers, including other citizens, to sit down and to participate in the development of the policies which ultimately were submitted to the governmental institutions. But the public was invited to participate. That was opportunity for participation. The Senator assumes that such opportunities will be inappropriate.

Mr. MILLER. No, no—now wait. May I say to my friend from Maine that he does not presume anything of the sort. The Senator assumes that what the Senator has been talking about, which he refers to in his own State of Maine, could be desirable under certain circumstances, but to write that in as a requirement is what I think is dangerous and far reaching. If we have the public hearings written in, we have a good guarantee and I think that is sufficient.

Mr. MUSKIE. Let me suggest another one foreclosed by the Senator's amendment. In my city, when we had urban renewal and the requirement of local zoning laws, we went to the people with a referendum and if we had not done that, the chances were we would never have had it worked out the way the people wanted it. A referendum of that kind would be foreclosed by the Senator's amendment and all sorts of opportunities for public participation which would be perfectly appropriate. What the Senator's amendment would do would be to foreclose both appropriate and inappropriate occasions for public participation.

Mr. MILLER. No, the Senator is misinterpreting the amendment I am offer-

ing. It does not foreclose it at all. I just said that I can understand how the procedure the Senator referred to in Maine could be desirable, but I do not want to have it written in as an absolute requirement. With public hearings as an absolute requirement, we are amply protected.

Mr. MUSKIE. I do not regard the language as establishing an absolute requirement of anything specific. All it says is "opportunities for participation."

By making the kind of legislative history we would be making, if we adopted the Senator's amendment, by positively striking out that language, the effect, in my judgment, would be to limit public participation to public hearings, unless there is some other language in the bill which broadens it. I want no part of that legislative history. I think it is too restrictive.

Mr. MILLER. Let me point out to the Senator from Maine, on page 72, the precise language on line 13 is, "which process shall include." It does not say "may" include, it says "shall" include.

Mr. MUSKIE. Appropriate opportunities for participation.

Mr. MILLER. Then, reading down here, "opportunities for participation."

Mr. MUSKIE. It does not specify what the opportunities shall be.

Mr. MILLER. No.

Mr. MUSKIE. What the Senator is saying is that he does not want public participation in any way except in informal public hearings.

Mr. MILLER. I wish the Senator would not try to put words in my mouth. I do not try to do that to him. I hope that he will do me the same courtesy. Apparently the Senator from Maine did not know what I was saying——

Mr. MUSKIE. Yes, I did.

Mr. MILLER. That I think it would be desirable to do such things as he indicated had been done in Maine, but it should not be placed in the bill as a matter of an absolute requirement, when we already have public hearings provided for in item 12.

Mr. MUSKIE. The kind of things I have mentioned are not public hearings by any definition——

Mr. MILLER. I so understood.

Mr. MUSKIE. There is no language in the bill other than the language "public hearings." I am saying that the effect of the Senator's amendment would be to limit participation by the public to limited public hearings.

Mr. MILLER, No, no. The effect is to make clear that a State plan does not necessarily have to do what the Senator found helpful up in Maine. If Maine wants to do it that way, let them do it. There is nothing to prevent them from doing that.

Mr. MUSKIE. All I am trying to say——

Mr. MILLER. Item 12 says all aspects of the planning process, so that I do not believe we should write in an absolute requirement binding each and every State plan to do what the Senator found to be a good procedure in Maine.

Mr. MUSKIE. What the Senator is saying is, if we leave this to the instincts of government, it will be to involve the public, that we should let that instinct have its way. I will say that the instinct has been directly contrary to that. One of the reasons for the great unrest we are experiencing politically is the failure of institutions to open up to public participation. It seems to me that if we object to such innocuous language as the Senator would seek to strike, that is "opportunities for participation," all we would be doing would be to evidence the reluctance of this institution to create opportunities for participation by the public. I do not have any confidence that that instinct exists or that it exists broadly or that it will result in meaningful public participation. Thus, I would oppose the Senator's amendment.

Mr. MILLER. May I say that I am sorry the Senator from Maine feels that way about it. He knows legislative history as well as any Member of the Senate, and he knows that the colloquy we have had already will make it clear there is nothing by way of what has been said that would indicate the Senate intends to discourage, in appropriate situations, a State from doing something such as the Senator found helpful in Maine. All that is intended by this amendment is to make clear that a State does not have to do this in order to have a State plan that would qualify. That is all.

Mr. MUSKIE. The Senator has stated my interpretation of the bill very well. What it means is that the administrator cannot encourage the State or local government to include public participation, cannot play a negative role, but also cannot play a positive role if the Senator's amendment is adopted.

Mr. MILLER. I think the Senator from Maine and I are pretty well at issue on this. We both understand and recognize that in certain situations it may be helpful to do what the Senator alluded to had been done in Maine. At the same time, he says he wants to write it in as an absolute requirement. I say that I do not think we should do so, particularly in view of the requirement—and it is an absolute requirement, as the Senator from Maine knows very well—that the public hearings will be a part of the State plan, in item 12, covering all aspects. I think that is what is pretty much at issue here.

Mr. MUSKIE. I think we should have a rollcall vote on this amendment. I think it is very important. I have many questions about the bill, but one of the provisions in the bill on which I was relying, in spite of its shortcomings, so that it will be in the public interest, is the very one the Senator proposes to strike. I think the record is clear.

Therefore, Mr. President, I ask for the yeas and nays on the amendment of the Senator from Iowa.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. GAMBRELL). Who yields time?

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

Mr. JACKSON. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Iowa.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nebraska (Mr. CANNON, the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Wyoming (Mr. MCGEE), and the Senator from Iowa (Mr. HUGHES) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Delaware (Mr. BOGGS). If present and voting, the Senator from Texas would vote "yea" and the Senator from Delaware would vote "nay."

The result was announced—yeas 35, nays 41, as follows:

[No. 451 Leg.]

YEAS—35

Allen	Eastland	Long
Anderson	Edwards	Magnuson
Beall	Ervin	McClellan
Bennett	Fannin	Miller
Bible	Fong	Pastore
Byrd, Harry F., Jr.	Gambrell	Pearson
Byrd, Robert C.	Hansen	Percy
Church	Hatfield	Saxbe
Cotton	Hruska	Scott
Curtis	Jackson	Smith
Dole	Jordan, N.C.	Talmadge
	Jordan, Idaho	Young

NAYS—41

Aiken	Hartke	Ribicoff
Bayh	Hollings	Roth
Bentsen	Inouye	Schweiker
Burdick	Kennedy	Spong
Case	Mansfield	Stafford
Chiles	Mathias	Stevens
Cook	McIntyre	Stevenson
Cooper	Mondale	Symington
Cranston	Montoya	Taft
Fulbright	Muskie	Thurmond
Griffin	Nelson	Tunney
Gurney	Packwood	Weicker
Harris	Proxmire	Williams
Hart	Randolph	

NOT VOTING—24

Allott	Dominick	McGovern
Baker	Eagleton	Metcalf
Bellmon	Goldwater	Moss
Boggs	Gravel	Mundt
Brock	Hughes	Pell
Brooke	Humphrey	Sparkman
Buckley	Javits	Stennis
Cannon	McGee	Tower

So Mr. MILLER's amendment was rejected.

Mr. JACKSON. Mr. President, I yield to the Senator from Kentucky for a unanimous-consent request.

Mr. COOPER. Mr. President, I ask unanimous consent that Mr. Richard Hellman, minority counsel from the staff of the Committee on Public Works, be permitted to be on the floor.

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

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

Mr. JACKSON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Joel Abramson and Mr. Fred Craft may be granted the privilege of the floor during further consideration of the bill today.

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

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT ON THE FOREIGN ASSISTANCE PROGRAM—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. TUNNEY) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Foreign Relations:

To the Congress of the United States:

The fiscal 1971 Annual Report on the Foreign Assistance Program, which I transmit herewith, contains much hopeful news.

—The continuing success of the Green Revolution was evident in record corps of food grains, moving such countries as India, Pakistan, Turkey, and Indonesia steadily closer to a goal of self-sufficiency in basic foodstuffs and giving hope to others that this goal, considered inconceivable a few short years ago, can now be attained.

—Modern technologies in education are being explored with a view toward reducing the heavy cost of education, expanding its availability and improving its quality.

—Pilot projects for improving the delivery of health services in remote rural areas offer great promise.

—Support provided by the Agency for International Development for population-related efforts rose to a record $95.9 million, as developing countries, recognizing the heavy burden of high population growth rates, intensified their programs to achieve effective family planning.

—Developing nations showed increasing awareness of the environmental impact of proposed projects in their national planning process.

During the past fiscal year, the United States Government provided $3.4 billion in economic assistance to the less developed world. This aid took a variety of forms—technical assistance, development loans, financial grants, concessional sales of agricultural products, emergency relief, and contributions to international lending institutions as well as to the United Nations Development Program, and other UN-related activities. Just over half the total—$1.9 billion—was authorized by the Foreign Assistance Act and administered by the Agency for International Development. This report is essentially concerned with these programs.

Viewed in the perspective of the past decade, the less developed nations have made excellent progress. Their annual rate of economic expansion—averaging about 5.6 percent—exceeded even the 5 percent target projected by the United Nations for the Decade of Development that ended in 1970, reaching a level of more than 6 percent per year in the last years of the decade. This pace is more rapid than the growth rate of the United States at comparable stages of its development.

A major factor contributing to this record growth has been the increasing availability to lower income countries of external assistance from many sources. The United States can take pride in its role as an innovator and sustainer of this pattern of cooperation.

During the same 10 years, the lower income countries also amassed a variety of other important resources for growth. Their technical and managerial experts have grown in number and experience, acquiring greater confidence in their ability to perceive national needs and to design and execute national development strategy. As the lower income nations have gained greater perspective and greater understanding of their own problems, they have been formulating more of their own development plans and organizing more of their own resources.

Other developments that must be taken into account in planning United States aid programs include the growth of new centers of economic and political power, the rapid pace of social and political change, and the increasing emphasis on man's relationship with his environment. Perhaps most significantly, there has been a substantial increase in the aid contributions of other nations and in the role of international lending institutions. Whereas a decade or so ago the United States was the predominant source of development resources and guidance, other industrialized nations and international lending institutions have since expanded both their contributions and their administrative capabilities. Today the United States is the foremost of donor nations in absolute terms, but the other industrialized nations have increased their participation to the extent that in many cases they are contributing a greater percentage of their total resources to development assistance than is the United States.

We have been working to adjust our aid programs to all these new conditions. A number of important reforms were embodied in two pieces of draft legislation submitted to the Congress in April 1971. We hope that those proposals will provide a basis for a discussion with the Congress of ways in which we can structure our programs to increase their effectiveness.

While the Congress has been considering these proposed reforms, the Agency for International Development has moved ahead with steps to increase the effectiveness and efficiency of its operations within the constraints of existing legislation. These initiatives have included:

—Separation of economic supporting assistance activities from development programs within the AID structure;

—Reduction of AID's American staff by an additional six percent, reflecting a total reduction of nearly one-quarter over the past three years and bringing total AID personnel to the lowest level in the Agency's history;

—Substantial simplification of AID procurement policies and procedures;

—Substantial progress in concentrating technical assistance programs in priority sectors of agriculture, education, population, and health;

—Steps toward centralizing overseas lending operations in Washington.

While we look back with satisfaction at our accomplishments in the past and while we plan for further changes to help meet new challenges, we remain aware that the problems of development are stubbornly complex and that the solutions to some of them are still beyond our grasp. Yet each year's experience gives us new insights and firmer hope. And each year's experience also confirms two fundamental facts of development: (1) what the recipient country does to stimulate and accelerate its own growth is ultimately of greater value than anything we do or are able to do; and (2) a measure of help from the United States can be the vital factor in assuring steady progress toward development.

I believe most earnestly that the developed nations of the world cannot long prosper in a world dominated by poverty and that improvement in the quality of life for all peoples enhances the prospects of peace for all people.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1972.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. TUNNEY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of Senate proceedings.)

TECHNOLOGY ASSESSMENT ACT OF 1972

Mr. JORDAN of North Carolina. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 10243.

The PRESIDING OFFICER (Mr. STEVENSON) laid before the Senate a

message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 10243) to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JORDAN of North Carolina. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. STEVENSON) appointed Mr. CANNON, Mr. ROBERT C. BYRD, and Mr. COOK conferees on the part of the Senate.

LAND USE POLICY AND PLANNING ASSISTANCE ACT OF 1972

The Senate continued with the consideration of the bill (S. 632) to amend the Water Resources Planning Act (79 Stat. 244) to include provision for a national land use policy by broadening the authority of the Water Resources Council and river basin commissions and by providing financial assistance for statewide land use planning.

AMENDMENT NO. 1536, AS MODIFIED

Mr. JACKSON. Mr. President, I call up amendment No. 1536, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

(1) On page 66, lines 18 and 19, strike "agency designated pursuant to section 502" and insert in lieu thereof "Executive Office of the President".

(2) On page 80, line 15, after "participating" and before "in" insert "on its own behalf".

(3) On page 81, strike lines 6 and 7 and insert in lieu thereof "the enactment of this Act, the Secretary, before making a State land use".

(4) On page 81, line 20, strike "; and" and insert in lieu thereof a period.

(5) On page 81, line 21, through page 82, line 7, strike clause 2 of subsection 305(b).

(6) On page 82, between lines 7 and 8, insert a new subsection (c) as follows:

"(c) The Secreatry shall not make any grant pursuant to this Act unless he has been informed by the Secretary of Housing and Urban Development that he is satisfied that the statewide land use planning process or State land use program with respect to which the grant is to be made (1) conforms to the objectives of section 701 of the Housing Act of 1954, and to the relevant planning assisted under that section, including the provisions related to functional plans, and housing, public facilities, and other growth and development objectives, and (2) meets the requirements of this Act insofar as they pertain to large-scale development, development of regional benefit, large-scale subdivisions, and the urban development of lands impacted by key facilities. The Secretary of Housing and Urban Development shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days after the statewide land use planning process or State land use program has been submitted to him by the Secretary.

(7) On page 82, line 8, strike "(c)" and insert in lieu thereof "(d)".

(8) On page, line 13, strike "(d)" and insert in lieu thereof "(e)".

(9) On page 83, line 2, strike "(e)" and insert in lieu thereof "(f)".

(10) On page 83, line 11, strike "(f)" and insert in lieu thereof "(g)".

(11) On page 101 strike lines 17 and 18 and insert in lieu thereof

"SEC. 502. (a) The Executive Office of the President shall issue guidelines to the Federal".

(12) On page 101, line 20, strike "Such agency or agencies" and insert in lieu thereof "The Executive Office".

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc, and if adopted be treated as original text for the purpose of further amendment.

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

Mr. JACKSON. Mr. President, the purpose of my amendment No. 1536 is to make clear that the land use planning process and program authorized by S. 632 is consistent with planning programs under the jurisdiction of the Banking, Housing and Urban Affairs Committee. This amendment is based on extensive discussions with the chairman of the Banking Committee, other members of the committee and between the professional staff of the Banking Committee and the Interior Committee.

In briefest form this amendment would clarify both the Interior Committee's and the administration's intent that guidelines for the act be promulgated through an "interagency" process with the principal duties of formulating those guidelines going to the Executive office of the President. This will insure that Interior Department will be limited to program administration, not policy formation, duties.

In addition, the amendment would strengthen the review authority of the Secretary of Housing and Urban Affairs. He would be required to indicate that the statewide land use planning process or State land use program: First, has been coordinated with relevant comprehensive planning assisted under 701 of the Housing Act of 1954 including the provision related to functional plans, and housing, public facilities and other growth and development objectives; and second, meets the requirements of S. 632 for large-scale development, development of regional benefit, large-scale subdivisions, and the urban development of lands impacted by key facilities.

All of the amendments developed through joint staff efforts between the Banking and Interior Committees strengthen the role of local governments in the land use decisionmaking encouraged by S. 632.

Mr. President, I commend this amendment to my colleagues.

In the amendment I call up today, a minor change has been made in the printed text at the suggestion of the junior Senator from Massachusetts (Mr. BROOKE).

At page 2 of the printed amendment, all of lines 12 and 13 are deleted, and the words "conforms to the objectives of section 701 of the Housing Act of 1954, and to the relevant planning assisted under that section," are inserted.

This change clarifies the amendment's intent, which is to strengthen the review authority of the Secretary of HUD over those aspects of State land use programs which fall within his area of expertise.

I have cleared this matter with the minority side, the Senator from Idaho (Mr. JORDAN), and we are in agreement, as a result of previous consultations with the chairman of the committee (Mr. SPARKMAN) and the staff of the Banking, Housing and Urban Affairs Committee.

I hope the Senate will adopt the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. JACKSON. I yield.

Mr. HARRY F. BYRD, JR. The Senator, in his remarks, said that would strengthen the review authority of the Department of Housing and Urban Development. As I read it, it would give a veto power to the Department of Housing and Urban Development. Would it not?

Mr. JACKSON. No, it would not give a veto. It is a matter of consultation. The problem here is, as the Senator knows, that under the 701 program HUD is involved, of course, in some very large projects involving land use. The concern of the Senator from Alabama (Mr. SPARKMAN) was that the bill as we reported it might cause some problem in the administration of the program that had been adopted back in 1954, and which has been amended since then.

Mr. HARRY F. BYRD, JR. If the Senator will yield further, the language of the amendment upon which the Senate is called to vote now says that "The Secretary shall not make any grant pursuant to this Act unless he has been informed by the Secretary of Housing and Urban Development that he"—the Secretary—"is satisfied," and so on. For me that is a veto. Is it not?

Mr. JACKSON. I do not think it is a veto. What we are talking about is full consultation.

Mr. HARRY F. BYRD, JR. Why can we not have the language conform to what the Senator from Washington wants?

Mr. JACKSON. I think that under all the circumstances this is a reasonable solution to the problem that exists here in connection with the administration of the section 701 program, and I undertook, after weeks of negotiations with the Senator from Alabama (Mr. SPARKMAN)——

Mr. HARRY F. BYRD, JR. I am not concerned about that point. All I am suggesting is that the language of the Senator's amendment says that "The Secretary shall not make any grant" un-

less the Secretary of HUD is satisfied. That is a veto, it seems to me. Perhaps he wants to have a veto; I do not know.

Mr. JACKSON. It comes close to a veto, but I do not construe it as an absolute veto.

Mr. HARRY F. BYRD, JR. It says he cannot make any grant unless he has the approval of the Secretary of HUD.

Mr. JACKSON. As I interpret this amendment, I do not believe the Secretary of HUD could act in a purely arbitrary and capricious manner. He has to be satisfied, which, of course, is a subjective condition, but he cannot, in my judgment, under this provision, just arbitrarily and capriciously turn down the program, because he feels there is a conflict with the 701 program. That would be my interpretation of it.

Mr. HARRY F. BYRD, JR. The language says if he is not satisfied, then no grant shall be made. Certainly it would appear to me that a veto is given to the Secretary of HUD. Maybe that is the Senator's desire. I shall not argue that point.

Mr. JACKSON. It is not intended to give him an absolute veto.

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

Mr. JACKSON. I yield.

Mr. COOK. It does not say he will. It says he must make a report that he is satisfied. I will say to the Senator from Virginia that what bothers me is that it gives him a veto in two forms. In one of them he can transmit to the Secretary of the Interior that he is not satisfied, which means that that is a veto; and second, he may not transmit anything to him at all, and if he makes no transmission, then that is not a notification that he is satisfied.

Mr. HARRY F. BYRD, JR. The Senator from Kentucky is quite correct. He has expressed it much better than did the Senator from Virginia.

Mr. COOK. It seems to me that language should be put in that provision, I will say to the Senator from Virginia, that there is an appropriate time by which the Secretary of HUD has an opportunity to review it and express his concern to the Secretary of the Interior, but I do not see how one could otherwise interpret the phrase "the Secretary shall not" until the Secretatry of HUD is satisfied. I am not quite sure how one could have more of an effective veto than to be restricted from allowing a grant until an individual in another department is satisfied that this program is pursuant to the regulations of HUD.

Mr. HARRY F. BYRD, JR. That is the way it appears to the Senator from Virginia, and that is why I raised the point with the Senator from Washington.

Mr. COOK. I am just wondering whether there is any way in which we might be able to work out some kind of language, frankly, because, for the life of me, I do not see how one could say this does not constitute a veto. If it does not, how would one interpret this language and how would he interpret its applicability as it applies to the Secretary of the Interior—a responsibility that he shall impose on himself until the Secretary of HUD is satisfied? If any Senator can discuss that matter to indicate how this does not constitute a veto, then we would be far more enlightened than we are now.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I just wanted to emphasize—and I think there may be some confusion—that, of course, this amendment runs only to the 701 program.

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

Mr. JACKSON. I yield.

Mr. COOK. I wonder if the Senator might change the word "shall" to "may," so that it would read "The Secretary may not make any grant," and then it would be in the nature of a discretion, and it would not be mandatory. Would that in anywise satisfy——

Mr. JACKSON. I am conferring with the staff of the Banking, Housing and Urban Affairs Committee, if the Senator will defer for just one moment.

Mr. COOK. Certainly.

Mr. JACKSON. Mr. President, I have conferred with the staff of the Banking, Housing and Urban Affairs Committee.

Does the Senator wish to offer that as a perfecting amendment?

Mr. COOK. I am wondering whether that would satisfy the problem that the Senator from Virginia has.

Mr. HARRY F. BYRD, JR. Yes; I think it is an improvement. I thank the Senator from Kentucky.

Mr. COOK. Mr. President, I would suggest that, rather than have me prepare the amendment—it is the Senator's amendment—the Senator might do so.

Mr. JACKSON. Mr. President, I ask unanimous consent that the suggestion of the Senator from Kentucky and the Senator from Virginia, that on line 7, page 2, the word "shall" be stricken and the word "may" be inserted, be made as a modification of my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and the amendment is so modified.

Mr. JACKSON. Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. Does the Senator ask for a rollcall vote?

Mr. JACKSON. No.

I am prepared to yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, unless a Senator wants time—I understand the time in opposition is in my hands, and I am not opposed to it—I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Washington, as modified.

The amendment, as modified, was agreed to.

Mr. STEVENS. Mr. President, I do not know who is controlling the time, but I would like to address some questions to the chairman of the Committee on Interior and Insular Affairs, if I may, concerning a possible amendment.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. How much time do I have on the bill?

The PRESIDING OFFICER. The Senator from Washington has 27 minutes. The Senator from Idaho has 47 minutes.

Mr. JORDAN of Idaho. Mr. President, I yield 2 minutes to the Senator from Alaska on the bill.

Mr. STEVENS. I thank the Senator from Idaho.

Before I ask the chairman of the committee a question, I would like to preface the question by saying we in Alaska are indebted to him and the Senator from Nevada for the work they did on the Alaska Native Claims Act, which created the Federal-State Land Use Planning Commission.

That Commission is working well. It has ironed out many problems between the Federal Government and the State of Alaska.

My question to the chairman of the committee is whether the Joint Federal-State Land Use Planning Commission under the Alaska Native Land Claims Act is in any way affected by the bill before us, which, as I understand it, requires the establishment of a State land planning commission and authorizes joint Federal-State commissions.

Mr. JACKSON. Mr. President, I can assure the Senator that the Joint Use Planning Commission which was set up pursuant to the Alaska Native Claims Act is not in any manner affected by S. 632. I point out further that the Joint Planning Commission runs, I believe, for 5 years.

Mr. STEVENS. Yes.

Mr. JACKSON. And I would add that it is the State of Alaska, not the joint commission, which would be eligible for grants. The Joint Commission which the Senator has referred to is entirely separate, and will function separate and apart from the grant-in-aid program under S. 632.

Mr. STEVENS. Is my understanding correct, then, that there is no intent in this bill in any way to modify the terms of the Alaska Native Claims authorization for that joint Federal-State Land Use Planning Commission, which has, as the Senator will recall, specific provisions pertaining to land claims in Alaska only? Is it correct that there is no intent to modify that arrangement?

Mr. JACKSON. The Senator is correct.

Mr. COOK. Mr. President, will the Senator from Idaho yield me 1 minute?

Mr. JORDAN of Idaho. I yield the Senator from Kentucky 1 minute.

Mr. COOK. I would like to be sure that what the Senator is saying is true, but I am not sure that it is, because on page 76 of the bill, under State land use programs, the State must file its land use program with the Department of the Interior, and as of this stage the State exercises determinative authority as to what shall and shall not be done. On page 78 we find the language:

> State administrative review of land use plans, regulations, and implementation thereof of local governments with full powers to approve or disapprove.

Then, as to everything which is of such magnitude that it changes the land-use program, we then go over to page 83, where it provides that if it is this

big a change, it then is referred to the Secretary of the Interior, and if the Secretary of the Interior does not like the plan as it has been changed, he can make a determination on his own how that plan should work, and so state to the respective States.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. COOK. Mr. President, if I may have 30 seconds more——

Mr. JORDAN of Idaho. I yield the Senator 1 more minute.

Mr. COOK. I am not sure that one can authoritatively say that a land-use commission that has been set up under another act within the framework of a State can function without the authority of this bill imposes on the State to submit to the Department of the Interior a full land-use plan for its entire State.

Mr. JACKSON. Mr. President, may I say on this question that the language referred to by my good friend from Kentucky on page 76 will be subject to a clarifying amendment which I shall offer later, but I want to make it very clear that there is nothing intended in this bill—and when we add this other amendment I do not think there can be any question about it—to in any manner change the provisions of the Alaska Native Claims Act as to the Joint Planning Commission. The Commission serves in a purely advisory capacity as the Senator from Alaska knows.

Mr. STEVENS. That is correct.

Mr. JACKSON. I want to assure the Senator of that fact, and I think the record will be completely clarified when the clarifying amendment has been offered. I speak as the author of S. 632 and the Alaska Native Claims Act, and want to make the legislative intent very clear.

Mr. STEVENS. I thank the Senator very much.

TIME LIMITATION ON YEA-AND-NAY VOTES

Mr. ROBERT C. BYRD. Mr. President, I renew my unanimous-consent request for a limitation of time on rollcall votes for the remainder of the day.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1521

Mr. MUSKIE. Mr. President, I call up my amendment No. 1521, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

Mr. MUSKIE's amendment is as follows:

On page 62, line 17, strike "Secretary of the Interior" and insert in lieu thereof "President".

On page 63, strike lines 6, 7, and 8 and insert in lieu thereof:

"SEC. 201. (a) The President may perform his responsibilities under this Act through the Office of Land Use Policy Administration established pursuant to this section.

"(b) There is hereby established in the Executive Office of the President the Office of Land Use Policy Administration (hereinafter referred to as the 'Office').".

On page 63, line 9, strike "(b)" and insert in lieu thereof "(c)".

On page 63, beginning at line 15 strike "Secretary of the Interior (hereinafter referred to as the 'Secretary')" and insert in lieu thereof "President".

On page 63, line 17, and at each place where it appears thereafter in the bill, strike "Secretary" and insert in lieu thereof "President" in those places where "Secretary" is intended to refer to the Secretary of the Interior.

On page 65, line 23, insert "Interior;" immediately following "Development;".

On page 66, beginning on line 18, strike "and the agency designated pursuant to section 502".

On page 82, between lines 22 and 23 insert the following:

"(6) the Department of the Interior;"

On page 82, beginning at line 23, and continuing to page 83, line 1, redesignate "(6)", "(7)", "(8)", and "(9)" as "(7)", "(8)", "(9)", and "(10)", respectively.

On page 83, line 15, strike "notify the President, who shall".

On page 83, lines 22 and 23, strike "after notification by the Secretary".

On page 84, lines 2 and 3, strike "after notification by the Secretary".

On page 95, strike lines 21 through 25 and insert in lieu thereof the following:

"(1) take any appropriate and necessary action to minimize such conflict;.

"(2) work with the appropriate Federal agency"

On page 96, line 20, strike "President and the".

On page 101, strike lines 17 through 23 and insert in lieu thereof the following:

"SEC. 502. (a) The President is authorized to issue guidelines to the Federal agencies to assist them in carrying out the requirements of this Act. He shall submit proposed guidelines to the heads of agencies represented on the Board, and shall consider their comments prior to formal issuance of such guidelines."

On page 102, lines 9 and 10, strike "President and the".

On page 106, line 10, strike "Secretary" and insert in lieu thereof "Executive Office of the President".

On page 106, line 15, strike "Secretary of the Interior" and insert in lieu thereof "Executive Office of the President".

On page 108, strike "Secretary of the Interior" and insert in lieu thereof "President".

On page 108, strike "Department of the Interior" and insert in lieu thereof "Executive Office of the President".

Mr. MUSKIE. Mr. President, the purpose of this amendment, which I shall state very briefly and explain my reasons for it, is to substitute the Executive Office of the President for the Secretary of the Interior as the administrative agency at the Federal level.

Mr. President, the legislation before us would rest responsibility for "procedural" review of State land-use plans in an Office of Land Use in the Department of Interior. I question the viability and the wisdom of this provision. The Interior Department has a long and distinguished history of involvement in development of public land, wilderness areas, and national parks.

Unfortunately, the Interior Department has no broad-based planning responsibility as would be established under S. 632. The Interior Department has no awareness of issues relating to State and local tax patterns. The Interior Department has had no involvement or experience in the Nation's urban areas where 70 percent of the population lives and where the major, critical land-use planning problems exist. Because of the Interior Department's limited experience in these areas, I am concerned that solution to urban-based land-use problems, at worst, may be misjudged and at least delayed or complicated. Sound evaluation of public policy requirements argues that an Interior Department traditionally oriented toward public lands and rural areas will not comprehend other issues, including the host of problems which confront urban areas in 50 States.

An argument can be made for charging several Federal agencies with the lead agency role in land-use planning. But any fair evaluation of the Federal structure demands the conclusion that no single agency has either the ability or the breadth to do the job. The Department of Housing and Urban Development, for example, has experience in comprehensive planning in urban areas but has limited understanding in such matters as watersheds, irrigation rights, wilderness needs, and mineral exploration which affect many important land use decisions outside of urban areas.

The Environmental Protection Agency, with knowledge of environmental issues, has but little involvement with the social and fiscal implications which affect land-use planning in urban areas or the land management issues which must be recognized in nonurban areas.

For this reason, it is essential that, should the Federal Government assume the role in guiding development of State land-use planning program assigned by S. 632, coordinating it must occur through an agency with the breadth to recognize all of the broad issues, with capacity to bring together all of the experience of Federal agencies relating to the land-use planning which does not exist in the narrow line agencies. Only the Executive Office of the President has the overall capability to coordinate this responsibility.

My amendment would vest responsibility for implementation of this legislation in the Executive Office of the President. I admit that this is an imperfect solution, but land use is so complex—land use involves so many facets of public activity—land use involves the programs of so many Federal agencies—that land use must be within the responsibility of a Federal office which has the capability to bring to bear all of the resources of the Federal Government.

Under my amendment, the President would have to establish an Office of Land Use Planning in the White House. That office should be able to draw immediately the best talent available from the Departments of Interior, Housing and Urban Development, Transportation, and Agriculture as well as EPA, independent agencies, the academic community, and the private sector. I do not expect this office to be political. Like the Office of Management and Budget, it should be an agency composed of civil servants dedicated to a specific responsibility.

The White House, which has ultimate

responsibility for implementaton and coordination of those national policies to which I have referred, is the only logical location for the responsibilities proposed by this bill and the amendments thereto.

Mr. President, as an indication of the breadth of Federal programs that are involved and that would be subject to this planning process, I ask unanimous consent to have printed in the RECORD a table found in the committee report, listing the 112 programs which would be involved in this planning process, the vast majority of which have nothing to do with the Department of the Interior.

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

[Thousands of dollars]

State	Highway	Airports	L. & W.C.F.	Total	7 percent
Alabama	25,006	1,601	4,133	30,740	2,152
Alaska	51,104	8,253	2,154	16,511	4,305
Arizona	18,151	2,038	3,297	23,486	1,644
Arkansas	17,386	1,228	3,019	48,633	3,404
California	99,955	7,263	17,848	125,066	8,755
Colorado	21,926	2,013	3,578	27,517	1,926
Connecticut	15,081	844	4,299	20,224	1,416
Delaware	5,926	172	2,418	8,516	596
Florida	35,355	2,563	6,674	44,592	3,121
Georgia	31,321	1,984	4,778	38,083	21,666
Hawaii	6,546	288	2,609	9,443	661
Idaho	11,651	1,345	2,358	15,354	1,075
Illinois	60,982	3,617	10,205	74,804	5,236
Indiana	31,038	1,823	5,427	38,288	2,680
Iowa	26,172	1,500	3,547	31,219	2,185
Kansas	25,150	1,717	3,307	30,174	2,112
Kentucky	21,454	1,379	3,819	26,652	1,866
Louisiana	22,202	1,613	4,299	28,114	1,968
Maine	8,397	732	2,502	11,631	814
Maryland	18,937	1,165	4,991	25,093	1,757
Massachusetts	25,411	1,567	6,338	33,316	2,332
Michigan	49,023	3,594	8,422	16,039	4,273
Minnesota	32,384	2,166	4,437	38,987	2,729
Mississippi	18,691	1,235	3,044	22,970	1,608
Missouri	35,533	2,156	5,134	42,823	2,998
Montana	18,523	2,227	2,376	23,126	1,619
Nebraska	19,763	1,452	2,877	24,092	1,686
Nevada	12,055	1,665	2,402	16,122	1,129
New Hampshire	5,794	317	2,404	8,515	596
New Jersey	31,815	1,926	7,201	40,942	2,866
New Mexico	16,388	1,954	2,555	20,897	1,463
New York	86,519	5,347	15,928	107,794	7,546
North Carolina	31,613	2,021	4,790	38,424	2,690
North Dakota	13,294	1,142	2,301	16,737	1,172
Ohio	55,268	3,318	9,749	68,325	4,783
Oklahoma	24,046	1,624	3,568	29,238	2,047
Oregon	19,232	1,884	3,392	24,508	1,716
Pennsylvania	59,107	3,628	10,667	73,402	5,138
Rhode Island	7,345	258	2,755	10,358	725
South Carolina	16,734	1,092	3,462	21,288	1,490
South Dakota	14,032	1,243	2,329	17,604	1,232
Tennessee	26,946	1,585	4,360	32,891	2,302
Texas	83,190	6,566	9,929	99,685	6,978
Urah	12,546	1,452	2,799	16,797	1,176
Vermont	4,979	247	2,208	7,434	520
Virginia	28,656	1,769	5,056	35,481	2,484
Washington	22,907	1,849	4,322	29,078	2,035
West Virginia	11,933	780	2,938	15,651	1,096
Wisconsin	31,215	2,040	4,830	38,085	2,666
Wyoming	11,154	1,450	2,162	14,766	1,034
District of Columbia	6,591	192	927	7,710	539
Total	1,386,427	102,884	243,000	1,756,775	123,007

Mr. MUSKIE. Mr. President, I ask unanimous consent to have printed in the RECORD a letter I have received from the National League of Cities and the U.S. Conference of Mayors, dated September 11, 1972, which bears on this point.

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

NATIONAL LEAGUE OF CITIES AND
THE U.S. CONFERENCE OF MAYORS,
September 11, 1972.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MUSKIE: Your speech of August 16th, before the U.S. Senate, discussing S. 632, the Land Use Policy and Planning Assistance Act of 1972, raised several issues that have been of particular concern to the National League of Cities and the U.S. Conference of Mayors. We share your concerns, and join with you in your desire for full consideration of these issues as the Senate considers S. 632.

During our testimony before the Senate Committee on Interior and Insular Affairs on S. 632 and S. 992, the predecessors to the bill now before the Senate, on June 7, 1971, the National League of Cities and the U.S. Conference of Mayors supported Federal assistance and guidance for developing a land use planning partnership between Federal, state, and local governments. However, our testimony stated that in facing the issue of protecting our environment "there is a very real challenge, and that is to establish such a protective mechanism without depriving local governments of control over community development decisionmaking which they must maintain to be responsive and viable entities in the overall Federal system."

We identified three fundamental difficulties with the legislation then before the Comittee: first, the role of local governments in the land use planning and management process; second, the impact of state and Federal land use controls on local revenues and the ability of local governments to carry out those governmental functions so dependent upon the property tax base; and third, whether the Department of the Interior would be the proper agency to establish and administer national and state land use policies and programs.

Since our testimony, the land use bill has been subject to numerous revisions. We have worked closely with the Interior Committee to assure that local governments will be fully involved in the planning for land uses of statewide and national concern, and that the primary responsibility for local land use decisions will continue to be placed in the hands of elected local officials.

Still remaining are the issues of the financial impact of the Federal land use legislation and the proper agency to administer the Federal program. The property tax issue may not be resolved, but it goes to the heart of the effects that the legislation will have. In addition, many of the specific questions asked in your speech can only be answered in the context of a full discussion of the financial impact of land use controls. Revenue sharing, which you have so strongly supported, will reduce cities' dependence on the property tax to some degree. However, only fundamental reform of the property tax system can make land use reforms truly effective. S. 632 may or may not be the appropriate vehicle for such reform. We do agree very strongly that the issues must be raised during the Senate debate on S. 632.

The National League of Cities and the U.S. Conference of Mayors also testified during last year's hearings that Federal responsibility for land use should be vested in an agency within the Executive Office of the President, such as the Domestic Council. We have sought responsibility in an agency which would have overall involvement in making domestic policy and would be able to take a comprehensive view of the issues in the context of a national growth policy. We feel that the Department of the Interior, as proposed in S. 632, or any other particular department or agency with particular mission orientations would be too narrow in its perspective. In addition, the lack of experience of such functional agencies with land use planning in general, and with urban land use planning in particular, would make implementation of land use policies and coordination with existig federal programs very difficult. The National League of Cities and the U.S. Conference of Mayors therefore, support an amendment to S. 632 to place responsibility for the program in the Executive Office of the President.

The Land Use Policy and Planning Assistance Act, S. 632, holds the potential for being one of the most significant bills ever considered by the Senate. It has potential for governing the relationships of the Federal, state, and local governments and for controlling all private and governmental activities. Virtually all public and private activities impact on land usage and could be governed by this bill. Such major legislation merits full discussion and broad consideration of all the elements and impacts it may have. The National League of Cities and the U.S. Conference of Mayors hope these serious concerns that we share with you, as well as the numerous other issues raised by S. 632, will be fully discussed and, hopefully, resolved. We applaud your initiatives in raising these issues, and shall work toward their resolution.

Sincerely,

ALLEN E. PRITCHARD, JR.,
Executive Vice President
National League of Cities.
JOHN J. GUNTHER,
Executive Director,
U.S. Conference of Mayors.

Mr. MUSKIE. I read a paragraph from the letter:

The National League of Cities and the U.S. Conference of Mayors also testified during last year's hearings that Federal responsibility for land use should be vested in an agency within the Executive Office of the President, such as the Domestic Council. We have sought responsibility in an agency which would have overall involvement in making domestic policy and would be able to take a comprehensive view of the issues in the context of a national growth policy. We feel that the Department of the Interior, as proposed in S. 632, or any other particular department or agency with particular mission orientations would be too narrow in its perspective. In addition, the lack of experience of such functional agencies with

land use planning in general, and with urban land use planning in particular, would make implementation of land use policies and coordination with existing federal programs very difficult. The National League of Cities and the U.S. Conference of Mayors therefore support an amendment to S. 632 to place responsibility for the program in the Executive Office of the President.

Thus speaks the voice of the urban areas of this country on this issue.

Mr. President, I should like to refer to another communication, which is found in the committee report, from the one agency at the Federal level which concerns itself with the relationship between the Federal, State, and local levels of government. That is the Advisory Commission on Intergovernmental Relations. I ask unanimous consent to have the letter printed in the RECORD.

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

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS,
Washington, D.C., April 12, 1971.

Senator HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: This is in response to your request for the Advisory Commission on Intergovernmental Relations' views on S. 632, the Land and Water Resources Act of 1971. While the ACIR has not taken a specific position on all the issues raised in S. 632, it has adopted several policy positions having a bearing on the bill.

Urban Growth and Planning.—In its 1968 report on *Urban and Rural America: Policies for Future Growth*, the ACIR recommended "* * * the development of a national policy incorporating social, economic, and other considerations to guide specific decisions at the national level which affect the patterns of urban growth." In an earlier report, *Fiscal Balance in the American Federal System*, the Commission stressed the importance of a strong well-staffed State planning program directly under the Governor. The Commission concluded that the planning function should include formulation for the consideration by the Governor and legislature of comprehensive policies and long-range plans for the effective and orderly development of human and material resources of the State. More specifically, the Commission in its *Urban and Rural America* report recommended "* * * the development of State policy incorporating social, economic and other considerations to guide specific decisions at the State level which affect patterns of urban growth." The States were urged to "* * * give consideration both to the national policy and to the views of local governments in the formulation of State plans and policy dealing with urban growth."

Grant Consolidation.—The Advisory Commission in its 1967 report *Fiscal Balance in the American Federal System*, recommended "* * * that the Congress and the President strive toward a drastic decrease in the number of separate authorizations for Federal grants * * *" In the same report, the Advisory Commission further recommended "* * * consolidating in so far as possible into a single Congressional enactment a set of planning requirements both functional and comprehensive to be applicable to Federal grant and aid programs, both present and future * * *"

The following comments are those of the staff only, although some of the discussion relates to those general policy positions of the Commission stated above:

"The purposes of the bill are not inconsistent with the ACIR's basic position on the need for a national urbanization policy.

"Yet, it might be appropriate to consider this legislation within the broader context of such a national policy, which in the long run will probably emerge as a consequence of piecemeal consideration of measures such as this. Legislation introduced in the last session of Congress (H.R. 13217 and S. 3228, 'Balanced Urbanization Policy and Planning Act of 1969") implemented ACID recommendations concerning comprehensive and functional planning assistance grants. Title III of these bills sought to develop an intergovernmental system of planning and coordination that buttresses the development of a national urbanization policy. The following principles set forth in Title III are pertinent to S. 632 as land use is basic to other kinds of planning:

"(a) comprehensive planning assistance is confined generally to general purpose units of government and one set of areawide multijurisdictional agencies within a State is used (unless no overall State assistance program is established);

"(b) comprehensive planning must be consistent with that of the next larger jurisdiction (which complements the thrust of Title IV of the 'Intergovernmental Cooperation Act of 1968');

"(c) functional plans must be consistent with comprehensive planning and not inconsistent with the functional plans of the next larger jurisdiction;

"(d) emphasis is placed upon the States if they choose to take up the challenge laid down by this Title, but bypassing is permitted to localities and areawide jurisdictions if this responsibility is rejected;

"(e) an attempt is made to place the allocation of funds on a formula basis, rather than on an across-the-board project basis; and

"(f) finally, immediate responsibility for administering the program is assigned to the Department of Housing and Urban Development, but operating within broad guidelines to be established by the Executive Office of the President.

"Enactment of this broad comprehensive and functional planning grant program admittedly is a difficult assignment. Extensive institutional arrangements would have to be made in both the executive and legislative branches of the Federal government.

"We are concerned that possible conflict, overlap, or duplication may occur between the categorical program activities proposed by the bill and those now being carried out in the Department of Housing and Urban Development's comprehensive planning assistance (701) program. A substantial amount of the funds granted under the 701 program have gone to States and local governments for land use planning and related activities. The provisions of the existing 701 program already authorize grants which would accomplish much of what is sought by S. 632 in encouraging land use planning. Consideration then might be given to increasing the funding level of 701; to assure that an adequate amount is reserved for land use planning, Congress could specify that 40 to 50 percent of 701 funds be earmarked for grants to States, river basin commissions, and interstate agencies. Alternatively, 701 might be folded into S. 632.

"We feel it is essential that the land use planning component of urban growth policy, as proposed by S. 632, be integrated with the broader comprehensive planning process encompassing the full spectrum of physical, social, human and economic issues. To accomplish this objective, we feel that HUD should be assigned with the responsibility for disbursement of grant funds for land use planning.

"However, in evolving the organization and procedures for carrying out the broad purposes of S. 632, Congress ought to consider assigning to an identifiable unit of the Domestic Council those policy responsibilities set forth in Title I. Moreover, the importance of relating national land use policy with the development of a national urban growth policy as called for in Title VII, Part A, of the 'Housing and Urban Development Act of 1970' should be underscored. Therefore, we would urge that the Land and Water Resources Council not be established as an independent unit, charged with policy and program functions, apart from those responsibilities that Congress has already called for in the development of a national urban growth policy. At the very least, S. 632 should be amended to make clear that its purposes provide an institutional framework to implement Title VII of the 'Housing and Urban Development Act of 1970.'"

"To ensure coordination of Federal agency activities with statewide land use plans, we feel that responsibilities for this function must rest with the Office of Management and Budget in the Executive Office of the President. In short, we are suggesting that the policy, coordination, and grant disbursement responsibilities under the Act should rest with the Domestic Council, OMB, and HUD, respectively.

"Finally, the far-reaching effects of S. 632 and similar bills emphasize the necessity for Congress to provide within its standing committee structure a means to assure continuing systematic review and study of the progress toward a national urban growth policy. While the ACIR does not presume to say whether this responsibility should be exercised by select or special committees, we do feel that a decision must be made for effective oversight of the kind of new responsibilities envisaged by S. 632."

You and your committee are to be complimented for developing and deliberating on this wide-ranging omnibus legislation. We appreciate the opportunity to comment on this bill.

Sincerely,

WILLIAM R. MACDOUGALL,
Executive Director.

Mr. MUSKIE. I read a brief excerpt from the letter:

To ensure coordination of Federal agency activities with statewide land use plans, we feel that responsibilities for this function must rest with the Office of Management and Budget in the Executive Office of the President. In short, we are suggesting that the policy, coordination, and grant disbursement responsibilities under the Act should rest with the Domestic Council, OMB, and HUD, respectively.

Mr. President, I think it only makes sense that if we adopt this kind of far-reaching legislation, going all across the board, involving 112 different Federal agencies and programs, involving all 50 States, involving up to 90,000 local units of government, overall supervision of this process ought to rest at the very top level of government where all the Federal programs can be coordinated, under the supervision of the President, the Executive Office itself. Without that kind of provision, I would find it very difficult to support this legislation—charging an agency which has had primary responsibility with public lands with the supervision of a public policy that relates only to nonpublic lands. We are talking about a department which now seeks to extend its jurisdiction beyond the public lands which have been its traditional jurisdiction to nonpublic lands which have never been its traditional jurisdiction.

So, Mr. President, I urge the adoption of my amendment by the Senate.

I reserve the remainder of my time.

Mr. JACKSON. Mr. President, I oppose the amendment of the junior Senator from Maine (Mr. MUSKIE) to transfer the administration of the Land Use Policy and Planning Assistance Act of 1972 from the Secretary of the Interior to the Executive Office of the President.

There are some duties which for compelling reasons must be located in the Executive Office, chiefly those which involve policy development and which require intimate and continuing contact with the President and his immediate aides.

I find no such compelling reasons in regard to the duties created by the proposed legislation.

These duties are primarily administrative and technical in nature. They will involve a sizable staff competent to review planning activities in the States and the necessary clerical force required to administer a significant grant program. Although the impact of the program proposed in this measure will, I believe, be of tremendous significance to the Nation's future, the day-to-day decisions which will be made by its administrators will seldom require or command the personal attention of the President and his immediate staff. There are adequate existing means, through the Cabinet and existing advisory groups, to bring issues regarding this or any other program to the President's attention when the need arises.

I surmise that the purpose of the amendment being proposed is to avoid the conflicts of jurisdiction among agencies. The bill as reported assigns responsibility for program administration to the Interior Department, and fully recognizes that many other departments and agencies have an interest in the program. The answer to dealing with shared jurisdiction is not, however, to locate this program in the White House.

The bill reported by the committee deals with this question by establishing within the Office of Land Use Policy Administration a National Advisory Board on Land Use Policy—section 203—which is composed of representatives of all concerned departments and agencies. In addition, the Executive Office of the President is required to formulate all guidelines. All Federal review functions of State processes and programs are done through an interagency procedure with special review responsibilities for the Secretary of HUD and the Administrator of EPA. Finally, no State program can be declared ineligible until a special ad hoc hearing board appointed by the President declares it so.

Mr. President, the Executive Office is not a good location for agencies which should be accessible to the public and to non-Federal governments. Executive Office Agencies, by their nature, are primarily concerned with the President's priorities and needs. They are prestigious, but they are ill-equipped for field work.

The program which is being proposed here is primarily a State grant-in-aid program. The Federal agency which administers it must remain accessible and sensitive to the States, local governments, and the general public which are carrying out the planning effort and being affected by it.

We should resist the temptation to resort to the Executive Office as an easy answer to coordination and jurisdictional problems. If we do not, we will soon erode the value of that location both for our new activities and for those which already reside there. Furthermore, we will destroy the viability of the most important organizational entity in the executive branch.

My bill, which is before the Senate at this time, has been supported by all the conservation groups. The bill includes the Interior Department as the agency to administer the grant-in-aid program and the conservation groups have all gone down the line 100 percent in favor of such an approach: the National Audubon Society, the Sierra Club, the National Wildlife Federation, the Wilderness Society, the Environmental Policy Center, the Friends of Earth, the National Recreation Association, the Sports Fishing Institute, and so forth. I mention these organizations because they have been of great assistance to us as we have carefully worked out this measure over a period of 2½ years.

I must say that the Interior Department is the logical place to administer the program. To turn it over to the White House and, in effect, have a Cabinet officer in the White House, will do violence to the whole concept of administering executive programs.

I trust and I hope that the amendment will be voted down.

Mr. CHURCH. Mr. President will the Senator from Washington yield?

Mr. JACKSON. I yield.

Mr. CHURCH. Do I correctly understand that the pending amendment would, in effect, transfer the administration of the program envisioned by the bill from the Interior Department to the White House?

Mr. JACKSON. The Senator is correct. This is something unprecedented. There is absolutely no precedent for setting up, in effect, a Cabinet office within the confines of the White House. That is what we are talking about here. That is why the conservation groups and all the others are concerned and support this measure which places administrative responsibility in the Department of the Interior.

What are they going to do? Bring in all the expertise from the other departments? They will have to set up a bureaucracy in the White House, which will be unprecedented.

Mr. CHURCH. That was going to be my next question. The administration of the bill is highly technical in character, is it not, and will require considerable expertise? That is true, is it not?

Mr. JACKSON. The Senator is correct. It would require a very large personnel buildup within the White House.

Mr. CHURCH. Is it not also true that the one place this expertise does exist now, and in considerable measure, is at the Department of the Interior?

Mr. JACKSON. The Senator is correct. In the area of land use, the list is long. The Interior Department has numerous environmental programs which involve our parks and the use of public lands and collection of land resource data through the Geological Survey. That is why the conservation groups have strongly supported the Interior Department concept.

Mr. MUSKIE. The Senator has referred to functions which have to do with public lands. Why does the bill exclude public lands if the expertise exists with respect to it? The Senator is talking about precedents. There is no precedent for the Interior Department's having jurisdiction over nonpubilc lands.

Mr. JACKSON. Mr. President, we have a separate bill on the calender—S. 2401—dealing specifically with public lands, the administration of public domain lands.

Mr. MUSKIE. Mr. President, I have listened with a great deal of interest to this argument, that there is no precedent for putting these functions in the Executive Office of the President in the White House, and that there is no expertise there for dealing with it.

Well, Mr. President, Congress created the Office of Science and Technology, not in NASA but in the White House.

Congress created the Council of Environmental Quality, not in the Department of the Interior, or in any other Department, but in the Office of the White House.

A classic example is the Office of Emergency Preparedness, which is in the Office of the White House. Why? All of these are located in the White House because of the perceived need for the coordination of these activities.

Let me read some of the programs involved in this process, none of which are in the Department of the Interior:

LIST OF PROGRAMS

Airport and Airway Development Act.
Appalachian Regional Development Act.
Atomic Energy Act.
Consolidated Farmers Home Administration Act.
Demonstration Cities and Metropolitan Development Act.
Elementary and Secondary Education Act.
Federal Aid Highway Act.
Federal Power Act.
Federal Water Pollution Control Act.
Flood Control Act.
Higher Education Act.
Housing Act.
Hill-Burton Act (hospital construction).
Land and Water Conservation Fund Act.
National Housing Act.
Public Works and Economic Development Act.
Rivers and Harbors Act.
Rural Electrification Act.
Public Land Sale Act.
Urban Mass Transportation Act.

These programs, Mr. President, are not in the Department of the Interior.

Let me refer to some planning processes now existing, which are not in the Interior Department.

Broad-based land use and related plans already called for, under section 701 of the Housing Act. That is not in the Interior Department.

Section 204 of the Model Cities Act. That is not in the Interior Department.

Sections 109 and 134 of the Highway Act. That is not in the Interior Department.

Title IV of the Intergovernmental Co-

operation Act. That is not in the Interior Department.

The Clean Air Act. That is not in the Interior Department. And so forth.

All of these would continue without modification under S. 632, with the new land use planning bureaucracy merely being added on the top but in a parallel agency, not in an oversight agency, after establishment of the process. That is all that S. 632 requires, without any goal or principles to begin with. There is no assurance that anything would be accomplished through the new planning activities unless there is effected coordination of existing Federal planning processes in existing Federal programs.

Mr. President, the Senator from Washington speaks about lack of precedent. This whole legislation is without precedent. There is no precedent for it anywhere in American history for 200 years. There is no precedent to guide us with respect to such legislation. I submit there is at least this much, that the history of Congress in legislating indicates when any new Federal function is adopted which requires the coordination of existing programs, departments, and agencies, the place to put that role and that function is in the Executive Office at the White House. If that is not the proper place for it, then we should transfer NASA, the Council of Environmental Quality, the Office of Emergency Preparedness, and all the others away.

What we are talking about is a new program and a new policy that affects not just 112 Federal programs but all the 50 States and over 90,000 local units of government.

We are putting all of that into one department of Government, the Department of Interior, which has no experience, none whatsoever, with respect to nonpublic lands? We are urged to consider precedents in making that determination?

Mr. President and my colleagues in the Senate, precedent indicates that is the last place it should be located in.

Thus, I urge adoption of the amendment.

Mr. JORDAN of Idaho. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from Idaho is recognized for 2 minutes.

Mr. JORDAN of Idaho. Mr. President, I see no real purpose in setting up an overlapping bureaucracy in the White House to supervise the land use and planning program. The expertise in this field is largely concentrated in the Department of the Interior which has jurisdiction over 450 million acres of public lands now. That is where the expertise is and where this kind of land use planning is concentrated.

I see no use establishing an overlapping bureaucracy at the White House, as the same thing can be done by each agency in the Department of the Interior.

Thus, I shall resist—and I hope other Senators will, as well—the amendment of the Senator from Maine (Mr. MUSKIE).

Mr. JACKSON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER (Mr. TUNNEY). The Senator from Washington is recognized for 1 minute.

Mr. JACKSON. Mr. President, the distinguished Senator from Maine has cited the precedent of OST and OEP. It is quite apparent that we are talking about two different things. There are a total of 15 professionals running the Office of Science and Technology. And in OEP there may be 35.

Do we want to set up a huge bureaucracy that would be unparalleled? I am talking about a Cabinet-sized operation to administer grant-in-aid programs. We have never administered grant-in-aid programs from the White House. We would be going down the wrong road. It would be a mass of confusion. It would be a waste of the taxpayers' funds.

I urge that the amendment be rejected.

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

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Maine.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Wyoming (Mr. MCGEE), and the Senator from Iowa (Mr. HUGHES) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from North Dakota (Mr. YOUNG) is detained on official business.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

On this vote, the Senator from Delaware (Mr. BOGGS) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Delaware would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 19, nays 56, as follows:

[No. 452 Leg.]

YEAS—19

Aiken	Kennedy	Roth
Bayh	Mansfield	Stafford
Bentsen	Mondale	Stevenson
Case	Muskie	Tunney
Chiles	Percy	Williams
Cooper	Proxmire	
Harris	Ribicoff	

NAYS—56

Allen	Fong	McClellan
Anderson	Fulbright	McIntyre
Bennett	Gambrell	Miller
Bible	Griffin	Montoya
Brooke	Gurney	Nelson
Burdick	Hansen	Packwood
Byrd, Harry F., Jr.	Hart	Pastore
Byrd, Robert C.	Hartke	Pearson
Church	Hatfield	Randolph
Cook	Hollings	Saxbe
Cotton	Hruska	Schweiker
Cranston	Humphrey	Scott
Curtis	Inouye	Smith
Dole	Jackson	Spong
Eastland	Jordan, N.C.	Stevens
Edwards	Jordan, Idaho	Symington
Ervin	Long	Taft
Fannin	Magnuson	Talmadge
	Mathias	Weicker

NOT VOTING—25

Allott	Eagleton	Mundt
Baker	Goldwater	Pell
Beall	Gravel	Sparkman
Bellmon	Hughes	Stennis
Boggs	Javits	Thurmond
Brock	McGee	Tower
Buckley	McGovern	Young
Cannon	Metcalf	
Dominick	Moss	

So Mr. MUSKIE's amendment (No. 1521) was rejected.

The PRESIDING OFFICER. Does the Senator from Wyoming seek recognition?

Mr. HANSEN. Yes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, with the approval of my cosponsors, I would like to offer a substitute for the amendment I had before the Senate last night, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 88, line 17, strike all through page 91, line 9.

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

Mr. HANSEN. If I may just try to explain what the amendment proposes to do, I will be happy to yield to the Senator from Maine after yielding first to the Senator from Virginia who asked to be yielded to. Does the Senator have a question?

Mr. MUSKIE. No. I wanted to express the hope that before the Senator brought up his amendment the Senate would dispose of my next amendment, since the reaction depends on what happens to the next amendment I will call up.

Mr. HANSEN. I think I should go ahead with the explanation I would like to make.

Mr. President, this amendment would delete that part of section 307 which could permit the Secretary of the Interior to deny up to 21 percent of the funds, the Land and Water Conservation Act funds, and certain Federal Aid Highway Act funds.

My amendment would delete these economic sanctions. The amendment, if agreed to, would still permit the States to be encouraged to submit acceptable land use plans. The grants in aid to the States would not be deleted. It would simply remove the economic sanctions that I feel should be deleted.

I have discussed the amendment with the distinguished Senator from Washington, the chairman of the Committee on Interior and Insular Affairs, who is the manager of the bill. He can speak for himself.

Mr. President, I yield to the distinguished Senator from Virginia (HARRY F. BYRD, JR.).

Mr. HARRY F. BYRD, JR. Mr. President, I rise to support the amendment offered by the distinguished Senator from Wyoming.

It seems to me that his amendment is most appropriate. The bill as it now stands without the amendment offered by the Senator from Wyoming would impose up to a 21 percent reduction in highway funds for a State and airport funds for a State which did not meet land use standards established here in the city of Washington. It seems to me that is pretty raw and going too far. Why would those two funds be singled out over all other funds, assuming economic sanctions were to be applied. I think it important that this section, beginning on page 88, line 20, through page 91, line 9, be eliminated from the bill. This matter of Washington saying that some agency or bureau here in Washington knows more about all the problems of this Nation than do the States and localities, and, therefore, "If you do not do what we tell you to do we are going to withhold 20 percent of your highway funds, and 21 percent of the airport funds," I think is an injustice and improper, and I strongly support the amendment offered by the able Senator from Wyoming.

Mr. HANSEN. I thank my colleague from Virginia. I would like to recognize the Senator from Idaho.

Mr. JORDAN of Idaho. Mr. President, as a cosponsor of the original version of amendment No. 1520, I support the modified version as proposed by the distinguished Senator from Wyoming.

Some people may feel that the sanctions should be retained in this legislation, but to those individuals I would point out that there will be other Congresses which can deal with the subject of sanctions, if and when it becomes evident that sanctions are indeed needed. No one, at this point in time, can say with any degree of certainty that the States will not comply voluntarily, as indeed several States already have, even prior to the enactment of this measure.

The withholding of the grants should be an adequate sanction for State participation. It has been in innumerable other Federal grant-in-aid programs. If it is not, there will be opportunity for Congress to determine whether other sanctions are needed at the two mandatory reviews of the program—the one at the end of 5 years and the one at the end of 8 years.

Mr. President, I feel it behooves the Congress to act on the basis that the States will proceed in good faith. I believe they will. I urge the adoption of the amendment as modified.

Mr. HANSEN. I thank my distinguished colleague.

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

Mr. HANSEN. I yield.

Mr. COOPER. I direct my question to the Senator from Washington.

With this amendment accepted and approved, as I hope it will be, is there any other provision in the bill that provides similar sanctions against grants?

Mr. JACKSON. No.

Mr. COOPER. I was a sponsor with the Senator from Wyoming and the Senator from Idaho, and it is a proper amendment. I think this is the problem: This is a very complex bill, as the Senator from Washington knows very well, and as has been developed by debate on the amendments offered by the Senator from Maine (Mr. MUSKIE).

As the bill came to us, it would require 5 years of adoption by the States of the plans actually finally approved and as may be directed by the Federal Government. I think that is too far reaching. I think planning and encouragement of planning for the next 5 years is satisfactory. As the Senator from Idaho stated, some States are ahead now, and many others will come in voluntarily. Then will be time to discuss whether or not sanctions should be imposed.

I shall support the amendment.

Mr. HANSEN. I thank the Senator.

Mr. JACKSON. Mr. President, the pending measure as reported by the committee had two penalty provisions: first, that funds available under S. 632 could be held up if a State failed to make an effort at good-faith compliance; second, a small percentage of funds for three Federal programs could be put in escrow until the State became eligible for grants under the act.

I personally favor strong sanctions to insure compliance with the act. My fear is that the State legislatures are not going to comply with the provisions of this act if the only sanction will be, as is provided in this amendment, the denial of planning grant funds, $100 million a year, as authorized.

However, in view of all the concerns that have been expressed by many Members of the Senate, I plan to reluctantly support the amendment of the Senator from Wyoming, and I hope that at least this will help to expedite action on the bill. But I want to reiterate my deep concern about compliance. I would not be for any sanctions if we could get full compliance, but the question is, Can we get compliance?

I shall reluctantly, as I have said, go along with the amendment, and I hope we will proceed expeditiously so we can complete action on this bill.

I am prepared to yield back the remainder of my time.

Mr. HANSEN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back——

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

Mr. JACKSON. Mr. President, will the Chair reserve making that decision?

I yield to the Senator from Maine. How much does the Senator want?

Mr. MUSKIE. Will the Senator yield me 2 or 3 minutes?

Mr. JACKSON. I yield 3 minutes to the Senator from Maine.

Mr. MUSKIE. Mr. President, my concern about the amendment of the distinguished Senator from Washington is that it comes before I could get to the issue with the amendment I will offer of what guidelines there ought to be in the legislation on the development of land use policy. Before those guidelines were included, I was disposed to vote against the sanctions. If there were adequate guidelines, it seems to me sanctions would be essential if they are to mean anything, but I think it would be useful to make reference at this point to certain language in the bill which is ambiguous on the question of whether or not, and to what extent, sanctions are involved. That is language that appears on page 87, lines 9 to 14, and I read them:

> (c) Federal agencies conducting or assisting public works activities in areas not subject to a State land use program in a State found eligible for grants pursuant to this Act shall, to the extent practicable, conduct such activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

That seems to say—I do not know whether that is its intent; it is not language covered by the Hansen amendment—that the Federal agencies in these 112 programs that are involved can themselves make a decision—make a finding—without guidelines as to whether or not a project for which application for Federal funds is made under some current Federal program carries environmental implications that are adverse.

So I take it that such an agency which made such a determination could, on its own motion, withhold Federal funds under those programs. I suggest that as a possibility, and a possibility that is not touched by the Hansen amendment.

I repeat, however, that if I were satisfied that this legislation contained adequate guidelines to govern Federal judgments and decisions on State land use policies, I would want legislation then that had teeth in it. This legislation does not yet have those guidelines, and in its present form I would support the Hansen amendment or a similar amendment in order to eliminate teeth from an ambiguous and vague piece of legislation; but under the present legislative situation, I would have no objection to the amendment.

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

Mr. HANSEN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 1523

Mr. MUSKIE. Mr. President, I call up my amendment No. 1523 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read the amendment, as follows: The Senator from Maine (Mr. MUSKIE) proposes Amendment No. 1523.

Amendment No. 1523 is as follows:

On page 78, between lines 17 and 18, insert a new subsection as follows:

"(c) a process to assure that:

"(1) no public or private development will be permitted unless, in the process of development, and in the completed project, the development will conform with the requirements of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended, as determined by the Administrator of the Environmental Protection Agency;

"(2) no industrial, residential, or commercial development shall occur on agricultural land of high productivity, as determined by the Secretary of Agriculture, unless specifically approved by the Governor as necessary to the public health and welfare or to provide adequate housing, that would otherwise be unavailable;

"(3) no industrial, residential, or commercial development shall occur that would exceed the capacity of existing systems for power and water supply, waste water treatment and collection, solid waste disposal and resource recovery, or transportation unless such systems are planned for expansion and have financial support adequate to support operation and expansion as necessary to meet the demands of the new development;

"(4) redevelopment and improvement of existing communities and other developed areas are favored over industrial, commercial, or residential development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped areas, and that development contrary to these principles shall be allowed only where it will provide significant and permanent jobs, housing, and educational opportunities for low- and middle-income families;

"(5) as determined by the appropriate Federal agencies to the extent possible, no development shall occur on water-saturated lands such as marshlands, swamps, bogs, estuaries, salt marshes, and other wetlands without replacement of the ecological values provided by such lands;

"(6) except where no alternative exists, there shall be no further commercial, residential, or industrial development of flood plains of the navigable waterways in the State;

"(7) those responsible for making less permeable or impermeable any portion of the landscape will be required to hold or store runoff water or otherwise control runoff from such lands so that it does not reach natural waterways during storm conditions or times of snowmelt;

"(8) to the extent possible, upland watersheds will be maintained for maximum natural water retention; and

"(9) all private and public forest lands which are leased for timber cutting under compliance with existing statutes shall be harvested in such a way as to avoid any loss in productivity of site, including nutrient and water holding capacities of the site, and take all available precautions to protect the air, water, and soil, of the site and surrounding regions, apart from removal of timber itself."

Mr. MUSKIE. Mr. President, before I get to the substance of this amendment, I think it is appropriate to make a prefatory remark.

First of all, it has been my feeling that this legislation, touching as it does so many Federal programs and the jurisdictions of so many Senate committees, should have been given careful review and hearings by all committees that are involved—not out of any sensitivity to their prerogatives as committees, but because such committees have the expertise and the background in so many policy areas involving land use that they should have been given an adequate opportunity to make an input into this bill. No part of this bill is more relevant and important than the part to which this amendment makes reference.

This amendment is inadequate in the sense that it represents the input of just one Senate committee, the Committee on Public Works, and specifically the Subcommittee on Air and Water Pollution. The guidelines and criteria that this amendment contains come out of the expertise of that committee. Other committees, such as the Committee on Banking and Currency, the Committee on Agriculture, the Committee on Armed Services, and a lot of other committees should have made inputs to the shaping of the guidelines which are to govern the Federal supervision of land-use policy, if we want to make sure that the Federal decisions are not arbitrary and are sensitive to local requirements.

Other committees had no such chance to conduct hearings, to bring in people, and to apply their expertise, and we have got to try to do it on the floor. I made the commitment to the leadership that I would try to do it on the floor. But with respect to no amendment do I feel the effort more inadequate than with respect to this one.

On this subject, let me read what I think is the most perceptive commentary on this aspect of the bill. It is contained in a letter written to the editor of the New York Times on August 23 by an able young man who was once minority counsel to the Senate Committee on Public Works and is now Director of Environmental Studies at Williams College. He is an able young lawyer by the name of Thomas C. Jorling, and was of inestimable value to our committee. I commend to the Senate the following excerpts from that letter.

The letter was written because the New York Times, on August 15, had published an editorial urging immediate passage of the pending legislation. This is what Mr. Jorling had to say:

In its Aug. 15 editorial on the National Land Use legislation presently pending in the U.S. Senate, The Times has fallen victim to the attractive notion that any legislation is better than no legislation. Such a notion, especially applied to environmental legislation, is a cop-out. For several reasons your superficial support of the bill S. 632 is misguided.

¶—The bill purports to establish national land use policy; yet nowhere in the bill is such a policy stated, only the empty buzz words, "sound environmental, economic, and social values and which encourage the wise and balanced use of the nation's land resources" and the like appear.

Such is not policy, it is empty rhetoric. If this nation is to develop land use controls, by definition it means regulation, and effective regulation must be supported by a clear statement of the elements of land use that Congress considers good, or alternatively that Congress considers bad. One searches in vain to find any such statement in the bill.

¶—The bill would establish a bureaucratic maze unequaled in the history of the Federal Government; all of this to implement a policy which, in fact, is nonexistent. In such a situation—which represents an unparalleled and perhaps unconstitutional delegation of legislative authority to the executive branch—the gnomes of Federal bureaucracy will, in fact, establish the regulatory land use program.

Without a measure of performance established in the authorizing legislation, this bureaucratic effort will lead to anything but good land use (or due process protection, for that matter). And yet, because it will be in law and a great bureaucracy will have been set in motion, repair will be nearly impossible and the nation will have embarked on a course leading to no one knows where. It is infinitely preferable to have Congress say what it intends rather than simplistically assume a Federal bureaucracy can somehow translate nothing into something.

Your editorial quotes Russell Train as supporting the present bill. Perhaps Mr. Train believes that the development of flood plains is poor land use, that loss of agricultural land to sprawl is poor land use, that rapid loss of wetlands is poor land use. Perhaps Mr. Train feels that open space per capita must be increased. But unless Congress establishes these as policy, the Federal bureaucracy will be helpless in the face of competing economic forces that are deeply rooted in our social fabric.

I find nothing in the bill to justify your conclusion that it will "safeguard a growing nation's rapidly diminishing land resources."

A bill simply entitled "National Land Use Policy" does not insure coming to grips with the issues of directing the destiny of the nation.

Mr. President, that letter states the nature of my concern about this bill better than any other language that I could propose.

The only national policy included in S. 632 is the policy that the States should establish land-use programs and override local authority in many areas. The amendment proposes specific national land-use planning criteria to give guidance to the States in developing their land-use programs.

As I indicated in my opening remarks yesterday, I believe these policy criteria are vital to protect both Federal and State efforts which are affected by the national land-use program.

Without specific policy criteria, the many Federal programs which are required to subject themselves to the State land-use programs under section 306 could have Federal policy objectives compromised by the differing requirements of 50 State plans. Without policy criteria, it will be an easy matter for administrators in the Interior Department to impose their will upon the States as to what is best.

Congress, Mr. President, not program administrators, must give policy guid-

ance in this vital area. Otherwise, State programs may be confused by changing signals at the Federal level.

I have said the legislation provides no policy guidelines, and it does not. As a practical matter, of course, as Mr. Jorling's letter suggests, Federal policy guidance may quickly develop because the lack of policy guidelines in the bill will present an opening for those in the Federal bureaucracy to impose their individual views of what is best upon the States. Stating a national policy in the law will assure that States are not subjected to these bureaucratic whims, and assure a true national policy.

Land-use policy is but one of the considerations which must be identified in making public policy. There is no question but that land-use decisions will affect transportation, energy, and the environment; and yet we have or should have a national policy for each. To impose one on top of the other without consideration of their relative impact would, Mr. President, be irresponsible. Land-use control does not by itself protect the public health, even though public health may be adversely affected by air and water pollution associated with a given land use. But existing law, Mr. President, provides for that. The Interior Committee does not argue that S. 632 is public health legislation. Certainly, no one would suggest that air and water pollution laws designed to protect public health and welfare should be subrogated to land-use decisions which may relate only to economic development. Therefore, it is essential that we not only have guidance as to land-use but also have the capacity for the Federal Government to become sufficiently involved in the development of land-use plans to assure that other equally or more important national policies will not be upset in pursuit of land-use decisions.

Mr. President, I will be frank to say that I feel so deeply on this point that unless the Senate and Congress adopt policy guidelines, whether they are those contained in my amendment or other and better ones, I would find it impossible to support the proposed legislation, because I would disagree with the New York Times editorial. In that event, it would be my judgment that no legislation would be better than any legislation.

I had hoped that in the course of this year, working on my committee with Senators on other committees which have had background in land use legislation, we could work together to frame policy guidelines that would make it possible for us to enact meaningful, wise, and long-range Federal legislation in this field. I regret that we reach this point in the consideration of this bill with that issue inadequately treated. No one could regret it more.

I reserve the remainder of my time.

Mr. JACKSON. I yield myself 5 minutes.

Mr. President, I believe the Senator from Maine said that other committees should have been allowed to hold hearings on S. 632. The Senator, in my judgment, is mistaken if he feels that this did not occur. Just to make the record clear, let me point out what happened.

We invited all committees to hold hearings on the pending measure, and both the Committee on Banking, Housing, and Urban Affairs—July 12, 13, and 14, 1971—and the Committee on Commerce—May 5, 6, and 11, 1971—did hold hearings on S. 632.

Further, my good friend, the Senator from Maine, is mistaken if he feels that no input was made by other committees. The Committee on Banking, Housing and Urban Affairs and the Committee on Commerce suggested excellent language, subsequently included in the bill.

Furthermore, the chairman of the Senator's committee, the Committee on Public Works, suggested the language of amendment No. 1535, which I endorsed, and which, as the Senate knows, I accepted.

I state that only to make the record clear, because this bill has been pending on the calendar since June 19. There has been all the time in the world. The chairmen of the three main committees have been in agreement on this. So, let us set the record straight.

Mr. President, I must oppose the pending amendment. The amendment proposes to add to the bill a number of specific and detailed requirements which would greatly extend Federal influence over State planning efforts.

For example, the second subsection, page 2, line 4, would assign a priority to agricultural uses over other social concerns. It would make a Federal zoning judgment, as a matter of law, that agricultural lands of high productivity, as determined by the Secretary of Agriculture, would be preserved unless exceptions in each instance are made by the Governor. The sheer difficulty of achieving individual consideration of each development, however limited, on agricultural land is forbidding.

Furthermore, the whole substance of the pending measure is to achieve a balanced program for the future of a State. Agriculture must have important consideration but not exclusive priority.

Another example is found in subsection (4) of the Senator's amendment. This subsection provides that redevelopment and improvement of previously developed areas is to be favored over developmental activities of any kind on lands which have not been previously developed. The concept proposed is one that most people would agree upon as a planning goal.

To set it forth as a Federal guideline or requirement is, however, in my view not workable. It would create mischief, in that Federal officials would be called upon to look at and perhaps even to approve every developmental activity taking place on previously undeveloped lands. This is not in accord with the basic philosophy of the land use bill. The basic philosophy of the bill is to build upon State competence and responsibility.

The same comment is applicable to subparagraph 5 and other subsections of the Senator's amendment. The specific requirements proposed would have the effect of a Federal zoning act for large parts of the Nation. This, in my view, is not workable. The land use patterns and requirements of the Nation are too diverse and their needs too varied to meet the very requirements the Senator proposes.

Mr. President, I urge that the amendment be rejected.

I reserve the remainder of my time, and I now yield 3 minutes to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I concur with the distinguished floor manager of the bill with reference to this amendment. I find some provisions in it virtually incredible.

For example, I read from section 2, line 4, on page 2:

no industrial, residential, or commercial development shall occur on agricultural land of high productivity, as determined by the Secretary of Agriculture, unless specifically approved by the Governor as necessary . . .

It seems utterly incredible to me that the Secretary of Agriculture, in Washington, would determine the use of land in all 50 States of the Union, and the only appeal from the Secretary of Agriculture's decision would be to the Governors of the respective States. In my opinion, that would limit the value of all agricultural land in the United States, because it would restrict its purpose purely for agricultural purposes. That is at a time when we are paying billions in diversion, at the present time, to take agricultural land out of production. To my mind, that seems incredible and a denial of the constitutional rights of every citizen in America who owns agricultural land.

Let us go to section 3, page 2:

no industrial, residential, or commercial development shall occur that would exceed the capacity of existing systems for power and water supply, waste water treatment . . .

Mr. President, we have in many areas of our country, including my State of Georgia, many humble people. They do not even live at a water supply system. They do not even live at a sewage system. But they try to improve their homes. This provision would prevent some of them from building a modest home and digging a well in the front yard to establish a septic tank there, because it would be a denial of the right to do so, because the home would not be at a sewage system and would not be at a power system.

This amendment would deny someone who owns some land in a remote area of our country, who wanted to build a summer camp that did not have a power system, the right to go out and build that little cottage and use an old-fashioned kerosene lamp, which was all I ever had until I was an adult. Not all of them can have sewage systems and power systems at their humble cottages. But this is what the amendment would require. Otherwise, they could not utilize the land.

Let us go to paragraph (4), line 20, on page 2:

"(4) redevelopment and improvement of existing communities and other developed areas are favored over industrial, commercial, or residential development which will utilize existing agricultural lands, wild areas, woodlands, and other undeveloped areas.

We have seen the trend in recent years where large corporations in the United States, particularly in the city of New York, are trying to flee their environment, going out to the quiet countryside, moving into Connecticut and establishing their location there, to get into an area which is relatively free of crime, where people can live together in peace, comfort, and harmony, and free of pollution.

This amendment of the Senator from Maine would absolutely prohibit that.

Just recently, the Senate passed the rural development bill by a vote of 77 to 0. One of the reasons the Senate passed that bill was that over 70 percent of the people of the United States live on 2 percent of the land. Yet the Senator's amendment wants to keep those people hemmed in by this congestion, where 70 percent of the population live on that same 2 percent of the land. His amendment would prohibit them from spreading out. It would prohibit new industries from being established in areas of high unemployment, where we could attract jobs to the rural areas of America—just exactly the opposite of what the Senate decided by a vote of 77 to 0 only a short time ago.

As the able floor manager of the bill pointed out, this amendment, in the final analysis, would have Federal control of the lands of the United States. It would have Federal control of our farmland by the Secretary of Agriculture. It would also have Federal control of our urban lands, because it would say that the urban areas would be favored for industrial development over the less densely populated areas.

To my mind, this amendment should be rejected and I hope that it will be rejected by an overwhelming majority of the Senate.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. CHILES). The Senator has 2 minutes remaining.

Mr. MUSKIE. Mr. President, I ask unanimous consent that debate on this amendment proceed for another 20 minutes, to be equally divided——

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, because I think we can find another way. There is time on the bill. I wonder whether the Senator would withhold his request for time as it can be yielded to him on the bill.

Mr. MUSKIE. I would like to go for 10 minutes at this point.

Mr. JACKSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Washington has 5 minutes on the amendment and 27 minutes on the bill.

Mr. JACKSON. Let us try—I can yield the Senator time on the bill—let us see if we cannot move along now and I will yield time to the Senator as he needs it.

Mr. MANSFIELD. Does the Senator want 10 minutes now?

Mr. MUSKIE. Yes. I asked for 10 minutes.

Mr. JACKSON. I am happy to yield 10 minutes on the bill to the Senator from Maine (Mr. MUSKIE).

The PRESIDING OFFICER. The Senator from Maine is recognized for 10 minutes.

Mr. JACKSON. Mr. President, I ask that the time be equally divided between the Senator from Idaho (Mr. JORDAN) and the Senator from Maine (Mr. MUSKIE). That is, 5 minutes out of my time and 5 minutes out of the time of the Senator from Idaho (Mr. JORDAN).

The PRESIDING OFFICER. That is all right.

Mr. MUSKIE. Mr. President, there are several points to which I should like to respond.

May I say to the distinguished Senator from Georgia (Mr. TALMADGE) that his disagreement with me, when he focuses on the bill, has nothing to do with whether he and I agree on what national land use policy should be. We are agreed that we should not set in motion the land use policymaking machinery without giving guidelines for its administration in the legislation. That is what is at issue here. Because if the Senator believes—and I do not believe that he does—that the kinds of policies with which he takes issue in my amendment will not be suggested by some Federal buraucracy under the ambiguous and general grant of authority in S. 632, he is sadly mistaken. If the Senator from Washington believes that the kinds of considerations or judgments involved, on page 2 of the amendment, will not take place, with what he is advocating, then he is mistaken.

There is no way of setting up a process of land use policy administered by a Federal bureaucracy that does not get that bureaucracy involved in making judgments about what the policy will be.

The question raised by this issue is whether we establish the guidelines for that bureaucracy in the legislation, or whether we leave it to an ad hoc process.

The Senator from Washington referred to the hearings. The only hearings before us, unless I am mistaken, are the record of 4 days in this Congress, in the Committee on Interior and Insular Affairs. There were another 4 days in 1970—and I do not know whether that was on this legislation. I do not have a record of the hearings before the Committee on Banking, Housing and Urban Affairs, or the Committee on Agriculture and Forestry, or other committees involved. There is no hearing record, they tell us. I was not aware of any, either. There was none in the Committee on Public Works. In July, the Committee on Public Works considered this and approached the Senator from Washington with respect to holding Public Works Committee hearings on the bill. We were told no, that the bill was on the calendar. The Senator from Washington pressed for Senate consideration of the bill in late July and all through August until the recess. There was no time for a hearing. We were discouraged from holding hearings in July and August. The bill came to the floor, when? In June? There was a National Democratic Convention in the interim. There were no hearings. There was no opportunity for hearings. Rather, there was pressure to bring the bill to the floor of the Senate. There was no adequate opportunity for other committees to make an input to the legislation. If there were other hearings, I should like to know where they were, where is the record, and what do they say.

Now let me say to the distinguished Senator from Georgia (Mr. TALMADGE) that this legislation provides, on page 60 of the bill, beginning on line 15:

(b) The Congress further declares that it is the national policy to—

(1) favor patterns of land use planning, management, and development which are in accord with sound environmental, economic, and social values and which encourage the wise and balanced use of the Nation's land resources;

I ask the Senator from Georgia rhetorically, who will make the judgment as to whether a given land use policy adopted by a community in his State meets that standard?

There is another provision in the bill, on page 86, line 22,

Federal agencies shall not approve proposed projects that are inconsistent with the program . . .

Who will decide whether they are inconsistent, and will the decision relate to whether they are inconsistent with the language on page 60, which I just read?

Let me refer to other language, on page 76 of the bill:

(a) an adequate statewide land use planning process as provided for in section 302 of this Act; and

(b) (1) methods of implementation for—

For doing what? For—

exercising determinative State authority over the use and development of land in areas of critical environmental concern within the State;

Does the Senator believe that that would not involve considerations such as are raised by my amendment?

Look over on page 77 of the bill, line 4:

(C) assuring that local regulations do not unreasonably restrict or exclude development and land use of regional benefit;

Who will decide that?

Then on line 7, on page 77,

exercising determinative State authority—

"Determinative"—what does that mean to the Senator?

Continuing reading:

exercising determinative State authority over proposed large scale development within the State of more than local significance in its impact upon the environment.

Who is going to make that decision when the Secretary of the Interior determines how State planning agencies set up those determinative State authorities if he feels that they are not adequate? What is the Senator's guess as to whether the Secretary will or will not try to reshape those State plans as they relate to these points.

The Senator is as familiar with bureaucracy at the Federal level as I am. I ask him to consider whether it is wise to give the bureaucracy some guidelines, whether of the Senator's choosing, or mine, or someone else's. They ought to be the guidelines that the Senate has considered and adopted as a whole.

If the Senator takes this exception to my amendment, how about all of the unseen, unspoken decisions for land use

that will filter into the land use process under this bill? We will not have a chance to evaluate or judge whether they are arbitrary or not. We will not have a chance to rewrite the law. It is difficult to change a law once its gets started.

That is the sort of thing that the Senate ought to be considering.

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

Mr. JACKSON. Mr. President, I yield myself one-half minute.

Mr. President, hearings were held by the Committee on Banking, Housing, and Urban Affairs on July 12, 13, and 14, 1971 and by the Committee on Commerce on May 5, 6, and 11, 1971. I will say that those documents will be available here shortly.

I am amazed that the Senator from Maine would raise the question that hearings were not held. I ask unanimous consent that citations to those hearing records be printed in the RECORD at this point.

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

Page reference to testimony directed to S. 632 and S. 992 in the printed record of hearings to consider: "land-use, planning, and management" before Subcommittee on Housing and Urban Affairs of Committee on Banking, Housing and Urban Affairs to consider S.J. Res. 52 and title II of S. 1618, July 12, 13, and 14, 1971, 92d Cong. 1st Sess.

1. Memorandum from Chairman John Sparkman—page 2.

2. Under Secretary of HUD, Richard C. Van Dusen, pp. 39–44, 46–47, 59–60.

3. Boyd Gibbons, Secretary of CEQ, pp. 61–70.

4. Thomas Bradley, Councilman, City of Los Angeles, representing National Service to Regional Councils, pp. 114–115, 123–124.

5. James G. Martin, vice president, National Service to Regional Councils, pp. 153–154, 156–157.

6. Stanley Waranch, First Vice President, National Association of Homebuilders, pp. 172–175, 177–178.

7. George Raymond, past president, American Society of Consulting Planners, pp. 182–183, 190–196.

8. Max O. Urbhan, president-elect, the American Institute of Planners, pp. 214–215, 217, 219–221.

9. Frederick Harris, on behalf of Edward J. Logue, president and chief executive officer, New York Urban Development Corp., page 223.

Examples of discussion to S. 632 in hearings before the Senate Committee on Commerce May 5, 6, and 11, 1971.

42–112, bill text of 632.

119–140, discussion by Administration witnesses of relation among the bills including 632 and 992.

P. 171, comments of President of Carolina Power & Light.

Page 178, comments of Clair Guess Carolina Water Resources Commission.

Page 192, comments of V.P. American Land Development Assoc.

Page 270, Asst. Conservation Director, Sierra Club.

Page 325, American Institute of Architects letter.

NOTE: The balance of the RECORD (about 350–807) is made of State codes etc. relating to land use.

Mr. JACKSON. Mr. President, I yield 5 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 5 minutes.

Mr. HATFIELD. Mr. President, I thank the distinguished chairman of the Senate Committee on Interior and Insular Affairs. As a cosponsor of S. 632, I rise to associate myself with the comments made by the Senator from Washington (Mr. JACKSON) and I would like more specifically to address myself to part 9 of the amendment of the Senator from Maine.

Mr. President, one of the subjects considered by the Subcommittee on Public Lands during field hearings last year was that of nutrient recycling on harvested forest areas. The evidence presented was conflicting, some witnesses saying that timber harvesting depletes the soil of its nutrients and others saying that the nutrient depletion arguments were based on inadequate or nonexistent scientific data. Everyone agreed that additional research into the nutrient problem was desirable.

Part 9 of amendment No. 1523 to the National Land Use Policy Act (S. 632) is addressed to the forest soil nutrient question. I doubt that we know any more about the question today than we did when the question came up before the Public Lands Subcommittee last spring. There is nothing to indicate the language in the amendment is appropriate to the problem, if indeed there is a problem.

What many people do not understand is that any time a plant is harvested, be it in the forest or on the farm, nutrient losses can occur and the water holding capacity of the soil will be effective. This has been observed to be the case in general agriculture as well as in the forest. But never before has this phenomenom been viewed with the alarm that the amendment's proponents have raised.

An additional consideration is that manipulation of the forest cover is frequently used to influence water yields, especially in the Western States. This amendment would prohibit using timber removal to increase water yields.

Rather than focusing on cutting timber, which yields useful products for human needs, we should direct our focus to getting prompt reforestation of harvested areas.

Should this amendment be approved as it is now written, it would be possible for a well-meaning but misled preservationist to stop any timber harvesting operation by any method.

Considering the vagueness of the language in part 9 of amendment No. 1523, the fact that it might be addressing itself to a problem that does not exist and the fact that it might be used as a tool to obstruct orderly management of the Nation's forest resources, I call for the defeat of the amendment.

I would like to point out also that the vagueness of part 9 could easily put the State into a managing role of Federal forest lands and the Federal Government in control of private lands.

I think it is a very unwise amendment. I hope that it will be soundly rejected.

The PRESIDING OFICER. Who yields time?

Mr. JORDAN of Idaho. 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. JORDAN of Idaho. 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 yields time?

Mr. MUSKIE. Mr. President, I have nothing further to say on the amendment.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Iowa (Mr. HUGHES), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Maryland (Mr. BEALL), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "nay."

On this vote, the Senator from Delaware (Mr. BOGGS) is paired with the Senator from South Carolina (Mr. THURMOND). If present and voting, the Senator from Delaware would vote "yea" and the Senator from South Carolina would vote "nay."

The result was announced—yeas 14, nays 61, as follows:

[No. 453 Leg.]

YEAS—14

Case	Kennedy	Roth
Cooper	Muskie	Stevenson
Eagleton	Nelson	Tunney
Harris	Proxmire	Williams
Hart	Ribicoff	

NAYS—61

Aiken	Bennett	Burdick
Allen	Bentsen	Byrd, Harry F., Jr.
Anderson	Bible	Byrd, Robert C.
Bayh	Brooke	

Chiles	Hollings	Pastore
Church	Hruska	Pearson
Cook	Humphrey	Percy
Cotton	Inouye	Randolph
Cranston	Jackson	Saxbe
Curtis	Jordan, N.C.	Schweiker
Dole	Jordan, Idaho	Scott
Eastland	Long	Smith
Edwards	Magnuson	Spong
Ervin	Mansfield	Stafford
Fannin	Mathias	Stevens
Fong	McClellan	Symington
Gambrell	McIntyre	Taft
Griffin	Miller	Talmadge
Gurney	Mondale	Weicker
Hansen	Montoya	Young
Hatfield	Packwood	

NOT VOTING—25

Allott	Fulbright	Moss
Baker	Goldwater	Mundt
Beall	Gravel	Pell
Bellmon	Hartke	Sparkman
Boggs	Hughes	Stennis
Brock	Javits	Thurmond
Buckley	McGee	Tower
Cannon	McGovern	
Dominick	Metcalf	

So Mr. MUSKIE's amendment (No. 1523) was rejected.

AMENDMENT NO. 1524

Mr. MUSKIE. Mr. President, I have one more amendment to offer, and I will not ask for a rollcall vote. I offer the amendment because I indicated in my opening statement I would do so.

Mr. President, I send to the desk an amendment which is a revision of amendment No. 1524.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 74, line 25, strike "and"

On page 75, between lines 2 and 3, insert the following new paragraphs:

"(15) the preparation and continuing revision, in cooperation with local governments, of a statewide system of valuation and assessment of property values and a program for assuring that property or other land use related taxation by the state and local governments is consistent with the state land use program; and

"(16) the preparation and continuing revision, in cooperation with local governments, of an inventory of the adequacy and uniformity of availability of state and local services supported by property tax or other land use related tax revenues and the impact upon availability of these revenues and services of decisions resulting from the statewide land use planning process.

On page 82, between lines 7 and 8, insert a new paragraph as follows:

(3) The President shall not make a grant pursuant to this Act until he has determined that the State and its local governments are maintaining a system of property and other land use related taxation which is consistent with and supportive of the state land use program and that the State is prepared to assume in whole or in part, as may be necessary, the present obligations and costs for maintaining existing levels of services of any local government that has its tax base reduced in value or its revenue sources reduced in yield as a result of state action.

Mr. MUSKIE. Mr. President, it is obvious that the majority of the Senate does not agree with me as to the weaknesses in this bill, so I see no point in pressing it; but I am going to offer this one amendment simply to document my concerns about another weakness in the bill.

I indicated yesterday that land use inevitably affects property tax revenue, land values, and the flexibility that local governments need to finance local public service. I cited the Lake Tahoe situation yesterday.

Zoning, as Senators know, pulls the plug on speculative values of land. A great many people own land for that reason. When one pulls the plug on speculative values, he pulls the plug on local tax revenues. It is as simple as that.

Perhaps I can explain this amendment best by reading it. This amendment would require, for land use planning, the preparation and continuing revision, in cooperation with local governments of a statewide system of valuation and assessment of property values and a program for assuring that property or other land use related taxation by the State and local governments is consistent with the State land use program; and

The preparation and continuing revision, in cooperation with local governments, of an inventory of the adequacy and uniformity of availability of State and local services supported by property tax or other land use related tax revenues and the impact upon availability of these revenues and services of decisions resulting from the statewide land use planning process.

Finally, the President shall not make a grant pursuant to this act until he has determined that the State and its local governments are maintaining a system of property and other land use related taxation which is consistent with and supportive of the State land use program and that the State is prepared to assume in whole or in part, as may be necessary, the present obligations and costs for maintaining existing levels of services of any local government that has its tax base reduced in value or its revenue sources reduced in yield as a result of State action.

In other words, all this amendment requires is that the State take into account the impact on its State land use policies on the local taxable property, on local property tax revenue, before it mandates changes in land use that affect those two items.

It seems to me irresponsible not to consider the impact on local government revenues of a national land use policy. We have just enacted revenue sharing to send back to communities a share of Federal revenues to help them bear the cost of local government. Here at the next breath we adopt a land use policy that gives no consideration whatsoever to its impact upon land values and property tax revenue. It makes absolutely no sense.

I have tried without success to impress this point on the sponsors of the legislation. I have not succeeded. Since I have not succeeded, either, with respect to the other two issues I have raised, I see no point in pressing this one. I see no indication of the kind of concern I have with this legislation.

It may be wrong, but in any case, I offer this amendment. I do not ask for a rollcall vote, and I will offer no other amendment. The amendments already rejected lead me to the conclusion that I cannot support the bill. No further amendments that I could offer would so improve it as to overcome the objections I now have to it. One of the objections I have to it is this failure to consider the impact on property tax revenue of land use decisions.

I reserve the remainder of my time.

Mr. JACKSON. I certainly support the goals and the objectives of the Senator from Maine, but certainly it would be an unconstitutional exercise, in my judgment, of congressional power, to attempt to dictate payment of compensation for losses incurred by the local government . . . to legislate away a portion of the State police power.

We do not have any such rider on the air and water quality legislation, to my knowledge. I would assume the Senator from Maine would not want to attach that kind of rider to those statutes.

In my judgment, it is simply not a workable proposal. In any event, I do not think we have the constitutional authority to lay down such a requirement.

I hope the Senate will reject the amendment.

I am prepared to yield back the remainder of my time.

Mr. MUSKIE. Mr. President, as I understand it, the Senator's position is this. It is constitutional and proper that the Federal Government can enact national legislation which diminishes or could diminish the local tax base of communities across this country, but it is unconstitutional to do something about offsetting that loss of local tax revenue.

If the Federal Government does not have the power or the authority to offset that unfavorable impact upon local government, then it ought not to exercise the power that it has, if it has it, to diminish local revenue.

I find that an incomprehensible point of view and one to which I do not subscribe.

Mr. JACKSON. Mr. President, let me just ask, Is it the business of Congress to tell the States that they have to compensate local governments in the case of loss of tax revenue? This is what we are trying to avoid here, Federal intervention in a matter that is purely State and local. It is up to the States. If they wish to limit their police power to provide a way to compensate local governments for loss of tax base. But, should the Federal Government dictate to the States—tell the States that the States have to provide that compensation to the local government? That is what State legislatures are for.

Mr. MUSKIE. I find the Senator's indignation rather narrowly focused. Here he is writing legislation that permits the Federal Government to tell the States that they must impose on State and local governments land use policies which will have the effect of shrinking their revenues. Yet, somehow, it is not a proper subject for legislation that has this purpose to also tell the States that they ought to be concerned with offsetting those losses in State and local revenues, and to say that this is unconstitutional.

I find the double standard incomprehensible.

Mr. JACKSON. I wonder if the Senator would attach such an amendment to the air and water quality statutes.

Mr. MUSKIE. If the Senator will suggest to me the ways in which that legislation is comparable to this act, I will be glad to consider them. The water act does not restrict development. That is what we are talking about here. Meaningful land use which is sensitive to environmental values is going to restrict development. It is going to restrict speculative values that restrict the local tax base. The water bill does not do that.

Mr. JACKSON. Will the Senator yield, on my time?

Mr. MUSKIE. I yield.

Mr. JACKSON. In my hometown two pulp mills are closing due to the pollution legislation. If the Senator does not think that is a loss of the tax base, I would like to find a better example of it. There is a substantial loss of tax revenues to my hometown of Everett, Wash.

Why does not the Senator run his amendment to that kind of situation?

Mr. MUSKIE. May I say to the Senator that we are now considering in committee legislation to deal with the problem of economic dislocation as related to environmental pollution.

The Senator is arguing that we ought to repeal the environmental pollution laws. That is his prerogative. But what I am saying is that we can consider that problem in connection with tax relief, tax incentive, economic relocation. We have, in the last 14 years in Congress, enacted the Appalachian Regional Development Act, to do what? To offset the cost of economic dislocation. We have enacted economic development legislation, area redevelopment legislation, and all of that is a perfectly appropriate exercise.

But that is not applicable here. This legislation is not applicable to those programs at all, because there is no specific result on which you can focus attention. You cannot prove the negative as to what economic opportunities were lost that never existed in the first place.

I favor land use legislation. My disagreement with the Senator from Washington is that I think we ought to say in this legislation what it is we are trying to do, especially when it means the potential of limiting of local tax revenue. If you are not ready to bite the whole bullet, you ought not to try to swallow any part of it.

Mr. JACKSON. Mr. President, I shall be brief, and then conclude.

If the Senator from Maine is concerned about this, he knew or should have known that in the establishment of air and water quality standards, plants would have to close and there would be loss of tax base. Nevertheless, I supported the air and water quality bills. I gave the Senator the most concrete example I could imagine, the closing of two pulpmills in my home State, throwing hundreds of people out of work. If he wanted to insist on that kind of legislation, he knew, or should have known, when he brought in the bills on air and water quality and we passed them here, that some plants were going to close. And when plants close, you lose tax base as well as jobs. To come in here and insist, where we are leaving it to the States to say what their land use policies shall be, that the State governments shall be required to do so and so, I believe, is contrary to the whole spirit of this legislation, which is to make it possible for the States to enforce States rights. I hope the amendment will be rejected.

Mr. MUSKIE. Mr. President, let me add my observations on the Senator's comments.

In the first place, in our Subcommittee on Air and Water Pollution, we have considered the problems of economic dislocation, and have written into the pending water pollution law programs to assist local industries to meet the responsibilities which we impose on them with that legislation, and to minimize the process of economic dislocation.

We considered the problem and dealt with it; and in addition, in committee, are considering legislation to deal with economic dislocation generally—not just that caused by environmental legislation, but that caused by trade legislation, or simply the movement of private economic forces.

What we are talking about here is a piece of legislation that pretends that no such problem exists, that has not considered it as far as I know. There is no reference to it in the committee report and no provision for it in the bill.

The water bill does not restrict development nor the tax base if the development is consistent with water quality requirements and effluent limits. There is no analogy between that and the basic land planning which the States and localities are required to assume under this bill.

May I say, finally, that even if clean air and water pollution control did restrict development, they do so expressly in order to protect public health, a reasonable basis for restriction; in this bill there is not a single policy justification nor anticipation of the controls that would be imposed by State and local governments.

The PRESIDING OFFICER. Is there further discussion? If not, the question is on agreeing to the amendment of the Senator from Maine. Is all time yielded back?

Mr. MUSKIE. Mr. President, I withdraw the amendment, as I indicated earlier I would. There is no point in pressing the Senate to votes on amendments which the majority of the Senate appears to disapprove.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

AMENDMENT NO. 1519

Mr. HANSEN. Mr. President, I call up my amendment No. 1519 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 78, line 25, strike the semicolon and add the following: "*Provided*, That, at the request of the Governor of any State, the Secretary shall submit to any such State a description of all areas of critical environmental concern within such State which he considers to be of national significance pursuant to this subsection (a) no later than three fiscal years from date of enactment of this Act. If a request is made by a Governor to the Secretary for a description of such areas after such three-year period, the Secretary shall have sixty days to comply with such request."

Mr. HANSEN. Mr. President, I shall not delay the Senate unnecessarily. We have discussed this amendment with the distinguished manager of the bill, and I would say simply that what this is intended to do is call upon the Secretary of the Interior ahead of time to require him to identify areas of significant national concern in order that the States will not be deprived of the opportunity afforded under the terms of the bill to participate in Federal grants, looking toward the development of a State plan.

This will enable the States to know ahead of time what, in the opinion of the Secretary of the Interior, are those areas of critical environmental concern which are of major national significance, and require special planning and management.

I think the amendment makes good sense. I yield to the distinguished manager of the bill.

Mr. JACKSON. Mr. President, I am pleased to accept the amendment of the Senator from Wyoming. The Senator's amendment puts in statutory language what has always been the intent of the committee. This intent is clearly stated in the section-by-section analysis of S. 632 at the bottom of page 52 of the report. Subsection 304(a), concerning nationally significant areas of critical environmental concern, is the only significant requirement which would allow Federal review of the substance of the State land use program. The amendment would provide the States with an exact statement of the Federal position well in advance—2 years to be exact—of the date upon which the Federal review would be undertaken.

The ranking minority member, the Senator from Idaho (Mr. JORDAN) and I are pleased to accept the amendment.

Mr. HANSEN. I thank the Senator.

The PRESIDING OFFICER (Mr. CHILES). Do Senators yield back their time? Is all remaining time yielded back?

Mr. HANSEN. I yield back the remainder of my time.

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The amendment will be stated.

Mr. AIKEN. Mr. President, may I ask a question of some Senator with reference to the bill?

Mr. JACKSON. Just as soon as the lay the amendment down.

Mr. AIKEN. I did not realize we had gone to another amendment. The legis

lative clerk proceeded to read the amendment.

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

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

Mr. COOK's amendment is as follows:

On page 76, line 19, strike out all through line 16 on page 78 and insert in lieu thereof the following:

"(b) (1) methods of implementation for—

"(A) assuring that the use and development of land in areas of critical environmental concern within the State is not inconsistent with the State land use program;

"(B) assuring that the use of land in areas within the State which are or may be impacted by key facilities including the site location and the location of major improvement and major access features of key facilities is not inconsistent with the State land use program;

"(C) assuring that any large-scale subdivisions and other proposed large-scale development of and subsequent revisions in the local significance in its impact upon the environment is not inconsistent with the State land use program;

"(D) assuring that any source of air, water, noise, or other pollution in the areas or from the uses or activities listed in this clause (1) shall not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan;"

"(E) periodically revising and updating the State land use program to meet changing conditions; and

"(F) assuring dissemination of information to appropriate officials or representatives of local governments and members of the public and their participation in the development of and subsequent revisions in the State land use program and in the formulation of State guidelines, rules, and regulations for the development and administration of the program.

Mr. COOK. I yield to the Senator from Vermont.

Mr. AIKEN. Mr. President, I simply have one question to ask, probably of the Senator from Washington or the Senator from Idaho: Is there anything in this bill which would require a State which has reasonably strong land use programs or plans at the present time to weaken those programs, or in any way to alter the strong State program in order to qualify for Federal funds?

Mr. JACKSON. State programs on land use planning?

Mr. AIKEN. Yes.

Mr. JACKSON. No. The whole purpose of the bill is to provide the old carrot and stick approach. We do not have much left of the stick; we have a lot of carrot. We provide for grants-in-aid up to 90 percent to assist the States in land use planning, and it is to fund the efforts that are being made by all the States. Some States are way ahead. This, of course, will not denigrate what those States are already undertaking. It will help to assist them further in what they are doing.

Mr. AIKEN. And there is nothing at all in the bill, to the best of the Senator's knowledge, that would require my State of Vermont to weaken its present policies as to land use?

Mr. JACKSON. No. On the contrary, it would encourage the State of Vermont and all other States to improve the ability to deal with the land use program.

Mr. AIKEN. I am not sure how much further we can go with that improvement, but that is up to the Vermont Legislature.

Mr. JACKSON. I do not know. Am I correct in stating that Vermont has a statewide program?

Mr. AIKEN. Yes.

Mr. JACKSON. Well, Vermont sets a good example for the country, as I understand it.

Mr. AIKEN. This proposed legislation does not preempt the field, then?

Mr. JACKSON. No.

Mr. COOK. Mr. President, I almost offer the amendment with apology to the distinguished Senator from Maine (Mr. MUSKIE), because I intended to have a colloquy with him on his amendment No. 1522. When I found that he was not going to offer it, I took the liberty—and I apologize to him—of offering basically that amendment, with one change, and that is in regard to the language that appears in his amendment No. 1522 on page 2, item (d), the language which commences on page 11.

The reason for this amendment is that the language of the bill, starting on page 76, uses the words "exercising determinative State authority." I am not sure what that means. It also says that States can usurp, in essence, the authority of local planning commissions. It says, for example, that a State has the authority over the use of land in areas in the State which are or may be impacted by key facilities.

Further, the language provides that States can regulate large-scale subdivisions once a subdivision has been approved on a local level; and, more serious than anything else, it provides for State administrative review of land-use plans, regulations, and implementation thereof, of local governments, with full powers to approve or disapprove.

Mr. President, I can give the example of two major communities in my State. The Louisville and Jefferson County Planning Commission probably has three times the number of people and qualified staff working for them than does the State Planning Commission. The example I could give, that could be overturned by allowing the language presently in the bill to stay there, would be for the local planning commission in our community or the city of Lexington to authorize the expenditure of 1, 2, or 3 million dollars to a total indepth plan over a period of 2 or 3 years and come up with all the public hearings, all the meetings, all the discussion, all the expertise, to rearrange, to plan, to recommend zoning in a given area.

Then the State can say, "We're not going to accept it, because under this bill we have the power to approve or disapprove."

This would be nice if in fact the State had that potential. But I suggest that many States in the Union do not have that potential.

As a matter of fact, the bill uses the words "and implementation thereof, of a land use plan," which means that if, in fact, there was a recommendation at the local level on zoning which would be an implementation to change a land use plan, and if they expended time, energy, money, hearings, and everything else and the State was not satisfied with that, the State could ignore everything that had been done on the local level and just take it over and decide to do it for itself.

Let us take the riverfront in my community, which has been the subject of urban renewal, the subject of untold hours and weeks, and a public commitment on the part of the local government of many millions of dollars—not a dime from State government. Under the language of section (B) on page 76, "exercising determinative State authority over the use of land in areas within the State which are or may be impacted by key facilities," the State could take that whole program and disapprove it.

Under the terms of this bill, apparently the only recourse would be that if it carried enough land use change, it would then come under item (e) on page 83, where it would have to be submitted directly to the Secretary of the Interior; and, as I understand it, the Secretary of the Interior would make his determination to State government and say, "We like it" or, "We don't like it."

Therefore, the language that has been suggested is that, rather than use the phrase "determinative State authority," the language "not inconsistent with the State land use program" be used. I think this language was agreed to.

The only suggestion I had to the Senator from Maine was with respect to his language under (d), which said "assuring standards under the Federal Water Pol- standards under the Federal water Pollution Control Act and the Clean Air Act."

I was concerned about that language, because, if the Senator will read the preamble to section 303, that was a determination that was to be made by the Secretary, which meant that, in essence, we were doubling up with EPA and that, in essence, we may have been subverting EPA's authority to actually administer the Federal Water Pollution Control Act and the Clean Air Act; and I do not think it was the intention of the Senator from Maine to give the Secretary the authority over and above the authority that presently rests in EPA to make this determination.

Therefore, it was this Senator's intention to agree with the amendment of the Senator from Maine, with the exception of item (d) in amendment No. 1522, and to reinsert the language I have now reinserted in my amendment, which is the language in subsection (E) of section 303, on page 77.

Mr. MUSKIE. Mr. President, I think there was an agreement as to that language. I would still feel that that language would be an improvement in the bill, so I support the Senator's amendment. I did not offer it myself, because, after the disposition of my first three amendments, I found it impossible to support the bill, anyway, and did not want to mislead the Senate by trying to amend it further.

If the bill is enacted, I think it would be better to have the language of the

Senator's amendment in the bill than out of the bill, so I would support it, if the floor manager continues to support it.

Mr. COOK. I thank the Senator. Again, I owe him an apology. I was prepared to amend his amendment, because I felt that his language was acceptable. Otherwise, we would have worked out some kind of language with our own staff to accomplish the same thing the Senator from Maine wished to accomplish.

Mr. MUSKIE. I thank the Senator for raising the matter. I certainly support the amendment.

Mr. JACKSON. Mr. President, I am very pleased to accept the amendment offered by the Senator from Kentucky. As I understand the amendment, it is compatible with an amendment I will offer very shortly which deals with the concerns expressed, as the Senator knows, by the League of Cities and the National Conference of Mayors. I am pleased to accept the amendment in behalf of the ranking minority member, the Senator from Idaho (Mr. JORDAN).

I yield back the remainder of my time.

Mr. COOK. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 1525

Mr. MUSKIE. Mr. President, one other amendment falls in the category of the one just considered, and I call up amendment No. 1525.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 107, lines 10 and 11, strike "except as required to carry out the provisions of this Act".

On page 107, lines 17 and 18, strike "except as required to carry out the provisions of this Act".

On page 107, following line 25, insert the following new subsections:

"(d) to delay or otherwise limit the adoption and vigorous enforcement, by the State, of standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans which are no less stringent than the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by the Federal Water Pollution Control Act, the Clean Air Act, or other Federal laws controlling pollution; and

"(e) to adopt any Federal policy or requirement which would prohibit or delay States or local governments from adopting or enforcing any law or regulation which results in prohibition or strict control of land use development in any area over which the State or local government exercises jurisdiction.".

Mr. MUSKIE. Mr. President, the Senator from Washington (Mr. JACKSON) and I have reached agreement on this amendment with some slight modifications in the printed amendment. I have not attempted to call it up for reasons already stated. Several Senators have urged me to bring it up. So I do so, and support it fully, if it continues to have the support of the floor manager of the bill.

The PRESIDING OFFICER (Mr. CHILES). Does the Senator modify his amendment?

Mr. MUSKIE. Yes. I send the amendment to the desk with the modifications.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. JACKSON. Mr. President, as I understand it, the Senator is modifying his amendment, beginning on line 1, page 1 of the amendment, to strike out the words "required to carry out" and insert in lieu thereof "new authority or responsibilities have been added by"; and then striking out on page 2, line 11, the word "strict" and then inserting after the word "control," "to a degree greater than required by this Act." Is that right?

Mr. MUSKIE. Yes.

Mr. JACKSON. I am very pleased to accept the amendment offered by the Senator from Maine to section 512 of the act.

Mr. MUSKIE. I might at this point explain the amendment for the RECORD. Everyone is involved—the two Senators from Vermont and a number of other Senators, and they all know what it is, but it might be useful for the RECORD if I state the purposes of the amendment.

This amendment has three purposes, all designed to protect Federal, State, and local environmental controls:

First, assure that provisions of other Federal laws and Federal policies are not superseded by this act. That potential is raised by provisions in subsection (b) and (c) of section 512 which imply that other Federal laws are repealed where inconsistent with this law. My amendment removes these provisions;

Second, assure that State efforts to implement the standards, criteria, emission or effluent limitations, monitoring requirements or implementation plans required by the Clean Air Act, the Federal Water Pollution Control Act, or other Federal laws, are not compromised or otherwise made less stringent by this act.

Finally and this may be what the two Senators from Vermont are particularly interested in, it protects the option of any State or local government to adopt more restrictive controls on land use development, if they so desire, regardless of any of the policies set forth in this act.

Mr. STAFFORD. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. I yield.

Mr. STAFFORD. I want to express my appreciation, as one of the two Senators from Vermont interested in this matter, to the distinguished Senator from Maine for bringing up this amendment. I am glad he has done so. It is a good amendment to the pending legislation.

Representing Vermont, we feel that it will protect the forward-looking efforts we have made in our State.

I thank the Senator for offering his amendment and I fully support it.

Mr. JACKSON. I yield back my time.

Mr. MUSKIE. I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Maine (Mr. MUSKIE), No. 1525, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. COOK. Mr. President, I have an amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

On page 69, line 7, delete subsection C, and insert in lieu thereof: (c) The Secretary shall conduct a review of federally established or authorized interstate agencies including but not limited to river basin commissions, regional development agencies, and interstate compact comissions for the purpose of coordinating land use planning and programs in interstate areas. The Secretary shall report to the Congress the results of his review conducted under this subsection not later than 2 years after the date of enactment of this Act.

Mr. COOK. Mr. President, I should like to explain the amendment.

There is a section in the bill on page 69 of the bill which bothers me very much.

It states:

The Secretary shall conduct a review of federally established or authorized interstate agencies, including but not limited to river basin commissions, regional development agencies, and interstate compact commissions, and prepare recommendations for revision of organizational structures and improvement of procedures for the purpose of coordinating land use planning and programs in interstate areas. The Secretary shall report to the Congress the results of his review conducted under this subsection, together with his recommendations, not later than two years after the date of enactment of this Act.

Then it goes on:

Such recommendations may include proposals for either the establishment of new entities or the use of existing agencies of two or more States and the Federal Government to coordinate land use planning and programs in interstate areas:

Mr. President, I was a county judge in my community when we established the Ohio River Metropolitan Planning Commission. It took a great deal of time and effort to get the people on each side of the river and each of the respective counties and cities together, under Federal law, to establish this Ohio River Metropolitan Planning Commission.

Now we see, under this bill, that the Secretary is going to recommend all the changes, and the Secretary will say what new entities should be created.

Mr. President, I want to tell you that all of the people that we got to volunteer, the members of the county commissions, and the members of city boards, will throw up their hands and say, "Let us forget it," because the first thing they will do, if they give them the new guidelines, they will hold everything up, they will ask them to review everything, they will ask them to look into everything, they will give them new guidelines, they will give them new forms to fill out and the local agencies will just give up in

disgust, when we try to do something on an interstate basis this way.

The only thing I have taken out of here is the language that says "prepare recommendations." I have taken out the language "together with the recommendations" and I have merely said:

The Secretary shall conduct a review of federally established or authorized interstate agencies including but not limited to river basin commissions, regional development agencies, and interstate compact commissions for the purpose of coordinating land use planning and programs in interstate areas. The Secretary shall report to the Congress the results of his review conducted under this subsection not later than 2 years after the date of enactment of this act.

Mr. President, let us take a look at it. Let us decide whether we should have new guidelines, whether we should establish new procedures, or whether we should authorize the Secretary to do this, because if we authorize him to make these recommendations, the first thing they will do will be to hold up any grants, and they will hold up all the programs that are ongoing programs for the 2-year period. They will ask them to change the regulations so that it will frustrate everything that has been done on the local level.

We were told a year or so ago in our community that we had to establish a 22-county planning commission. We are finally on the road to doing it. Under this, the Secretary could say, "That is all wrong. You should not have a 22-county planning commission. You should do something else."

All of these things are now within the framework of the law. All of these things are based on ongoing programs, so that I think Senators here will agree with me that if we authorize the Secretary to say that all of the changes that now have to take place, that all of these things have to be changed, that all the guidelines have to be changed, all the local people who have been so enthusiastic about the interstate compact and in the multicounty organizations, will throw up their hands and quit.

Mr. JACKSON. Mr. President, I would say that I am prepared to accept the amendment if the Senator would modify it to strike out the word "Secretary" and insert in lieu thereof "Advisory Commission on Intergovernmental Relations." Previously in another amendment we gave that authority to the Advisory Commission on Intergovernmental Relations and this would achieve the same objective the Senator has in mind.

Mr. COOK. Mr. President, I would be delighted to modify my amendment accordingly, and I ask unanimous consent that I may do so.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. It is so modified. Will the Senator please send the modification to the desk.

Mr. COOK. Mr. President, I ask unanimous consent that the words "Advisory Commission on Intergovernmental Relations" appear where the word "Secretary" appears on the first line of the amendment and on the fifth line of the amendment.

The PRESIDING OFFICER. The amendment is so modified.

Mr. JACKSON. With that understanding I am pleased to accept the amendment, and yield back my time.

Mr. COOK. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOK) as modified.

The amendment, as modified, was agreed to.

The text of the amendment as modified is as follows:

On page 69, line 7, delete subsection C, and insert in lieu thereof:

(c) The Advisory Commission on Intergovernmental Relations shall conduct a review of federally established or authorized interstate agencies including but not limited to river basin commissions, regional development agencies, and interstate compact commissions for the purpose of coordinating land use planning and programs in interstate areas. The Advisory Commission on Intergovernmental Relations shall report to the Congress the results of its review conducted under this subsection not later than 2 years after the date of enactment of this Act.

AMENDMENT NO. 1537

Mr. JACKSON. Mr. President, I call up my amendment No. 1537 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

(1) On page 76, line 7, strike "and".

(2) On page 76, line 10, strike the period and insert in lieu thereof "; and ".

(3) On page 76, between lines 10 and 11, insert a new clause (7), as follows:

"(7) be advised by an advisory council which shall be composed of chief elected officials of local governments in urban and nonurban areas. The Governor shall appoint a chairman from among the members. The term of service of each member shall be two years. The advisory council shall, among other things, comment on all State guidelines, rules, and regulations to be promulgated pursuant to this Act, participate in the development of the statewide land use process and State land use program and make formal comments on annual reports which the agency shall prepare and submit to it, which reports shall detail all activities within the State conducted by the State government and local governments pursuant to or in conformity with this Act."

(4) On page 78, strike out lines 3 through 16, and insert in lieu thereof the following:

"(2)(A) Selection of methods of implementation of clause (1) of this subsection (b) shall be made so as to encourage the employment of land use controls by local governments.

"(B) The methods of implementation of clause (1) of this subsection (b) shall include either one or a combination of the two following general techniques—

"(i) implementation by local governments pursuant to criteria and standards established by the State, such implementation to be subject to State administrative review with State authority to disapprove such implementation wherever it fails to meet such criteria and guidelines; and

"(ii) direct State land use planning and regulation.

"(C) Any method of implementation employed by the State shall include, where necessary, the State's authority to prohibit, under State police powers, the use of land within areas which, under the State land use program, have been identified as areas of critical environmental concern or designated for key facilities, development and land use of regional benefit, large-scale development, or large-scale subdivisions, which use is inconsistent with the requirements of the State land use program as they pertain to areas of critical environmental concern, key facilities, development and land use of regional benefit, large-scale development, and large-scale subdivisions.

"(D) Any method of implementation employed by the State shall include an administrative appeal procedure for the resolution of, among other matters, conflicts over any decision or action of a local government for any area or use under the State land use program and over any decision or action by the Governor or State land use planning agency in the development of, or pursuant to, the State land use program. Such procedure shall include representation on the appeals body of, among others the aggrieved party of interest and the local government or the State government responsible for the decision or action which is the subject of the appeal."

"(5) On page 86, line 3, strike "Secretary" and insert in lieu thereof "Office of Management and Budget".

(6) On page 86, line 8, strike "Secretary" and insert in lieu thereof "Office of Management and Budget".

(7) On page 86, lines 13 through 25; page 87, lines 1 through 8, strike subsection (b) and insert a new subsection (b), as follows:

"(b)(1) Any State or local government submitting an application for Federal assistance for any activity having significant land use implications in an area or for a use subject to a State land use program in a State found eligible for grants pursuant to this Act shall transmit to the relevant Federal agency the views of the State land use planning agency and/or the Governor and, in the case of an application of a local government, the views of such local government and the relevant areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and/or title IV of the Intergovernmental Cooperation Act of 1968, as to the consistency of such activity with the porgram: *Provided*, That, if a local government certifies that a plan or description of an activity for which application is made by the local government has lain before the State land use planning agency and/or the Governor for a period of sixty days without indication of the views of the land use planning agency and/or the Governor, the application need not be accompanied by such views.

"(2) The relevant Federal agency shall, pursuant to subsections (a) and (b)(1) of this section, determine, in writing, whether the proposed activity is consistent or inconsistent with the State land use program.

"(3) No Federal agency shall approve any proposed activity which it determines to be inconsistent with a State land use program in a State found eligible for grants pursuant to this Act."

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc; and, if adopted, be treated as original text for the purpose of further amendment.

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

Mr. MAGNUSON. Mr. President, will my colleague yield for a question?

Mr. JACKSON. I yield.

Mr. MAGNUSON. Mr. President, as the Senator knows, the Senator from Nevada (Mr. CANNON) and I were going to propose an amendment on behalf of the Commerce Committee which would eliminate the airport and airway development program from the sanction provi-

sions. I understand now that the Senate has eliminated the penalty provisions and that, therefore, the so-called Cannon-Magnuson amendment would not be necessary.

Mr. JACKSON. The Senate has adopted the Hansen amendment which makes it no longer necessary to offer the amendment which we had agreed earlier to accept.

Let the legislative history show that the Senator's amendment which was to be offered would not need to be offered now. It has already been taken care of by the amendment already agreed to.

Mr. President, the purpose of this amendment—amendment No. 1537—is to clarify and strengthen the role of local governments in the land-use planning process required by S. 632. The amendment was prepared in response to questions raised by the League of Cities and the Conference of Mayors following committee action on the bill and has been endorsed by those two organizations.

The principal purposes of the amendment are to:

First, provide an advisory body to each State planning agency composed of chief elected officials of local government and charged with significant duties in the development of the State land-use programs.

Second, insure that cities have an equal voice with the States in advising Federal agencies as to the consistence of their federally assisted activities with the State land programs.

Third, encourage the employment of local land-use planning and management skills and authority. In the more innovative, recent State land-use laws the authority of local governments—the level of government closest to the people—to employ their land-use controls is reasserted. State administrative review is provided only in accordance with State guidelines relating only to those decisions on areas and uses which are indeed of more than local concern. The amendment gives a clear statement of the committee's preference for the local implementation alternative, not to direct State planning.

Fourth, provide an administrative appeals procedure to insure that local governments or citizens can appeal any decision made under the State land-use program by the State. This type of procedure is already embodied in the many State laws concerning wetlands, coastal zones, flood plains, and powerplant siting.

Mr. President, I ask unanimous consent that a letter of August 22, 1972, to me from the League of Cities and Conference of Mayors endorsing those amendments be printed in the RECORD at this point.

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

AUGUST 22, 1972.

HON. HENRY M. JACKSON,
Chairman, Senate Committee on Interior and Insular Affairs, Washington, D.C.

DEAR SENATOR JACKSON: The major concern of the National League of Cities and the U.S. Conference of Mayors throughout the development of S. 632, the Land Use Policy and Planning Assistance Act of 1972, has been the relationship of cities to the State land use planning process and program elements of S. 632. A continuing and productive dialogue has taken place between our respective staff members concerning the most effective way to build upon the strengths of local government to initiate and implement local land use plans and, at the same time, to develop and improve upon the capacity and institutional capability of State, regional and local government to initiate and implement cooperatively a land use planning process and program for matters which are of more than local significance. We understand that it is the Committee's intent, as stated in the Committee Report, that purely "local decisions should remain within the exclusive province of local officials and local citizens" and, in terms of our concerns, the important role of local government in the planning process contemplated by S. 632 has not been at issue.

It is our view that the inclusion of amendments in S. 632, as reported, which were recommended in our June 7, 1971 testimony before the Committee on this measure, together with the adoption of some amendments we have discussed in recent weeks will assure that local government will be fully involved in the planning for land uses of Statewide concern. With the adoption of these amendments, S. 632 will be a more effective tool for coordinating State and local land use activities affecting interests of more than local concern. At the same time, the primary responsibility for local land use decisions would continue to be placed in the hands of elected local officials at the level of government closest to the people.

The National League of Cities and the U.S. Conference of Mayors wish to express our appreciation to you for your leadership and cooperation in seeking a positive approach to the many complex issues involved in land use planning. We hope that this close relationship will be continued in the future on other matters of mutual interest and concern.

Sincerely,

JOHN J. GUNTHER,
Executive Director, U.S. Conference of Mayors.

Mr. JACKSON. Mr. President, this is a completely noncontroversial amendment, and I ask the Senate to support the amendment.

Mr. JORDAN of Idaho. Mr. President, it is a noncontroversial amendment. I shall support it.

Mr. JACKSON. Mr. President, I thank my colleague. I am prepared to yield back my time.

Mr. HARRY F. BYRD, JR. Mr. President, would the Senator from Washington yield for a question?

Mr. JACKSON. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. On page 5 of amendment No. 1537, it says:

> The relevant Federal agency shall . . . determine . . . whether the proposed activity is consistent or inconsistent with the State land use program.

My question is, Why should the Federal agency make that determination rather than a State agency, because it is a State land program that is involved?

Mr. JACKSON. Mr. President, if the Senator would turn to page 4 beginning on line 13, (b)(1), there has to be a submission of the application for Federal assistance before the local community would be eligible and on that application the State renders a determination as to consistency. This follows, on line 22 of page 4, the existing operating procedures that are found in section 204 of the Demonstration Cities and the Metropolitan Development Act of 1960 and/or title 4 of the Intergovernmental Cooperation Act of 1968.

Nothing new is being added. We use the existing procedures that are now available.

This amendment has the unanimous support, as I indicated earlier, of the League of Cities and Conference of Mayors. It is their amendment at their request, so that there can be greater local participation by them throughout the operation of this bill.

Mr. HARRY F. BYRD, JR. The point I am talking about has nothing to do with local participation. It says this:

> The relevant Federal agency shall . . . determine, in writing, whether the proposed activity is consistent or inconsistent with the State land use program.

It has nothing to do with the local law.

Mr. JACKSON. Mr. President, may I just say that, as a similar procedure, developed by OMB, is applied to other Federal grants, particularly those which provide funds for planning purposes. It is similar to the OMB procedure at the present time. It must go through the agencies indicated. That is why we have the language that the Senator refers to. Otherwise, we would be making a departure instead of providing that the relevant Federal agency shall determine, in writing, whether the proposed activity is consistent or inconsistent with the State land use program.

That involves the question of whether the Federal agencies are doing something in the State that would, in effect, have an adverse effect upon a matter that has been considered in the development of the State land use program.

Mr. HARRY F. BYRD, JR. That is my point. That is exactly my point. Why would not a State agency make the determination as to whether it is complying with the State program?

Mr. JACKSON. Mr. President, the State agency does make the initial determination. Then it forwards the application to the relevant agency. That is the procedure laid down by OMB at the present time. There is no change.

Mr. HARRY F. BYRD, JR. This is a proviso for an approval of the site.

Mr. JACKSON. All we are saying is that the relevant Federal agency shall pursuant to subsections (a) and (b)(1) determine in writing whether the proposed activities are consistent or inconsistent.

This gets into the problem, may I say, where, for example, the city has asked for State approval and the State is sitting on it and will not act. There is a recourse here, to go to the Federal agency.

This is what the local communities are complaining about. The local cities feel that there ought to be more direct access in that kind of a situation involving no particular problem.

Mr. HARRY F. BYRD, JR. Does the Senator mean that the cities are requesting that the Federal Government make the determination rather than the State making the determination?

Mr. JACKSON. No. As I understand

it, it has to be submitted to the State agency. But if the State sits on it, then they can get an independent determination. There is nothing new here. Similar procedures are involved in other programs—model cities, HUD 701 grants. There is no change in the law in that respect. It is not anything new or any specific change in the law.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. JACKSON. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Does anyone wish time in opposition?

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

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendments, en bloc, of the Senator from Washington.

The amendments were agreed to en bloc.

Mr. COOK. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

On page 83, line 3, after the word "program" delete all through line 17 on page 85 and insert the following, "consistent with this Act."

Mr. COOK. Mr. President, this is the last amendment that I will propose. The reason I propose this amendment is, first of all, that section (e) on page 83 states that:

(e) A State may at any time revise its State land use program: *Provided,* That such revision does not render the State land use program inconsistent with the requirements of this title: *And provided further,* That any significant revision is reported to the Secretary. The Secretary shall determine whether such revision would render the State land use program inadequate for purposes of complying with the requirements of this title, and shall inform the State of his determination.

Mr. President, in essence, this provides that if a local agency or its planning and zoning commission reevaluates a large segment of its land use plan and spends the time, energy, and funds to make a basic determination, and the State agrees with this, and it is such a change in the land use program that it is sent to the Secretary of Interior and the Secretary of Interior disagrees with it, then we are saying that a planning and zoning decision is going to be left up to the Secretary of Interior.

By the farthest stretch of my imagination I cannot possibly believe this was the intention of the committee; it was not the intention of any hearings that were held.

Further, and I find this very difficult to believe, if a State is ineligible—and obviously we have programs in our States which become ineligible every day and we ask them to refile, and we have meetings and we meet with the agency—under this bill, if it is determined by the Secretary that a particular jurisdiction is ineligible, it does not call for a refiling, and it does not call for a meeting of the minds. For the first time that this Senator can remember it calls for the Secretary of Interior to, of all things, notify the President of the United States, who appoints an ad hoc committee to determine the eligibility or ineligibility of that State.

Who is on the ad hoc committee if the State of Alaska does not comply and they are ineligible, or if the State of Kentucky does not comply and they are ineligible? They appoint a Governor from another State to sit in judgment of land use programs in the State of Washington, or the State of Idaho, or the State of Kentucky, or the State of Alaska. Along with that, they call for the appointment of a Federal official. That Federal official is going to be put in the position of either agreeing or disagreeing with the Cabinet member, because he is going to either agree or disagree with the Secretary of Interior.

The third official is picked from the two. If they cannot agree on anyone within 60 days the President of the United States picks the third. We have the President of the United States getting himself involved in the eligibility and the ineligibility of a respective State.

I might say to the distinguished Senator from Washington, the manager of the bill, and it is my understanding he is going to oppose this amendment, that he should not oppose the amendment. I will tell the Senator why. He absolutely opposed the amendment of the Senator from Maine. I voted with him that this agency should not be in the White House or under the control of the President, and it should not be an agency in the White House.

Now, we are saying in this section, once we have it in the Department of Interior, that the Department of the Interior is going to be subject to informing the President if a State is ineligible and the President is going to appoint an ad hoc committee.

My language would merely provide that a State may at any time revise the stand land use program, consistent with this act, because it is subject to review at every level, it is subject to review in relation to eligibility, and it is subject to review by HUD, the Department of Commerce, the Department of Agriculture, Defense, HEW, Transportation, Atomic Energy, the Federal Power Commission, and EPA. If that is not enough people to review eligibility or ineligibility of a State, are we saying once they have expended their energy on determination of a State land use plan that then they have to advise the President the State is ineligible and then ask the Governor of another State to stand in judgment of the Governor of your State, along with the other Federal official? I cannot conceivably imagine that this is the way to determine eligibility or ineligibility.

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

Mr. JACKSON. Mr. President, I regret I must oppose the amendment of the Senator from Kentucky. It would delete the ad hoc hearing boards established by the President to review questions of grant-in-aid eligibility. Under S. 632, as reported, no State program can be declared ineligible and no sanctions applied unless the ad hoc hearing board concurs in the judgment of the Secretaries of the Interior and HUD and the Administrator of the EPA. This provides a good check against any arbitrary action by Federal officials.

This hearing board mechanism insures fair treatment for the States and avoids the situation where penalties would be applied to the States by one or another mission-oriented agency simply because its mission is not adequately reflected in the States' programs.

The grant-in-aid program should, of course, be administered by a line agency. But, in such a major program as this, I believe an objective hearing board will insure fair treatment if it ever becomes necessary to withhold grant-in-aid funds. The Senator's amendment would deny the opportunity for objective review.

Thus, I regret that I am constrained to oppose the amendment. I do not think we should leave it all in the Department of Interior, but when we get into the dispute as to whether or not the State is in compliance, I think the ad hoc committee approach makes sense. The President would appoint a three-member commission. The President would appoint someone from one of the Federal agencies. Then from a State that has no interest in it, representing the Governor of that State, and the third——

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

Mr. JACKSON. If the Senator will permit me to finish my statement, I will be glad to yield to him.

The first two designees would submit a third impartial individual, a distinguished person. Then, if the two cannot agree on the third person, the President would name on his own a distinguished individual not connected with Government.

Mr. COOK. Did I understand the manager of the bill to say there are other programs where this is done?

Mr. JACKSON. No, I did not say that.

Mr. COOK. I thank the Senator.

Mr. JACKSON. No, sir. We are dealing with a very difficult problem. I want to provide the kind of objectivity which I think is necessary.

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

Mr. JACKSON. I yield.

Mr. BIBLE. Mr. President, I am wondering what the total Federal cost of this program will be. I do not have in mind making the grants to the States, the assistance to the States, but how much will it enlarge the Department of Interior, both in manpower and in money?

Mr. JACKSON. We, on page 44 of the report—and I am directing my remarks now to the Department of the Interior, the Federal Government——

Mr. BIBLE. That is what I am interested in. I am wondering how much this will cost.

Mr. JACKSON. The Senator is correct. On page 44 of the report, we have an estimate here of the cost, and I will read it:

In accordance with subsection (a) of section 252 of the Legislative Reorganization Act—

and so on—

1. $800 million, at $100 million annually—

That is the grant-in-aid program—

In Federal appropriations over an 8 full fiscal year period following enactment for grants to the States.

2. An additional $50 million, at $10 million annually, in Federal appropriations over a 5 full fiscal year period following enactment for administration by the Secretary of the Interior of programs under the Act.

They are rough estimates. Of course, the Senator from Nevada, as chairman of the subcommittee, knows these are rough estimates. Hopefully, we can use the existing personnel wherever possible, but there is an office set up to administer this program because it is complex. So, roughly speaking, it is $110 million with the grants.

Mr. BIBLE. One hundred ten million dollars a year with the grants.

I know these programs are also given funds with a representation that they can do this with the present staff, but it never works out that way, as the Senator very well knows. They will first have an assistant secretary. Then he will need a secretary. Then he will need a deputy assistant secretary. Then he will need a program analyst. Then he will need an economic adviser.

I am wondering what the scope of this program will be when it will come before the Interior Appropriation Subcommittee. Does the Senator have any idea of the range of add-ons to the Interior Department as it is constituted now?

Mr. JACKSON. If the Senator will refer now to page 21 of the report, subsection (d), first, at the higher level, as I understand it, there will be no new secretaries. Assistant Secretary Larson will be in charge of this program. On a regional basis, they will be using existing regional authority that has already been established. The regional officers will be responsible for field duties. But, reading from the report, on page 21, subsection (d):

The Act would be administered by the Secretary of the Interior, through a newly created Office of Land Use Policy Administration. He would be assisted in the review of State land use programs by the heads of other Federal agencies which have programs with significant land use impacts and by the Secretary of Housing and Urban Development, in particular. A National Advisory Board on Land Use Policy.

And so forth, would be appointed.

I understand, according to the total number we have been given, that 25 to 50 professional staff members would be involved in the program.

Mr. BIBLE. Does that include the ad hoc committee? The President appoints the representative from the public. How much does that ad hoc member get?

Mr. JACKSON. It would be very small. It would be just exactly that——

Mr. BIBLE. When actually employed.

Mr. JACKSON. I assume that would be on a per diem basis.

Mr. BIBLE. One hundred dollars per day, or something like that? I think that is the standard.

Mr. JACKSON. It is $150 a day, I believe.

Mr. BIBLE. I am just trying to find the range of this program. The Senator from Washington has been here far longer than I have. He knows these programs have a habit of mushrooming year after year after year. But the Senator's considered judgment is that, as far as the Department of the Interior is concerned, there will be only a $10 million annual increase in its budget?

Mr. JACKSON. I would hope they would stick to that. There is no reason in the world why they cannot, because with the personnel they have, some of them can do a little extra work. They are trained. They are there. I would hope—and I would like this legislative history to show—that they would not exceed that figure of $10 million.

Mr. BIBLE. We are making this legislative history. I share that same hope, but I find that it never works out that way. As chairman of the District of Columbia Subcommittee—and I see present my distinguished friend from Hawaii, who understands how these programs mushroom—first we put in a provision providing for automobiles, and then the chauffeurs have to go with the automobiles, and then we provide patrol boats, and captains have to go with the patrol boats. I do not want to see this kind of mushrooming in this legislation. I am wondering about the range of this proposal.

To recapitulate, it is the hope of the Senator—and I share that hope—that it will not exceed $10 million annually. That is what my understanding is of the Senator's statement.

Mr. JACKSON. The Senator is correct.

Mr. BIBLE. And that includes money for the ad hoc committee?

Mr. JACKSON. Yes. Although the expenses of the ad hoc hearing boards are to be paid by the Executive Office of the President, I would think the total administrative expenses under S. 362 would not exceed $10 million, knowing, of course, that the ad hoc hearing board would not likely come into being until after a lapse of 5 years. That is when the program really gets underway. This is 5 years we are talking about in connection with the ad hoc hearing board.

I have great faith in the ability of the Senator from Nevada, who has been chairman of the Appropriations Subcommittee for some time, and who is the ranking member of the Interior Committee, to deal very effectively with this matter, and I hope he does.

Mr. BIBLE. I hope the Senator's hopes are right. If the Senator will lend his aid and comfort and come in as one of the star witnesses at the time we have the first hearing, I would appreciate that. If they exceed that amount, I will feel at liberty to call on him, if they go beyond the bounds—and the very careful bounds—he has gone into here.

Mr. JACKSON. I will cooperate as far as possible.

Mr. COOK. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 8 minutes.

Mr. COOK. I yield myself such time as I may need.

I listened to the explanation of the chairman of the committee on the ad hoc committee. I would like to give Members of the Senate an example of how ridiculous this is. Let us assume the Secretary of the Interior makes a determination that Governor Shapp, of Pennsylvania, is ineligible to receive planning funds under this bill. He reports to the President of the United States that Pennsylvania is ineligible, so the President decides that he will designate an ad hoc committee. So the first thing he does is pick Governor Reagan of California as a member of the ad hoc committee. Then, he has just taken George Romney over into the White House from HUD to be one of his assistants. So he picks George Romney to be the second Federal official. They cannot get together to decide who the third member of the ad hoc committee should be, and the President has to pick the third one. So he picks Mayor Rizzo of Philadelphia.

How long do Senators think Pennsylvania is going to be ineligible to get funds under the decision of the ad hoc committee that is going to stand in judgment?

I never heard anything as ridiculous as this. As a matter of fact, if this is sustained by the Senate, then we ought to amend the OEO bill, we ought to amend the HEW bill, we ought to amend every Government program that requires extension of funds to the States to have an ad hoc committee so that when a Secretary decides that a State is ineligible, we ought to see to it that the Governor of another State stands in judgment of the Governor of the State that is ineligible and the ad hoc committee will stand in judgment of the Cabinet member who makes the decision that the State is ineligible. And then there is a disinterested third party.

What in the world are we really coming to? For the life of me, I cannot understand the logic of this language. If somebody could really explain it to me, I would like to know why it is necessary in this bill and why, if it is necessary in this bill, it is not therefore necessary in every other bill in which we make a determination that a State program is either eligible or ineligible. This Senator would certainly be enlightened then, but I must state that when we say to the respective 50 Governors, or 49, that another Governor of a State is going to stand in judgment over another Governor, I want to see what situation we will have the first time the Governor of a State looks at that program and says, "Well, that Governor sure as hell does not know what he is talking about." That is going to start a row on that ad hoc committee.

This amendment is intended to do exactly what I said—to get rid of a Government ad hoc committee that is going to stand in judgment of a Cabinet committee, that is going to stand in judgment of another Governor, and then have a third individual who may or may not be agreed on by the original two, and, if he is not agreed on, then he also will be selected by the President of the United States.

Mr. JACKSON. Madam President, will the Senator yield?

Mr. COOK. I yield.

Mr. JACKSON. I have great admiration for the Senator from Kentucky, as he knows. He made a point here that I think ought to be responded to, and that is that among the protective provisions we have in our bill is one that deals with the situation in which one agency of the Federal Government could take arbitrary and capricious action.

I would point out to my good friend that the Governors Conference——

Mr. COOK. Arbitrary and capricious action is the result of lawsuits by States against Federal agencies every day, where that determination can be made.

Mr. JACKSON. But what I am trying to say is that my provision in the bill is one which the Conference of Governors supports.

Mr. COOK. But may I say to the Senator——

Mr. JACKSON. I put it there to protect the States so that no one agency can take arbitrary action.

Mr. COOK. The Senator may think that is all right, because the Governors approve of it, but let me tell the Senator where the Governors are going to get their land use plans, because none of them have land use commissions like the respective localities at the State level. The State of Massachusetts does not have a planning commission that is as good as the planning commission of the city of Boston. They are going to get their land use plans from the submissions of the respective cities in the respective States. That is the program they are going to use. The State of Kentucky does not have the money to provide a full use program to the city of Lexington, the city of Louisville, or the city of Jeffersonville. They are going to ask those cities to submit their plans to them, and that is the plan that will stand in judgment under the Senator's bill.

Mr. JACKSON. Does not the Senator think there at least is some deterrent in connection with action that would be taken by a single agency, which could be adverse to a State, when the head of that agency knows if he makes an adverse move there is a right of appeal which exists here, and the President can appoint a three-man board?

Mr. COOK. I can only say to the Senator that that ought to apply in every agency we have that is an independent agency or an independent department, that makes in fact a grant to a given State or a given locality. That now is left to the subjective judgment of that agency, and that agency alone.

Mr. JACKSON. Maybe this is a good beginning. So I would hope the Senator would withdraw his amendment.

Mr. COOK. I would only say to the Senator from Washington that if that is what he is saying, it is a good beginning, that our grants are now held up long enough, and if he provides this ad hoc committee, our grants will be held up twice as long.

Mr. JACKSON. Madam President (Mrs. EDWARDS), all I want to say is that I am trying to help the Governors and the 50 States, so that there can be at least a partial review, and the Secretary of the Interior will know that there will be an option, and the States can make an appeal and ask the President to appoint a three-man ad hoc commission to make the final decision.

Mr. COOK. I doubt seriously that the Senator would be helping the Governor of Pennsylvania one iota if the Governor of California and the Governor of Washington were to stand in judgment on his plans.

Mr. JACKSON. Madam President, I am prepared to yield back the remainder of my time.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. JACKSON. I yield.

Mr. HARRY F. BYRD, JR. In page 93, the bill says:

> Each joint committee shall include representatives of the Federal agencies having jurisdiction over the Federal lands involved, representatives of affected user groups, including recreation and conservation interests, and officials of affected State agencies and units of local government.

What size committee does the Senator from Washington envision?

Mr. JACKSON. May I say to the Senator from Virginia that this is an entirely different matter. This relates to the problem where you have, as especially in the West, very large Federal landholdings, and you have in effect here a special arrangement in which the burden of our effort is to try to get the States not to undertake a land use program that will be adverse to the existing Federal program, and we want the Federal Government to avoid undertaking programs that would be adverse to the States. This refers to the ad hoc Federal-State joint committees which would feature only in that area where we have very large Federal landholdings, which can result in a use that would be incompatible with that of the States, and vice versa.

Mr. HARRY F. BYRD, JR. One other question. On page 94——

Mr. JACKSON. The amendment of the Senator from Kentucky, of course, does not affect this at all.

Mr. HARRY F. BYRD, JR. Well, on page 94 it cites compensation at a rate of $100 a day for the joint committee members, and then on page 85 it cites a rate of $150 a day for members of hearing boards. Why would they not be at the same rate, and is it not true that $100 is the normal rate?

Mr. JACKSON. The $150 a day per diem, I am advised, pertains to the standard fee in an arbitration situation, and the $100 per day is for persons serving in an advisory capacity. We have been following the standard——

Mr. HARRY F. BYRD, JR. The $150 a day does not set a precedent, then?

Mr. JACKSON. No. The statute conforms to existing precedents: $150 where arbitrators are involved and $100 for advisers.

The PRESIDING OFFICER (Mrs. EDWARDS). All time on the amendment is expired.

Mr. COOK. Madam President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Kentucky (Mr. COOK). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Wyoming (Mr. MCGEE), and the Senator from Iowa (Mr. HUGHES) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS) would vote "yea."

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 24, nays 54, as follows:

[No. 454 Leg.]

YEAS—24

Allen	Dole	Roth
Bennett	Eastland	Schweiker
Brooke	Ervin	Scott
Byrd, Harry F., Jr.	Griffin	Smith
Cook	Gurney	Spong
Cooper	Hruska	Taft
Cotton	Jordan, N.C.	Talmadge
Curtis	Pearson	
	Percy	

NAYS—54

Aiken	Hansen	Mondale
Anderson	Harris	Montoya
Bayh	Hart	Muskie
Beall	Hartke	Nelson
Bentsen	Hatfield	Packwood
Bible	Hollings	Pastore
Burdick	Humphrey	Proxmire
Byrd, Robert C.	Inouye	Randolph
Case	Jackson	Ribicoff
Chiles	Jordan, Idaho	Saxbe
Church	Kennedy	Stafford
Cranston	Long	Stevens
Eagleton	Magnuson	Stevenson
Edwards	Mansfield	Symington
Fannin	Mathias	Tunney
Fong	McClellan	Weicker
Fulbright	McIntyre	Williams
Gambrell	Miller	Young

NOT VOTING—22

Allott	Goldwater	Mundt
Baker	Gravel	Pell
Bellmon	Hughes	Sparkman
Boggs	Javits	Stennis
Brock	McGee	Thurmond
Buckley	McGovern	Tower
Cannon	Metcalf	
Dominick	Moss	

So Mr. COOK's amendment was rejected.

AMENDMENT NO. 1532

Mr. JORDAN of Idaho. Madam President, I call up my amendment 1532.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

(a) Page 103, line 21, strike "ninety" and insert in lieu "sixty-six and two-thirds".

(b) Page 103, line 23, strike "five" and insert in lieu "two".

(c) Page 104, line 1, strike "two-thirds" and insert in lieu "one-half".

(d) Page 104, line 2, after "programs" insert "for the next three fiscal years".

(e) Page 106, line 8, strike "eight" and insert in lieu "five".

(f) Page 106, line 11, strike "$100,000,000 annually" and insert in lieu "$40,000,000 for each of the first two fiscal years and $30,000,000 for each of the next three fiscal years".

Mr. JORDAN of Idaho. Madam President, for the benefit of Senators who are still in the vicinity, I intend to use only about 4 minutes.

I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. JORDAN of Idaho. Madam President, this amendment would reduce authorized funding from $100 million annually for 8 years to $40 million annually for the first 2 years and $30 million annually for the next 3 years. The amendment also would reduce the Federal share of the total costs from 90 percent during the first 5 years and 66⅔ percent thereafter to 66⅔ percent during the first 2 years and 50 percent thereafter.

Important as the goal of land use planning is, it is realistic to ask "How much Federal money can be absorbed meaningfully at this time?" and "What level of expenditure can the States be asked to contribute?"

We have had too many painful examples of new programs which, for political reasons, were funded beyond their ability to produce real results.

There is in my view a real danger that an overfunded land use planning program could simply generate more mountains of meaningless data of no real relevance to any practical problems. We already have reams of beautiful comprehensive plans for this city and that city which are simply gathering dust in a library because there is no mechanism available through which they can be implemented.

The problems of accommodating in a single comprehensive land use plan the needs and desires of a large heterogeneous population both today and 50 years or more down the road is obviously enormous. And for the most part, we are groping in the dark for ways of solving it.

Therefore we should be cautious about taking big steps in unchartered directions. I feel that the lower level of funding proposed by the administration—and this is an administration proposal—is more appropriate. It is based, I am told, on their survey of current State planning efforts.

In view of the recent Senate action approving revenue sharing with the States, I feel that these proposal allowances are adequate and deserve the support of this body.

Moreover, Madam President, it seems to me that we do not have to anticipate 8 years in advance what the cost of the program might be. Although I shall not be here, I assume that Congress will meet annually.

I yield the floor and reserve the remainder of my time.

Mr. JACKSON. Madam President, I am opposed to the amendment. I regret to oppose any amendment offered by the distinguished Senator from Idaho (Mr. JORDAN).

I want to take this opportunity to express my appreciation to him for the wonderful role he has played and the help he has rendered in steering this bill through the Senate yesterday and today. I am most appreciative.

Madam President, first, the amendment would reduce the authorization under the bill from 8 years to 5 years. As a result, the grant program would terminate before the States could even begin to implement their programs.

The very purpose of this act is to encourage the States to implement and not just develop State land use programs.

Second, the amendment would reduce Federal sharing from 90 percent to 66 percent at the beginning and, later, reduce it to 50 percent.

Madam President, I believe that if we can provide 90 percent of funding for single purpose highway planning, we can provide a similar share to stimulate balanced planning.

Finally, the amendment would reduce Federal grant money to the States from $100 million to $40 million.

Madam President, I hope that the amendment will be rejected.

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

Mr. JACKSON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. FANNIN). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Idaho (No. 1532).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Iowa (Mr. HUGHES), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Delaware (Mr. BOGGS) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 44, nays 35, as follows:

[No. 455 Leg.]

YEAS—44

Aiken	Ervin	Muskie
Allen	Fannin	Pearson
Anderson	Fong	Percy
Beall	Gambrell	Proxmire
Bennett	Griffin	Roth
Bible	Gurney	Saxbe
Byrd, Harry F., Jr.	Hansen	Scott
	Harris	Smith
Chiles	Hatfield	Spong
Cook	Hruska	Stafford
Cooper	Jordan, N.C.	Taft
Cotton	Jordan, Idaho	Talmadge
Curtis	McClellan	Thurmond
Dole	McIntyre	Weicker
Eagleton	Miller	Young

NAYS—35

Bayh	Hartke	Nelson
Bentsen	Hollings	Packwood
Brooke	Humphrey	Pastore
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Case	Kennedy	Schweiker
Church	Long	Stevens
Cranston	Magnuson	Stevenson
Eastland	Mansfield	Symington
Edwards	Mathias	Tunney
Fulbright	Mondale	Williams
Hart	Montoya	

NOT VOTING—21

Allott	Dominick	Metcalf
Baker	Goldwater	Moss
Bellmon	Gravel	Mundt
Boggs	Hughes	Pell
Brock	Javits	Sparkman
Buckley	McGee	Stennis
Cannon	McGovern	Tower

So the amendment of Mr. JORDAN of Idaho was agreed to.

Mr. JORDAN of Idaho. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COTTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TUNNEY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 77, line 20, strike the word "and";

On page 78; line 2, strike the period and insert in lieu thereof a semicolon and the word "and";

On page 78, between lines 2 and 3, insert the following:

"(I) conducting a coordinated management program for the land and water resources of any coastal zone within the state in accordance with existing or then applicable federal or state law."

Mr. TUNNEY. Mr. President, this amendment would assure that State land use programs include provision for conducting of a management program for land and water resources of any coastal zone.

As many Members of the Senate know, the California's coastline is perhaps its single most valuable natural resource. The bulk of the State's population is concentrated within a few miles of the sea and its impact upon the way of life of California citizens is tremendous.

Many other States are in similar situations—the Atlantic coast, the gulf coast, the Great Lakes and the State of Alaska—all have a major part of their future linked with the preservation and rational management of coastal zones.

But in California and elsewhere, the coastline is shrinking rapidly as demand for its values increases and as public access to attractive frontage decreases. Undeveloped shoreline can no longer be regarded as ordinary real estate subject to residential or commercial-industrial development.

In California and other States, the coastal and seaward areas must be protected for present and future generations. This amendment would assure that States include within their land use planning processes provision for the development and coordinated implementation of a management program for the land and water resources of any coastal zone.

The Senate has already acted favorably on legislation to encourage development of such management programs. This amendment would strengthen our efforts to preserve coastal zones by adding a provision in the section setting for the criteria for State land use programs to require a coastal zone management program pursuant to the legislation presently in conference, the Magnuson Coastal Zone Management Act, S. 3507.

The criteria for such management programs are set forth in section 305(b) of that bill.

Mr. President, I cannot overemphasize the importance of including such management programs in land use programs carried out in States such as California.

Recently the Institute of Governmental Studies at the University of California at Berkeley published a book entitled "California's Disappearing Coast: A Legislative Challenge" by Gilbert E. Bailey and Paul S. Thayer.

The book summarizes the condition of California's coastline as follows:

Today—a quarter of the 1,000 mile coastline—from the Mexican border to Santa Barbara—is already largely occupied by cities, suburbs, industries, military bases, power plants, sewage discharge pipes, tract homes and high-rise blockades of buildings interposed between the coast and the people. From Monterey to coastal areas north of San Francisco the story is much the same. Beaches are posted because of contamination and fish catches are seized because of mercury and DDT poisoning.

Some reaches of the coast, from Morro Bay north to Monterery and Marin County to the Oregon border, are still relatively untouched. . . .

But much of this is private ranchland, and at the moment there is absolutely no assurance it will escape the fate of other private ranchland that. for example, could be found in the Santa Clara Valley 25 years ago.

By adding this provision, we can assure that the program we have already voted to create by passing S. 3507 occupies the position of importance which is required in States such as my home State of California. I think it would be most unfortunate if we enact this bill without including the kind of coordinating language which I am proposing.

The programs to be administered by the Secretary of Commerce under the coastal zone bill are of utmost importance in any land use program in California and they are clearly not in conflict with any part of the bill before us today.

Nothing contained in this amendment is intended to restrict in any way the jurisdiction of the Secretary of Commerce to administer the programs envisioned by S. 3507. It simply provides a mechanism for assuring that coastal States deal with the problems of preserving coastal zones.

Mr. HOLLINGS. Mr. President, the distinguished Senator from California has been a leader in the development of coastal zones. I have discussed the amendment with him. It is complementary to S. 3507 which has previously passed the Senate. I understand that the manager of the bill will go along with the amendment.

Mr. President, I support this amendment to the land-use bill. It firmly establishes the will of the Senate that should land-use management take effect, the States, in order to continue to qualify for eligibility, must also have control zone management programs.

In the case of coastal States, this means that these States must establish programs under the Magnuson National Coastal Zone Management Act of 1972, S. 3507, when that bill becomes law. This bill presently is in conference between the House and Senate, and approval of a final version is anticipated before adjournment of the 92d Congress.

Mr. President, the Magnuson Coastal Zone Management Act creates a separate program for the coastal zones of the United States, apart from the national land-use program. The coastal zone program will be administered by the Secretary of Commerce through the National Oceanic and Atmospheric Administration—NOAA. NOAA is this Nation's leading agency containing the scientific expertise and experience to protect, preserve and enhance the waters of the coastal zone.

I am pleased that this program will be able to effectively help the States protect the valuable resources of the coastal zones. Moreover, I believe it is important that in creating statewide management programs the States not ignore their coastal zones. At the same time, I believe it is important to reinforce at this time the will of the Senate that the Secretary of the Interior coordinate and communicate with the States and the Secretary of Commerce in overall land-use programs. I am sure the Secretary of Commerce will be anxious to work with the Secretary of the Interior to make certain that their respective programs, coastal zone management and land-use management, do not overlap or cause duplication. Cooperation between these agencies is essential to achieve the overall goal of protecting all land in this Nation, as well as the vital living organisms of our coastal waters. There has been much talk that we do not need two separate programs in the field of land-use management. Just the opposite is true. The needs of the coastal zone are far more sensitive and unique, and, as such, deserve special treatment and attention. NOAA, within the Department of Commerce, is the agency to do the job on this matter, and I am pleased that my colleagues in the Senate are in full agreement.

Mr. JACKSON. Mr. PPresident, I support the amendment. As I understand it, the amendment does involve the Coastal Zone Management Act which the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Washington (Mr. MAGNUSON) authored, and they are in agreement with the language of the Senator's amendment.

In light of that statement I am pleased to accept the amendment.

I yield back the remainder of my time.

Mr. TUNNEY. I yield back the remainder of my time.

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

The amendment was agreed to.

Mr. JACKSON. Mr. President, I offer my technical and conforming amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

viz: On page 57, line 20, after "including" and before "but' 'insert a comma ".".

2. On page 57, line 20, after "to" and before "facilities" insert a comma",".

3. On page 57, lines 21 and 22, strike "because of unresolved land use questions,".

4. On page 58, line 8, strike "between" and insert in lieu thereof "among".

5. On page 58, line 9, strike "between" and insert in lieu thereof "among."

6. On page 58, line 10, strike "and thereby subsidize" and insert in lieu thereof "thereby subsidized".

7. On page 60, line 7, strike the comma ",".

8. On page 61, line 19, strike "enchancing" and insert in lieu thereof "enhancing".

9. On page 62, line 24, strike "an" and insert in lieu thereof "and".

10. On page 66, line 15, strike "prsuant" and insert in lieu thereof "pursuant".

11. On page 66, line 18, after "advice" and before "to" insert ", pursuant to section 502,".

12. On page 68, lines 18 and 19, strike "such States which possess" and insert in lieu thereof "States possessing".

13. On page 68, line 22, after "programs" and before "to" insert "in interstate areas".

14. On page 69, line 8, after "including" and before "but" insert a comma ",".

15. On page 69, line 9, after "to" and before "river" insert a comma ",".

16. On page 69, lines 12 and 13, strike "for the purpose of coordinating" and insert in lieu thereof "to coordinate".

17. On page 71, line 8, strike "for review" and insert in lieu thereof a comma ",".

18. On page 74, line 7, after "with" and before "the", insert a comma ",".

19. On page 74, line 9, strike "establishments" and insert in lieu thereof "establishment".

20. On page 74, line 11, after "governments" and before "with" strike "and".

21. On page 74, lines 15 and 16, strike "the programs and services of all State and local agencies significantly affecting land use" and insert in lieu thereof "all State and local agency programs and services which significantly affect land use".

22. On page 74, line 19, strike "State" and insert in lieu thereof "statewide".

23. On page 76, line 17, strike "proc-" and insert in lieu thereof "pro-".

24. On page 76, line 18, strike "ess" and insert in lieu thereof "cess".

25. On page 78, lines 10 and 11, strike "to approve or disapprove" and insert in lieu thereof "of approval or disapproval".

26. On page 80, line 13, strike "-3".

27. On page 80, line 15, strike "-4".

28. On page 80, line 24, after "and" and before "all" insert "of".

29. On page 81, line 11, after "and" and before "all" insert "of".

30. On page 82, line 13, strike "Pudsuant" and insert in lieu thereof "Pursuant".

31. On page 83, line 5, strike "title" and insert in lieu thereof "Act."

32. On page 83, line 9, strike "title" and insert in lieu thereof "Act".

33. On page 84, line 15, strike "title" and insert in lieu thereof "Act".

34. On page 86, line 1, strike "exception" and insert in lieu thereof "except in".

35. On page 88, line 5, after "use" and before "taking" insert a comma ",".

36. On page 89, line 16, strike "2" and insert in lieu thereof "g".

37. On page 91, line 18, strike the semicolon ";" and insert in lieu thereof a comma ",".

38. On page 94, line 19, after "of" and before "and" insert a comma ",".

39. On page 100, line 9, strike "and" and insert in lieu thereof a comma ",".

Mr. JACKSON. Mr. President, this is a technical and conforming amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections and conforming changes in any technical amendment and elsewhere in the engrossment of the bill to reflect the amendments adopted during the last 2 days.

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

Mr. JACKSON. Mr. President, I should like to recognize the solid support of the Senator from Maryland (Mr. MATHIAS) on this legislation. The Senator from Maryland introduced his own national land use policy bill—S. 2554. Many of the provisions of S. 632 as reported are similar to those found in S. 2554. I particularly appreciated his strong belief in the need for full participation by local governments in the programs funded under this act.

Mr. GAMBRELL. Mr. President, with all due respect to the distinguished Senator from Washington (Mr. JACKSON), the manager of this bill, and acknowledging the high and meritorious purpose which I am sure he has in mind in sponsoring this legislation, and acknowledging that a number of the objections which I had to the bill have been cured by amendments which have been added on the floor, I must vote against it.

The adoption of the amendment of the Senator from Idaho (Mr. JORDAN), seducing the authorized spending under the bill is recognition that many members of this body have serious misgivings concerning the desirability of a program in this form.

In my judgment, the bill in the form finally presented for passage is still one of the most pervasive delegations of governmental authority in the history of this country, which can only result in a field day for bureaucratic meddling and arrogance.

Beyond that, the enactment of this bill will be an open invitation to widespread speculation and boondoggling affecting every square inch of land in all 50 States plus the District of Columbia and all Federal territories and jurisdictions. Even with the so-called safeguard built into the legislation, it is nothing more nor less than a national planning and zoning program, without any real experience, and without any legislative guidelines to give it direction and a degree of certainty of result.

As far as I can recall, nearly every candidate for city council, alderman, county commissioner, or other local office with planning and zoning authority, in communities in which I have lived, has campaigned on a plank to "take the politics out of zoning." This has never been done as a matter of practice, and in fact, planning and zoning becomes more "political" all the time, with a history of bribery, influence peddling, speculation, and scandal of various sorts.

To give a few examples of the problems which I contemplate, I will cite section 305b(2), and section 305f(1)(a), wherein the Secretary of Housing and Urban Development, and "an ad hoc hearing board" are given review authority over the Secretary of the Interior in determining compliance with the act. These arrangements merely compound the encroachment upon local authority, and the opportunities for abuse, arrogance, and muddled policymaking. What is needed is not a political review of the governing authority's decisions, but statutory guidelines for him to follow.

In order that my purpose in opposing this legislation will not be misunderstood, may I state that I strongly support a system of national planning sensitive to the considerations contemplated by the legislation. I am happy to report that, according to my understanding, my own State of Georgia has the most advanced system of State and local planning of any State in the Union. Georgia is more widely covered by area planning and development commissions than is any other State, and the Governor of Georgia, who is a former president of the State planning association, has implemented a State planning department which is second to none in the country. These State and local agencies are operating in near perfect harmony with the many Federal agencies concerned with planning and conservation. In our State, we have an intensive program of environmental protection, and I doubt if there is any other State which exceeds Georgia in the number and importance of our "areas of critical environmental concern." We have an abundance of clean air, open space, protected water and wildlife resources, as well as an enormous potential for commercial, industrial, recreational and environmental development. All of this is the heritage of Georgia's people, which we are willing to share with others. We are willing to accept Federal assistance in developing these resources, and, no doubt to accept Federal guidelines and standards so long as we are made aware of them in advance. However, with all due respect, we are far enough down the road in this area that our people are not interested in Federal bureaucratic meddling, at least until that bureaucracy recognizes our achievements and goals, and catches up with us in terms of implementation.

I would be inclined to support Federal legislation which furnished Federal financial assistance for the development of State and local planning agencies, with standards and guidelines as to the mechanics to be employed. In this same connection, I would support the creation of a Federal agency with authority to designate areas of national environmental concern, areas of regional developmental concern, and to promulgate national guidelines and standards for the development of such areas as well as for the development of "large scale subdivisions," "land use of regional benefit," and major governmental and commercial facilities.

The experience and product of such an agency, working in cooperation with State and local planning and development agencies, would surely produce many of the beneficial objectives which the present legislation seeks to achieve. And ultimately, the product of this agency, and its experience, might result in guidelines and regulations which could be made mandatory by Federal law. However, I am alarmed by legislation which would both create such an extensive bureaucracy, and also empower it to

develop guidelines and regulations through on-the-job training.

Mr. President, as an expression of concern for our national shortcomings in the area of local, regional, and national planning, and of alarm over the misuse and abuse which we have inflicted upon our natural and environmental heritage, I would support this bill. But as an ill-considered proposal to be enacted in the law, I must oppose it.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Iowa (Mr. HUGHES), the Senator from Wyoming (Mr. MCGEE), and the Senator from Mississippi (Mr. STENNIS) are absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS) and the Senator from Arizona (Mr. GOLDWATER) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. ROTH) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Colorado (Mr. DOMINICK), and the Senator from Delaware (Mr. ROTH) would each vote "yea."

On this vote, the Senator from Colorado (Mr. ALLOTT) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Texas would vote "nay."

The result was announced—yeas 60, nays 18, as follows:

[No. 456 Leg.]

YEAS—60

Aiken	Fulbright	Mondale
Anderson	Griffin	Montoya
Bayh	Gurney	Nelson
Beall	Hansen	Packwood
Bennett	Hart	Pastore
Bentsen	Hartke	Pearson
Bible	Hatfield	Percy
Brooke	Hollings	Randolph
Burdick	Hruska	Ribicoff
Byrd, Robert C.	Humphrey	Schweiker
Case	Inouye	Scott
Church	Jackson	Smith
Cook	Jordan, Idaho	Stafford
Cooper	Kennedy	Stevens
Cranston	Magnuson	Stevenson
Chiles	Mansfield	Symington
Curtis	Mathias	Taft
Dole	McClellan	Tunney
Fannin	McIntyre	Williams
Fong	Miller	Young

NAYS—18

Allen	Ervin	Saxbe
Byrd, Harry F., Jr.	Gambrell	Spong
	Harris	Talmadge
Cotton	Jordan, N.C.	Thurmond
Eagleton	Long	Weicker
Eastland	Muskie	
Edwards	Proxmire	

NOT VOTING—22

Allott	Goldwater	Mundt
Baker	Gravel	Pell
Bellmon	Hughes	Roth
Boggs	Javits	Sparkman
Brock	McGee	Stennis
Buckley	McGovern	Tower
Cannon	Metcalf	
Dominick	Moss	

So the bill (S. 632) was passed, as follows:

S. 632

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 "Land Use Policy and Planning Assistance Act of 1972".

TITLE I—FINDINGS, POLICY, AND PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that there is a national interest in a more efficient system of land use planning and decisionmaking and that the rapid and continued growth of the Nation's population, expanding urban development, proliferating transportation systems, large-scale industrial and economic growth, conflicts in patterns of land use, fragmentation of governmental entities exercising land use planning powers, and the increased size, scale, and impact of private actions, have created a situation in which land use management decisions of wide public concern often are being made on the basis of expediency, tradition, short-term economic considerations, and other factors which too frequently are unrelated or contradictory to the real concerns of a sound national land use policy.

(b) The Congress finds that the task of land use planning and management is made more difficult by the lack of understanding of, and the failure to assess, the land use impact of Federal, regional, State, and local programs and private endeavors which do not possess or are not subject to readily discernible land management goals or guidelines; and that a national land use policy is needed to develop a national awareness of, and ability to measure, the land use impacts inherent in most public and private programs and activities.

(c) The Congress finds that adequate data and information on land use and systematic methods of collection, classification, and utilization thereof are either lacking or not readily available to public and private land use decisionmakers; and that a national land use policy must place a high priority on the procurement and dissemination of useful land use data.

(d) The Congress finds that a failure to conduct competent land use planning has, on occasion, resulted in delay, litigation, and cancellation of proposed significant development, including, but not limited to, facilities for the development, generation, and transmission of energy, thereby too often wasting human and economic resources, creating a threat to public services, and invoking decisions to locate activities in areas of least public and political resistance, but without regard to sound environmental, economic, and social land use considerations.

(e) The Congress finds that many Federal agencies conduct or assist activities which have a substantial impact on the use of land, location of population and economic growth, and the quality of the environment, and which, because of the lack of a consistent land use policy, often result in needless, undesirable, and costly conflicts among the Federal agencies and among Federal, State, and local governments, thereby subsidizing undesirable and costly patterns of development; and that a concerted effort is necessary to coordinate existing and future Federal policies and programs and public and private decisionmaking in accordance with a national land use policy.

(f) The Congress finds that while the primary responsibility and constitutional authority for land use planning and management of non-Federal lands rests with State and local government, the manner in which this resposibility is exercised has a tremendous influence upon the utility, the value, and the future of the public domain, the national parks, forests, seashores, lakeshores, recreation and wilderness areas, wildlife refuges, and other Federal lands; and that the failure to plan or, in some cases, the existence of poor or ineffective planning at the State and local levels poses serious problems of broad national or regional concern and often results in irreparable damage to commonly owned assets of great national importance.

(g) The Congress finds that, because the land use decisions of the Federal Government, including those concerning the Federal lands, often have a significant impact upon statewide and local environments and patterns of development, a national land use policy ought to take into consideration the needs and interests, and invite the participation of, State and local governments and members of the public.

(h) The Congress finds that Federal, regional, State and local decisions and programs which establish or influence the location of land uses often determine whether people of all income levels and races have or are denied access to decent shelter, to adequate employment, and to quality schools, health facilities, police and fire protection, mass transportation, and other public services; and that such decisions and programs should seek to provide the maximum freedom and opportunity, consistent with sound and equitable land use planning and management standards, for all citizens to live and conduct their activities in locations of convenience and personal choice.

DECLARATION OF POLICY

SEC. 102. (a) To promote the general welfare and to provide full and wise application of the resources of the Federal Government in strengthening the environmental, recreational, economic, and social well-being of the people of the United States, the Congress declares that it is a continuing responsibility of the Federal Government, consistent with the responsibility of State and local government for land use planning and management, to undertake the development and implementation of a national land

use policy which shall incorporate environmental, esthetic, economic, social, and other appropriate factors. Such policy shall serve as a guide for national decisionmaking in Federal and federally assisted programs which have land use impacts and in programs which affect the pattern of uses on the Federal lands, and shall provide a framework for the development of State and local land use policies.

(b) The Congress further declares that it is the national policy to—

(1) favor patterns of land use planning, management, and development which are in accord with sound environmental, economic, and social values and which encourage the wise and balanced use of the Nation's land resources;

(2) assist State governments to develop and implement land use programs for non-Federal lands which will incorporate environmental, esthetic, economic, social, and other appropriate factors, and to develop a framework for the formulation, coordination, and implementation of State and local land use policies;

(3) assist the State and local governments to improve upon their present land use planning and management efforts with respect to areas of critical environmental concern, key facilities, development and land use of regional benefits, and large scale development;

(4) facilitate increased coordination in the administration of Federal programs and in the planning and management of Federal lands and adjacent non-Federal lands so as to encourage sound land use planning and management; and

(5) promote the development of systematic methods for the exchange of land use, environmental, economic, and social data and information among all levels of government.

(c) The Congress further declares that intelligent land use planning and management can and should be a singularly important process for preserving and enhancing the environment, encouraging beneficial economic development, and maintaining conditions capable of improving the quality of life.

PURPOSE

SEC. 103. It is the purpose of this Act—

(a) to establish a national policy to encourage and assist the several States to more effectively exercise their constitutional responsibilities for the planning and management of their land base through the development and implementation of State land use programs designed to achieve economically and environmentally sound uses of the Nation's land resources;

(b) establish a grant-in-aid program to assist State and local governments and agencies to hire and train the personnel, and establish the procedures, necessary to develop and implement State land use programs;

(c) establish reasonable and flexible Federal requirements to give individual States guidance in, and to condition the distribution of certain Federal funds on, the establishment and implementation of adequate State land use programs;

(d) establish the authority and responsibility of the Secretary of the Interior to administer the grant-in-aid program, to review statewide land use processes and State land use programs for conformity to the provisions of this Act, and to assist the coordination of activities of Federal agencies with State land use programs;

(e) develop and maintain a national policy with respect to federally conducted and federally assisted projects having land use implications; and

(f) coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands.

TITLE II—ADMINISTRATION OF LAND USE POLICY

OFFICE OF LAND USE POLICY ADMINISTRATION

SEC. 201. (a) There is hereby established in the Department of the Interior the Office of Land Use Policy Administration (hereinafter referred to as the "Office").

(b) The Office shall have a Director who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate provided for level V of the Executive Schedule Pay Rates (5 U.S.C. 5315), and such other officers and employees as may be required. The Director shall have such duties and responsibilities as the Secretary of the Interior (hereinafter referred to as the "Secretary") may assign.

SEC. 202. The Secretary, acting through the Office, shall—

(a) maintain a continuing study of the land resources of the United States and their use;

(b) cooperate with the States in the development of standard methods and classifications for the collection of land use data and in the establishment of effective procedures for the exchange and dissemination of land use data;

(c) develop and maintain a Federal Land Use Information and Data Center, with such regional branches as the Secretary may deem appropriate, which has on file—

(1) plans for federally initiated and federally assisted activities which directly and significantly affect or have an impact upon land use patterns;

(2) to the extent practicable and appropriate, the plans and programs of State and local governments and private enterprises which have more than local significance for land use planning and management;

(3) statistical data and information on past, present, and projected land use patterns which are of more than local significance;

(4) studies pertaining to techniques and methods for the procurement, analysis, and evaluation of data and information relating to land use planning and management; and

(5) such other information pertaining to land use planning and management as the Director deems appropriate;

(d) make the information maintained at the Data Center available to Federal, regional, State, and local agencies conducting or concerned with land use planning and management and to the public;

(e) consult with other officials of the Federal Government responsible for the administration of Federal land use planning assistance programs to States, local governments, and other eligible agencies in order to coordinate such programs;

(f) administer the grant-in-aid program established under the provisions of this Act; and

(g) provide administrative support for the National Advisory Board on Land Use Policy established under section 203 of this Act.

NATIONAL ADVISORY BOARD ON LAND USE POLICY

SEC. 203. (a) The Secretary is authorized and directed to establish a National Advisory Board on Land Use Policy (hereinafter referred to as the "Board").

(b) The Board shall be composed of:

(1) the Director of the Office of Land Use Policy Administration (hereinafter referred to as the "Director") who shall serve as Chairman;

(2) representatives of the Departments of Agriculture; Commerce; Defense; Health, Education, and Welfare; Housing and Urban Development; and Transportation; the Atomic Energy Commission; and the Environmental Protection Agency, appointed by the respective heads thereof;

(3) observers from the Council on Environmental Quality, the Federal Power Commission, and the Office of Management and Budget, appointed by the respective heads thereof; and

(4) representatives of such other Federal agencies, appointed by the respective heads thereof, as the Secretary may request to participate when matters affecting their responsibilities are under consideration.

(c) The Board shall meet regularly at such times as the Chairman may direct and shall—

(1) provide the Secretary with information and advice concerning the relationship of policies, programs, and activities established or performed pursuant to this Act to the programs of the agencies represented on the Board;

(2) render advice, pursuant to section 502, to the Secretary and the Executive Office of the President concerning proposed guidelines, rules, and regulations for the implementation of the provisions of this Act;

(3) assist the Secretary and the agencies represented on the Board in the coordination of the review of statewide land use planning processes and State land use programs;

(4) provide advice on such land use policy matters as the Secretary may refer to the Board for its consideration; and

(5) provide reports to the Secretary on land use policy matters which may be referred to the Board by the heads of Federal agencies through their respective representatives on the Board.

(d) Each agency representative on the Board shall have a career position within his agency of not lower than GS–15 and shall not be assigned any duties which are unrelated to the administration of land use planning and policy, except temporary housekeeping or training duties. Each representative shall—

(1) represent his agency on the Board;

(2) assist in the coordination and preparation within his agency of comments on (i) guidelines, rules, and regulations proposed for promulgation pursuant to section 502, and (ii) statewide land use planning processes and State land use programs reviewed pursuant to title III of this Act;

(3) assist in the dissemination of policy information and in the implementation within his agency of policies and procedures developed pursuant to this Act; and

(4) perform such other duties regarding the administration of land use planning and policy as the head of his agency may direct.

(e) The Board shall have as advisory members two representatives each from State governments and local governments, and one representative each from regional interstate and intrastate entities which have land use planning and management responsibilities. Such advisory members shall be selected by a majority vote of the Board and shall each serve for a two-year period.

INTERSTATE COORDINATION

SEC. 204. (a) The States are authorized to coordinate land use planning and programs with appropriate interstate entities, and a reasonable portion of the funds made available to such States under the provisions of this Act may be used therefore: *Provided, however,* That an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by State land use planning and programs is assured: *And provided further,* That nothing in this subsection shall be construed to affect the allotment of funds as provided in section 507 of this Act.

(b) Subject to the approval of Congress by the adoption of an appropriate Act, Congress

hereby authorizes States possessing coherent geographic, environmental, demographic, or economic characteristics which would serve as reasonable bases upon which to coordinate land use planning and programs in interstate areas to negotiate interstate compacts for the purpose of such coordination, with such terms and conditions as to them seem reasonable and appropriate: *Provided, however,* That such compacts shall provide for an opportunity for participation in the coordination process by Federal and local governments and agencies as well as members of the public engaged in activities which affect or are affected by land use planning and programs: *And provided further,* That nothing in this subsection shall be construed to affect the allotment of funds as provided in section 507 of this Act.

(c) The Advisory Commission on Intergovernmental Relations shall conduct a review of federally established or authorized interstate agencies, including, but not limited to, river basin commissions, regional development agencies, and interstate compact commissions, for the purpose of coordinating land use planning and programs in interstate areas. The Advisory Commission on Intergovernmental Relations shall report to the Congress the results of his review conducted under this subsection not later than two years after the date of enactment of this Act.

TITLE III—PROGRAM OF ASSISTANCE TO THE STATES

SEC. 301. (a) The Secretary is authorized to make annual grants to each State to assist each State in developing and administering a State land use program meeting the requirements set forth in this title.

(b) Prior to making the first grant to each State during the three complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that such grant will be used in a manner to meet satisfactorily the requirements for a statewide land use planning process set forth in section 302. Prior to making any further grants during such period, the Secretary shall be satisfied that the State is adequately and expeditiously proceeding to meet the requirements of section 302.

(c) Prior to making any further grants after the three complete fiscal year period following the enactment of this Act and before the end of the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of section 302 and is adequately and expeditiously proceeding to develop a State land use program to meet the requirements of sections 303 and 304.

(d) Prior to making any further grants after the five complete fiscal year period following the enactment of this Act, the Secretary shall be satisfied that the State has met and continues to meet the requirements of sections 303 and 304.

(e) States receiving grants pursuant to this Act during the five complete fiscal year period following enactment of this Act shall submit, not later than one year after the date of award of each grant, a report on work completed and scheduled toward the development of a State land use program to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305. For grants made after such period, the State shall submit its State land use program not later than one year after the date of each award to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *Provided,* That if no grant is requested by or active in any State after five fiscal years from the date of enactment of this Act, such State shall submit its land use program within ninety days thereafter to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305: *And provided further,* That, should no grant be requested by or active in any State during any two complete fiscal year period after five fiscal years from the date of enactment of this Act, such State shall submit its land use program within ninety days from completion of such period to the Secretary for determination of State eligibility or ineligibility for grants pursuant to this Act in accordance with the procedures provided in section 305.

STATEWIDE LAND USE PLANNING PROCESSES

SEC. 302. (a) As a condition of continued State grant eligibility after the three complete fiscal year period following the enactment of this Act, the Secretary shall have determined that the State has developed an adequate statewide land use planning process, which process shall include—

(1) the preparation and continuing revision of a statewide inventory of the State's land and natural resources;

(2) the compilation and continuing revision of data, on a statewide basis, related to population densities and trends, economic characteristics and projections, environmental conditions and trends, and directions and extent of urban and rural growth;

(3) projections of the nature and quantity of land needed and suitable for recreation and esthetic appreciation; conservation and preservation of natural resources; agriculture, mineral development, and forestry; industry and commerce, including the development, generation, and transmission of energy; transportation; urban development, including the revitalization of existing communities, the development of new towns, and the economic diversification of existing communities which possess a narrow economic base; rural development, taking into consideration future demands for and limitations upon products of the land; and health, educational, and other State and local governmental services;

(4) the preparation and continuing revision of an inventory of environmental, geological, and physical conditions (including soil types) which influence the desirability of various types of land use;

(5) the preparation and continuing revision of an inventory of State, local government, and private needs and requirements concerning Federal lands within the State;

(6) the preparation and continuing revision of an inventory of governmental organization and financial resources available for land use planning and management within the State and of State and local programs and activities which have a land use impact of more than local concern;

(7) the establishment of a method for identifying large-scale development and development and land use of regional benefit;

(8) the establishment of a method for inventorying and designating areas of critical environmental concern and areas which are, or may be, impacted by key facilities;

(9) the provision, where appropriate, of technical assistance for, and training programs for State and local agency personnel concerned with, the development and implementation of State and local land use programs;

(10) the establishment of arrangements for the exchange of land use planning information and data among State agencies and local governments, with the Federal Government, among the several States and interstate agencies, and with members of the public;

(11) the establishment of a method for coordinating all State and local agency programs and services which significantly affect land use;

(12) the conducting of public hearings, preparation of reports, and soliciting of comments on reports concerning the statewide land use planning process or aspects thereof;

(13) the provision, and continuation thereof, of opportunities for participation by the public and the appropriate officials or representatives of local governments in the planning process and in the formulation of guidelines, rules, and regulations for the administration of the planning process; and

(14) the consideration of the interstate aspects of land use issues which involve two or more States.

(b) In the determination of an adequate statewide land use process, the Secretary shall confirm that the State has an eligible State land use planning agency established by the Governor of such State or by law, which agency shall—

(1) have primary authority and responsibility for the development and administration of a State land use program provided for in sections 303 and 304;

(2) have a competent and adequate interdisciplinary professional and technical staff and, whenever appropriate, the services of special consultants;

(3) give priority to the development of an adequate data base for a statewide land use planning process using data available from existing sources wherever feasible;

(4) coordinate its activities with the planning activities of all State agencies undertaking federally financed or assisted planning programs insofar as such programs relate to land use; the regulatory activities of all State agencies enforcing air, water, noise, or other pollution standards; all other relevant planning activities of State agencies; flood plain zoning plans approved by the Secretary of the Army pursuant to the Flood Control Act of 1960, as amended; the planning activities of areawide agencies designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended; the planning activities of local governments; and the planning activities of Federal agencies;

(5) have authority to conduct public hearings, with adequate public notice, allowing full public participation in the development of the State land use program;

(6) have authority to make available to the public promptly upon request land use data and information, studies, reports, and records of hearings; and

(7) be advised by an advisory council which shall be composed of chief elected officials of local governments in urban and nonurban areas. The Governor shall appoint a chairman from among the members. The term of service of each member shall be two years. The advisory council shall, among other things, comment on all State guidelines, rules, and regulations to be promulgated pursuant to this Act, participate in the development of the statewide land use process and State land use program and make formal comments on annual reports which the agency shall prepare and submit to it, which reports shall detail all activities within the State conducted by the State government and local governments pursuant to or in conformity with this Act.

STATE LAND USE PROGRAMS

SEC. 303. As a condition of continued State grant eligiblity after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that the State has developed an adequate State land use program, which shall include—

(a) an adequate statewide land use planning process as provided for in section 302 of this Act; and

(b) (1) methods of implementation for—

(A) assuring that the use and development of land in areas of critical environ-

mental concern within the State is not inconsistent with the State land use program;

(B) assuring that the use of land in areas within the State which are or may be impacted by key facilities including the site location and the location of major improvement and major access features of key facilities is not inconsistent with the State land use program;

(C) assuring that any large-scale subdivisions and other proposed large-scale development within the State of more than local significance in its impact upon environment is not inconsistent with the State land use program;

(D) assuring that any source of air, water, noise, or other pollution in the areas or from the uses or activities listed in this clause (1) shall not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan;

(E) periodically revising and updating the State land use program to meet changing conditions;

(F) assuring dissemination of information to appropriate officials or representatives of local governments and members of the public and their participation in the development of and subsequent revisions in the State land use program and in the formulation of State guidelines, rules, and regulations for the development and administration of the program; and

"(G) conducting a coordinated management program for the land and water resources of any coastal zone within the State in accordance with existing or then applicable Federal or State law.

(2)(A) Selection of methods of implementation of clause (1) of this subsection (b) shall be made so as to encourage the employment of land use controls by local governments.

(B) The methods of implementation of clause (1) of this subsection (b) shall include either one or a combination of the two following general techniques—

(i) implementation by local governments pursuant to criteria and standards established by the State, such implementation to be subject to State administrative review with State authority to disapprove such implementation wherever it fails to meet such criteria and guidelines; and

(ii) direct State land use planning and regulation.

(C) Any method of implementation employed by the State shall include, where necessary, the State's authority to prohibit, under State police powers, the use of land within areas which, under the State land use program, have been identified as areas of critical environmental concern or designated for key facilities, development and land use of regional benefit, large-scale development, or large-scale subdivisions, which use is inconsistent with the requirements of the State land use program as they pertain to areas of critical environmental concern, key facilities, development and land use of regional benefit, large-scale development, and large-scale subdivisions.

(D) Any method of implementation employed by the State shall include an administrative appeal procedure for the resolution of, among other matters, conflicts over any decision or action of a local government for any area or use under the State land use program and over any decision or action by the Government or State land use planning agency in the development of, or pursuant to, the State land use program. Such procedure shall include representation on the appeals body of, among others, the aggrieved party of interest and the local government or the State government responsible for the decision or action which is the subject of the appeal.

(E) Any person having a legal interest in land, of which the State has prohibited or restricted the full use and enjoyment thereof, may petition a court of competent jurisdiction to determine whether the prohibition diminishes the use of the property so as to require compensation for the loss and the amount of compensation to be awarded therefor.

SEC. 304. As a further condition of continued State grant eligibility after the five complete fiscal year period following the enactment of this Act, the Secretary shall review the State land use program and determine that—

(a) in designating areas of critical environmental concern, the State has not excluded any substantial areas of critical environmental concern which are of major national significance and require special planning and management: *Provided*, That, at the request of the Governor of any State, the Secretary shall submit to any such State a description of all areas of critical environmental concern within such State which he considers to be of national significance pursuant to this subsection (a) no later than three fiscal years from date of enactment of this Act. If a request is made by a Governor to the Secretary for a description of such areas after such three-year period, the Secretary shall have sixty days to comply with such request.

(b) the State is demonstrating good faith efforts to implement, and, in the case of successive grants, the State is continuing to demonstrate good faith efforts to implement, the purposes, policies, and requirements of its land use program. For the purposes of this subsection, the inability of a State to take any State action the purpose of which is to implement the State land use program, or any portion thereof, and which is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not be construed as failure by the State to demonstrate good faith efforts to implement the purposes, policies, and requirements of its land use program;

(c) State laws, regulations, and criteria affecting the State land use program and the areas and uses and activities over which the State exercises authority as required in section 303 are in accordance with the requirements of this title;

(d) the State land use program has been reviewed and approved by the Governor;

(e) the State has coordinated its land use program with the planning activities and programs of its State agencies, the Federal Government, and local governments as provided for in this title, and with the planning processes and land use programs of other States and local governments therein with respect to lands and waters in interstate areas; and provided for the participation of, and dissemination of information to, appropriate officials or representatives of local governments and members of the public as provided for in this title; and

(f) the State utilizes, for the purpose of furnishing advice to the Federal Government as to whether Federal and federally assisted projects are consistent with the State land use program, procedures established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103), and is participating on its own behalf in the programs provided for pursuant to section 701 of the Housing Act of 1954 (68 Stat. 590, 640), as amended.

FEDERAL REVIEW AND DETERMINATION OF GRANT ELIGIBILITY

SEC. 305. (a) During the five complete fiscal year period following the enactment of this Act, the Secretary, before making a grant pursuant to this Act, shall consult with the heads of all Federal agencies listed in subsection (d) of this section and of all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significantly affecting land use in the State, and with the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act, and shall consider their views and recommendations.

(b) After the five complete fiscal year period following the enactment of this Act—

(1) the Secretary, before making a State land use program grant pursuant to this Act, shall submit the State land use program of such State to the heads of all Federal agencies listed in subsection (d) of this section and of all other Federal agencies which conduct or participate in construction, development, assistance, or regulatory programs significantly affecting land use in the State, and to the National Advisory Board on Land Use Policy pursuant to subsection (c) of section 203 of this Act. The Secretary shall take into consideration the views of each agency head which are submitted to him by such agency head no later than thirty days after submission of the State land use program to such agency head by the Secretary; and

(2) the Secretary shall not make a grant pursuant to this Act until he has ascertained that the Administrator of the Environmental Protection Agency is satisfied that the State's land use program is in compliance with the goals of the Federal Water Pollution Control Act, the Clean Air Act, and other Federal laws controlling pollution which fall within the jurisdiction of the Administrator, and that those portions of the land use program which will effect any change in land use within the next annual review period are in compliance with the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by such laws. The Administration shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days of submission of the State land use program to him by the Secretary.

(c) The Secretary may not make any grant pursuant to this Act unless he has been informed by the Secretary of Housing and Urban Development that he is satisfied that the statewide land use planning process or State land use program with respect to which the grant is to be made (1) conforms to the objectives of section 701 of the Housing Act of 1954, and to the relevant planning assisted under that section, including the provisions related to functional plans, and housing, public facilities, and other growth and development objectives, and (2) meets the requirements of this Act insofar as they pertain to large-scale development, development of regional benefit, large-scale subdivisions, and the urban development of lands impacted by key facilities. The Secretary of Housing and Urban Development shall be deemed to be satisfied if he does not communicate his views to the Secretary within sixty days after the statewide land use planning process or State land use program has been submitted to him by the Secretary.

(d) The Secretary shall determine a State eligible or ineligible for a grant pursuant to this Act not later than six months following receipt for review of the State's application for its first grant, a State's report on its previous grant, or the State's land use program pursuant to section 301.

(e) Pursuant to subsections (a) and (b) of this section, the Secretary shall consider the views of the heads of the following Federal agencies—

(1) the Department of Agriculture;

(2) the Department of Commmerce;

(3) the Department of Defense;
(4) the Department of Health, Education, and Welfare;
(5) the Department of Housing and Urban Development;
(6) the Department of Transportation;
(7) the Atomic Energy Commission;
(8) the Federal Power Commission; and
(9) the Environmental Protection Agency.

(f) A State may at any time revise its State land use program: Provided, That such revision does not render the State land use program inconsistent with the requirements of this Act: And provided further, That any significant revision is reported to the Secretary. The Secretary shall determine whether such revision would render the State land use program inadequate for purposes of complying with the requirements of this act, and shall inform the State of his determination.

(g) (1) In the event the Secretary determines that a State is ineligible for grants pursuant to this Act or, having found a State eligible for such grants, subsequently determines that grounds exist for withdrawal of such eligibility, he shall notify the President, who shall order the establishment of an ad hoc hearing board (hereinafter referred to as "hearing board"), the membership of which shall consist of:

(A) the Governor of a State other than the State the grant eligibility of which is in question, whose State does not have a particular interest in whether State grant eligibility or ineligibility is determined, selected by the President within thirty days after notification by the Secretary, or within ten days thereafter, such alternate person as the Governor selected by the President may designate;

(B) one knowledgeable, impartial Federal official, selected by the President within thirty days after notification by the Secretary, who is not an official of an agency listed in clauses (1) through (3) of subsection (b) of section 203; and

(C) one knowledgeable, impartial private citizen, selected by the other two members: Provided, That if the other two members cannot agree upon a third member within twenty days after the appointment of the second member to be appointed, the third member shall be selected by the President within twenty days thereafter.

(2) The Secretary shall specify in detail, in writing, to the hearing board his reasons for considering a State ineligible, or for withdrawing a State's eligibility, for grants pursuant to this Act. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board shall then determine whether a finding of ineligibility or withdrawal of eligibility would be reasonable, and set forth in detail, in writing, the reasons for its determination. If the hearing board determines that ineligibility would be unreasonable, the Secretary shall find the State eligible for grants pursuant to this Act. If the hearing board concurs in the finding of ineligibility or withdrawal of eligibility, the Secretary shall find the State ineligible for grants pursuant to this Act. Ineligibility shall be deemed to have been determined by the hearing board if no determination in writing is made by it within ninety days of its appointment.

(3) Members of hearing boards who are not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entitled to receive compensation at a rate fixed by the President, but not exceeding $150 per diem, including traveltime, and, while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons intermittently employed in Government service. Expenses shall be charged to the account of the Executive Office of the President.

(4) Administrative support for hearing boards shall be provided by the Executive Office of the President.

(5) The President may issue such regulations as may be necessary to carry out the provisions of this subsection.

CONSISTENTCY OF FEDERAL ACTIONS WITH STATE LAND USE PROGRAMS

SEC. 306. (a) Federal projects and activities significantly affecting land use, including but not limited to grant, loan, or guarantee programs, such as mortgage and rent subsidy programs and water and sewer facility construction programs, shall be consistent with State land use programs which conform to the provisions of sections 303 and 304 of this Act, except in cases of overriding national interest, as determined by the President. Procedures provided for in regulations issued by the Office of Management and Budget pursuant to the criteria specified in section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255, 1262–3), as amended, and title IV of the Intergovernmental Cooperation Act of 1968 (82 Stat. 1098, 1103–4), together with such additional procedures as the Office of Management and Budget may determine are necessary and appropriate to carry out the purposes of this Act, shall be utilized in the determination of whether Federal projects and activities are consistent with State land use programs funded under this Act.

(b) (1) Any State or local government submitting an application for Federal assistance for any activity having significant land use implications in an area or for a use subject to a State land use program in a State found eligible for grants pursuant to this Act shall transmit to the relevant Federal agency the views of the State land use planning agency and/or the Governor and, in the case of an application of a local government, the views of such local government and the relevant areawide planning agency designated pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and/or title IV of the Intergovernmental Cooperation Act of 1968, as to the consistency of such activity with the program: *Provided,* That, if a local government certifies that a plan or description of an activity for which application is made by the local government has lain before the State land use planning agency and/or the Governor for a period of sixty days without indication of the views of the land use planning agency and/or the Governor, the application need not be accompanied by such views.

(2) The relevant Federal agency shall, pursuant to subsections (a) and (b) (1) of this section, determine, in writing, whether the proposed activity is consistent or inconsistent with the State land use program.

(3) No Federal agency shall approve any proposed activity which it determines to be inconsistent with a State land use program in a State found eligible for grants pursuant to this Act.

(c) Federal agencies conducting or assisting public works activities in areas not subject to a State land use program in a State found eligible for grants pursuant to this Act shall, to the extent practicable, conduct such activities in such a manner as to minimize any adverse impact on the environment resulting from decisions concerning land use.

FEDERAL ACTIONS IN THE ABSENCE OF STATE ELIGIBILITY

SEC. 307. (a) The Secretary shall have authority to terminate any financial assistance extended to a State under this Act and withdraw his determination of grant eligibility whenever the Secretary finds, and the hearing board concurs, that the statewide land use planning process or the State land use program does not meet the requirements of this Act.

(b) Where any major Federal action significantly affecting the use of non-Federal lands is proposed after five fiscal years from the date of enactment of this Act, in a State which has not been found eligible for grants pursuant to this Act, the responsible Federal agency shall hold a public hearing in such State at least one hundred eighty days in advance of the proposed action concerning the effect of the action on land use, taking into account the relevant considerations set out in sections 302, 303, and 304 of this Act, and shall make findings which shall be submitted for review and comment by the Secretary, and where appropriate, by the Secretary of Housing and Urban Development. Such findings of the responsible Federal agency and comments of the Secretary and, where appropriate, the Secretary of Housing and Urban Development shall be made part of the detailed statement required by section 102(2)(C) of the National Environmental Policy Act (83 Stat. 852, 853). This section shall be subject to exception where the President determines that the interests of the United States so require.

TITLE IV

FEDERAL-STATE COORDINATION AND COOPERATION IN THE PLANNING AND MANAGEMENT OF FEDERAL AND ADJACENT NON-FEDERAL LANDS

SEC. 401. (a) All agencies of the Federal Government charged with responsibility for the management of Federal lands shall consider State land use programs prepared pursuant to this Act and State, local government, and private needs and requirements as related to the Federal lands, and shall coordinate the land use inventory, planning and management activities on or for Federal lands with State and local use inventory, planning, and management activities on or for adjacent non-Federal lands to the extent such coordination is practicable and not inconsistent with paramount national policies, programs, and interests.

(b) For the purposes of this section, any agency proposing any new program, policy, rule, or regulation relating to the Federal lands shall publish a statement concerning the consistency of the program, policy, rule, or regulation with State and local land use planning and management, and, where inconsistent, the reasons for such inconsistency, thirty days prior to the establisment of such program or policy or the promulgation of such rule or regulation, and, except where otherwise provided by law, shall conduct a public hearing, with adequate public notice, on such program, policy, rule, or regulation at least seven days prior to the publication of such statement.

SEC. 402. (a) As a condition of continued State eligibility for grants pursuant to this Act, after the five complete fiscal year period following the enactment of this Act, the Secretary shall have determined that—

(1) the State land use program developed pursuant to sections 303 and 304 of this Act includes methods for insuring that Federal lands within the State, including but not limited to units of the national park system, wilderness areas, and game and wildlife refuges, are not damaged or degraded as a result of inconsistent land use patterns in the same immediate geographical region; and

(2) the State has demonstrated good faith efforts to implement such methods in accordance with subsection (b) of section 304.

(b) The procedures for determination of grant eligibility provided for in section 305 shall apply to this section.

AD HOC FEDERAL-STATE JOINT COMMITTEES

SEC. 403. (a) The Secretary, at his discretion or upon the request of the Governor of any State involved, shall establish an Ad

Hoc Federal-State Joint Committee or Committees (hereinafter referred to as "joint committee" or "committees") to review and make recommendations concerning general and specific problems relating to jurisdictional conflicts and inconsistencies resulting from the various policies and legal requirements governing the planning and management of Federal lands and of adjacent non-Federal lands. Each joint committee shall include representatives of the Federal agencies having jurisdiction over the Federal lands involved, representatives of affected user groups, including recreation and conservation interests, and officials of affected State agencies and units of local government. Prior to appointing representatives of user groups and officials of local governments, the Secretary shall consult with the Governor or Governors of the State or States involved and with other appropriate officials of the State or States and local governments involved. The Governor of each State involved shall appoint the officials of the affected agencies of his State.

(b) Each joint committee shall terminate at the end of two years from the date of establishment.

(c) Joint committee members may each be compensated at the rate of $100 for each day each member is engaged in the actual performance of duties vested in the joint committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently: *Provided, however,* That no compensation except travel and expenses in addition to regular salary shall be paid to any full-time Federal or State official.

(d) Each joint committee shall have available to it the services of an executive secretary, professional staff, and such clerical assistance as the Secretary determines is necessary. The executive secretary shall serve as staff to the joint committee or committees and shall be responsible for carrying out the administrative work of the joint committee or committees.

(e) The specific duties of any joint committee shall be assigned by the Secretary and may include:

(1) conducting a study of, and making recommendations to the Secretary concerning methods for resolving, general problems with and conflicts between land use inventory, planning, and management activities on or for Federal lands and State and local land use inventory, planning, and management activities on or for adjacent non-Federal lands, including, where relevant, the State land use programs developed pursuant to sections 303 and 304 of this Act;

(2) investigating specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands and making recommendations to the Secretary concerning their resolution;

(3) assisting the States and the Office of Land Use Policy Administration in the development of systematic and uniform methods among the States and between the States and the Federal Government for collecting, compiling, exchanging, and utilizing land use data and information; and

(4) advising the Secretary, during his review of State land use programs, of opportunities for reducing potential conflicts and improving coordination in the planning and management of Federal lands and of adjacent non-Federal lands.

(f) Upon receipt of the recommendations of a joint committee upon a conflict pursuant to subsection (e) of this section, the Secretary shall:

(1) where he has legal authority, take any appropriate and necessary action to minimize such conflict;

(2) where he does not have jurisdiction over or authority concerning the Federal lands which are involved in the conflict, work with the appropriate Federal agency or agencies to develop a proposal designed to minimize the conflict and to enhance cooperation and coordination between the planning and management of Federal lands and of adjacent non-Federal lands; and

(3) if he determines that the legal authority to resolve general or specific land use planning and management conflicts between the Federal Government and State and local governments is lacking in the Executive Branch, recommend enactment of appropriate legislation to the Congress.

(g) In taking or recommending action pursuant to the recommendations of a joint committee, the Secretary shall give careful consideration to the purposes of this Act and not resolve any conflict between the planning and management of Federal lands and of adjacent non-Federal lands in a manner which would impair the national purpose or objective for which the Federal lands involved are being managed.

BIENNIAL REPORT ON FEDERAL-STATE COORDINATION

SEC. 404. The Secretary shall report biennially to the President and the Congress concerning—

(a) problems in and methods for coordination of planning and management of Federal lands and planning and management of adjacent non-Federal lands, together with recommendations to improve such coordination;

(b) the resolution of specific conflicts between the planning and management of Federal lands and of adjacent non-Federal lands; and

(c) at the request of the Governor of any State involved, any unresolved conflict between the planning and management of Federal lands and of adjacent non-Federal lands, together with any recommendations the Secretary and the Governor or Governors may have for resolution of such conflict.

SEC. 405. (a) Prior to the making of recommendations on any conflict pursuant to subsection (e) of section 403, each joint committee shall conduct a public hearing or provide an opportunity for such a hearing in the State on such conflict, with adequate public notice, allowing full participation of representatives of Federal, State, and local governments and members of the public. Should no hearing he held, the joint committee shall solicit the views of all affected parties and submit a summary of such views, together with its recommendations, to the Secretary.

(b) Prior to the making of recommendations or the taking of actions pursuant to subsection (f) of section 403, the Secretary shall review in full the relevant hearing record or, where none exists, the summary of views of affected parties prepared pursuant to subsection (a) of this section, and may, in his discretion, hold further public hearings.

SEC. 406. Upon request of a joint committee, the head of any Federal department or agency or federally established or authorized interstate agency is authorized: (a) to furnish to the joint committee, to the extent permitted by law and within the limits of available funds, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department, agency, or interstate agency; and (b) to detail to temporary duty with the joint committee, on a reimbursable basis, such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TITLE V—GENERAL

DEFINITIONS

SEC. 501. For the purposes of this Act—

(a) The term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

(b) The term "local government" means any general purpose county or municipal government, or any regional combination thereof, or, where appropriate, any other public agency which has land use planning authority.

(c) The term "Federal lands" means any land owned by the United States without regard to how the United States acquired ownership of the land and without regard to the agency having responsibility for management thereof, except lands held in trust for the benefit of Indians, Aleuts, and Eskimos.

(d) The term "non-Federal lands" means all lands which are not "Federal lands" as defined in subsection (c) of this section and are not held by the Federal Government in trust for the benefit of Indians, Aleuts and Eskimos.

(e) The term "areas of critical environmental concern" means areas as designated by the State on non-Federal lands where uncontrolled development could result in irreversible damage to important historic, cultural, or esthetic values, or natural systems or processes which are of more than local significance, or could unreasonably endanger life and property as a result of natural hazards of more than local significance. Such areas shall include—

(1) coastal wetlands, marshes, and other lands inundated by the tides;

(2) beaches and dunes;

(3) significant estuaries, shorelands, and flood plains of rivers, lakes, and streams;

(4) areas of unstable soils and high seismic activity;

(5) rare or valuable ecosystems;

(6) significant undeveloped agricultural, grazing, and watershed lands;

(7) forests and related land which require long stability for continuing renewal;

(8) scenic or historic areas; and

(9) such additional areas as a State determines to be of critical environmental concern.

(f) The term "key facilities" means public facilities on non-Federal lands which tend to induce development and urbanization of more than load impact and major facilities on non-Federal lands for the development, generation, and transmission of energy.

(g) The term "development and land use of regional benefit" means land use and private development on non-Federal lands for which there is demonstrable need affecting the interests of constituents of more than one local government which outweighs the benefits of any applicable restrictive or exclusionary local regulations.

(h) The term "large scale development" means private development on non-Federal lands which, because of its magnitude or the magnitude of its effect on the surrounding environment, is likely to present issues of more than local significance in the judgment of the State. In determining what constitutes "large scale development" the State should consider, among other things, the amount of pedestrian or vehicular traffic likely to be generated; the number of persons likely to be present; the potential for creating environmental problems such as air, water, or noise pollution; the size of the site to be occupied; and the likelihood that additional or subsidiary development will be generated.

GUIDELINES, RULES, AND REGULATIONS

SEC. 502. (a) The Executive Office of the President shall issue guidelines to the Federal agencies to assist them in carrying out the requirements of this Act. The Executive

Office shall submit proposed guidelines to the Secretary, the Board, and the heads of agencies represented on the Board, and shall consider their comments prior to formal issuance of such guidelines.

(b) The Secretary, after appropriate consultation with representatives of the States and, where appropriate, officials or representatives of local governments, and upon the advice of the Board and the heads of Federal agencies represented on the Board, shall promulgate rules and regulations to implement the guidelines formulated pursuant to subsection (a) of this section and to administer this Act, except with respect to subsection (f) of section 305 of this Act.

BIENNIAL REPORT

SEC. 503. The Secretary, with the assistance of the Office and the Board, shall report biennially to the President and the Congress on land resources, uses of land, and current and emerging problems of land use.

UTILIZATION OF PERSONNEL

SEC. 504. Upon request of the Secretary, the head of any Federal agency is authorized: (a) to furnish to the Office such information as may be necessary for carrying out the functions of the Office and as may be available to or procurable by such agency, and (b) to detail to temporary duty with the Office, on a reimbursable basis, such personnel within his administrative jurisdiction as the Office may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

TECHNICAL ASSISTANCE

SEC. 505. The Office may provide, directly or through contracts, grants, or other arrangements, technical assistance to any State found eligible for grants pursuant to this Act to assist such State in the performance of its functions under this Act.

HEARINGS AND RECORDS

SEC. 506. (a) For the purpose of carrying out the provisions of this Act, the Director, with the concurrence of the Secretary, may hold such hearings, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of the proceedings and reports thereon as he deems advisable.

(b) The Director is authorized to administer oaths when he determines that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Office shall be made available for public inspection during ordinary office hours.

ALLOTMENTS

SEC. 507. (a) From the sum appropriated pursuant to section 510, the Secretary is authorized to make grants provided for in this Act to States found eligible for financial assistance pursuant to this Act, the proposals of which are approved, in any amount not to exceed 66⅔ per centum of the estimated cost of developing the State land use programs for the two complete fiscal year period following the enactment of this Act. Thereafter, grants may be made in an amount not to exceed one-half of the estimated cost of administering the State land use programs for the next three fiscal years.

(b) Grants pursuant to this Act shall be allocated to the States on the basis of regulations of the Secretary, which regulations shall take into account the amount and nature of each State's land resource base, population, pressures resulting from growth, financial need, and other relevant factors.

(c) Any grant made for the purpose of this Act shall increase, and not replace, State funds presently available for State land use planning activities. Any grant made pursuant to this Act shall be in addition to, and may be used jointly with, grants or other funds available for land use planning surveys or investigations under other federally assisted programs.

(d) No funds granted pursuant to this Act may be expended for the acquisition of any interest in real property.

PAYMENTS

SEC. 508. The method of computing and paying amounts pursuant to this Act shall be as follows:

(a) The Secretary shall, prior to the beginning of each calendar quarter or other period prescribed by him, estimate the amounts to be paid to each State under the provisions of this Act for such period, such estimate to be based on such records of the State and information furnished by it, and such other investigation as the Secretary may find necessary.

(b) The Secretary shall pay to the State, from the allotments available therefor, the amounts so estimated by him for any period, reduced or increased, as the case may be, by any sum (not previously adjusted under this paragraph) by which he finds that his estimate of the amount to be paid such State for any prior period under this Act was greater or less than the amount which should have been paid to such State for such prior period under this Act. Such payments shall be made through the disbursing facilities of the Departments of the Treasury, at such times and in such installments as the Secretary may determine.

FINANCIAL RECORDS

SEC. 509. (a) Each recipient of a grant pursuant to this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status, disposition, and application of Federal funds and the operation of the statewide land use planning process or State land use program as the Secretary may require by regulations published in the Federal Register, and shall keep and make available such records as may be required by the Secretary for the verification of such reports and evaluations.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of a recipient of a grant pursuant to this Act which are pertinent to the determination that funds granted are used in accordance with this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 510. For each of the five full fiscal years following the enactment of this Act, there are authorized to be appropriated to the Secretary for grants to the States not more than $40,000,000 for each of the first two fiscal years and $30,000,000 for each of the next three fiscal years to carry out the purposes of this Act.

SEC. 511. For each of the five full fiscal years following enactment of this Act, there are authorized to be appropriated $10,000,000 annually to the Secretary of the Interior to be used exclusively for the administration of this Act. After the end of the fourth fiscal year after the enactment of this Act, the Secretary shall review the programs established by this Act and shall submit to Congress his analysis and such recommendations for amendments to the Act as he deems proper and appropriate.

EFFECT ON EXISTING LAWS

SEC. 512. Nothing in this Act shall be construed—

(a) to expand or diminish Federal, interstate or State jurisdiction, responsibility, or rights in the field of land and water resources planning, development or control; to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States, a State, or a region and the Federal Government; to to limit the authority of Congress to authorize and fund projects;

(b) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as new authority or responsibilities have been added by the provisons of this Act;

(c) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of land and water resources or to exercise licensing or regulatory functions in relation thereto; or to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(d) as granting to the Federal Government any of the constitutional or statutory authority now possessed by State and local governments to zone non-Federal lands.

(e) to delay or otherwise limit the adoption and vigorous enforcement, by State, of standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans which are no less stringent than the standards, criteria, emission or effluent limitations, monitoring requirements, or implementation plans required by the Federal Water Pollution Control Act, the Clean Air Act, or other Federal laws controlling pollution; and

(f) to adopt any Federal policy or requirement which would prohibit or delay States or local governments from adopting or enforcing any law or regulation which results in prohibition or control to a degree greater than required by this Act of land use development in any area over which the State or local government exercises jurisdiction.

The title was amended, so as to read: "An Act to establish a national land use policy; to authorize the Secretary of the Interior to make grants to assist the States to develop and implement State land use programs; to coordinate Federal programs and policies which have a land use impact; to coordinate planning and management of Federal lands and planning and management of adjacent non-Federal lands; and to establish an Office of Land Use Policy Administration in the Department of the Interior, and for other purposes."

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the Senate passed the bill.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE— ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 3442) to amend the Public Health Service Act to extend and revise the program of assistance under that act for the control and prevention of communicable diseases.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. ALLEN).

The message further announced that the House had passed, without amendment, the following bills of the Senate:

S. 1031. An act to credit certain service rendered by District of Columbia substitute teachers for purposes of civil service retirement;

S. 2478. An act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims Commission docket numbered 326–I, and for other purposes; and

S. 2575. An act for the relief of William John West.

The message also announced that the House had agreed to the amendments of the Senate to the concurrent resolution (H. Con. Res. 550) providing for for the protection of the Capitol complex.

ENROLLED BILL PRESENTED

Later, the Secretary of the Senate reported that today, September 19, 1972, he had presented to the President of the United States the enrolled bill (S. 3442) to amend the Public Health Service Act to extend and revise the program of assistance under this Act for the control and prevention of communicable diseases.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. FANNIN). The Chair, on behalf of the Vice President, appoints the following Senators as advisors to attend the 1972 Annual Meetings of the Board of Governors of the International Bank for Reconstruction and Development and the International Monetary Fund, Washington, D.C., September 25–29, 1972: Senators MCCLELLAN, FULBRIGHT, SPARKMAN, AIKEN, FONG, and TOWER; and the following Senators as observers to attend the same meetings: Senators HARRY F. BYRD, JR., and JAVITS.

RELIEF OF WILLIAM PHILLIPS

Mr. INOUYE. Mr. President, I submit a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 368), to refer the bill (S. 1418) entitled "A bill for the relief of William Phillips" to the Chief Commissioner of the United States Court of Claims for a report thereon.

Is there objection to the present consideration of the bill?

There being no objection, the resolution was considered and agreed to, as follows:

S. RES. 368

Resolved, That the bill (S. 1418) entitled "A bill for the relief of William Phillips", now pending in the Senate, together with all accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims. The Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States, or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

FEDERAL-AID HIGHWAY ACT OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate S. 3939, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 3939) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I yield to the Senator from Pennsylvania (Mr. SCOTT).

RECORD NUMBER OF YEA-AND-NAY VOTES

Mr. SCOTT. If the Senator would yield to me 1 minute, I would observe that the last vote cast was the 425th vote this session, and the previous record, if we can call it that, for the number of votes cast in the Senate in a single year session was last year 423 and the year previous 421; so the Senate is busy and is engaged in a great deal of activity.

I thought that the passing of this record ought to be noted at this time. I couple it with a plea that we avoid, if possible, unnecessary rollcalls on uncontested matters wherever possible, so that we may get on with the work of the Senate.

FEDERAL ADVISORY COMMITTEE STANDARDS ACT—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, on behalf of the junior Senator from Montana (Mr. METCALF), I submit a report of the committee of conference on H.R. 4383, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4383) to authorize the establishment of a system governing the creation and operation of advisory committees in the executive branch of the Federal Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of September 18, 1972, at pp. 30952–30954.)

(Mr. MUSKIE. Mr. President, this conference report is a balanced compromise between the Senate and House that will develop a workable and effective system for the creation and operation of Federal advisory committees.

It is the culmination of extensive hearings, investigations, and legislative consideration by members of the Government Operations Committees of both Houses.

On the Senate side, the legislation was handled by the distinguished Senator from Montana (Mr. METCALF), who did an outstanding job in conducting the hearings of the Subcommittee on Intergovernmental Relations and in guiding the legislation (S. 3529) through the committees and the Senate.

Senator METCALF has been strong and persistent in his effort to halt the proliferation of advisory committees, and to establish requirements for public access to committee meetings and records. The Senator's concern is best expressed in his own words at the subcommittee hearings:

What we are dealing with here, goes to the bedrock of government decisionmaking. Information is an important commodity in this capital.

Those who get information to policymakers, or get information for them, can benefit their causes, whatever it may be. Outsiders can be adversely and unknowingly affected. And decisionmakers who get information from special interest groups who are not subject to rebuttal because opposing interests do not know about the meetings—and could not get in the door if they did—may not make tempered judgments.

Mr. President, however, the effort to develop a Senate bill on advisory committees was bipartisan. We are indeed grateful for the able assistance provided by the senior Senator from Illinois (Mr. PERCY), the junior Senator from Delaware (Mr. ROTH), and the junior Senator from Tennessee (Mr. BROCK), each of whom played a major part in drafting the legislation and obtaining Senate approval.

On the House side, we are indebted to the very able Congressman from Connecticut (Mr. MONAGAN) for his leadership both in conducting an in-depth investigation of the advisory committee problem, and in sponsoring the legislation which received overwhelming House approval.

The conferees did their work well.

Although the Senate members were not able to convince their House colleagues on all points, they were able to reach agreement on a workable bill. Among other things, the legislation would:

(1) require Congress to make a continuing review of existing advisory committees to determine which should be abolished, merged or revised, and to follow certain guidelines in the creation of any new committees.

(2) require the OMB to institute a comprehensive review of advisory committees and recommend reorganization or abolishment of such committee to the President; to prescribe administrative guidelines and management controls; and to report annually to Congress on the activities, status, and costs of such committees.

(3) authorize the President to assign responsibility for evaluation and action on recommendations of Presidential advisory committees, and to report on the disposition of such recommendations.

(4) provide for uniform procedures in the establishment and conduct of advisory committees. These include the

filing of a committee charter, requirements of notice and public access to meetings and records, subject to certain exceptions, and the monitoring of such meetings by a Government employee.

(5) provide for the opportunity for advisory committee meetings to be closed where they deal with matters exempted from disclosure under the Freedom of Information Act; and

(6) provide for the termination of advisory committees after 2-year periods, subject to formal renewal under certain procedures.

On June 5, 1972, after the House had passed H.R. 4383, and after the Subcommittee on Intergovernmental Relations unanimously reported S. 3529, the President proclaimed new Executive Order 11671. This order contained to some degree concepts incorporated in the two pieces of legislation. I think it is most important to note that the Conferees considered the provisions of the Executive order in arriving at their agreement, and in fact included in the conference report some of its key provisions.

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

Mr. MUSKIE. I yield.

Mr. PERCY. Mr. President, I believe this conference report represents a fair balance between the House and Senate bills. The major area of compromise is section 10, setting forth requirements for opening up advisory committees to the public, and extending public access to their documents. The Senate bill provided guarantees that if meetings were closed because they dealt with matters of national security, business confidentiality, or other matters provided for in the exemptions section of the Freedom of Information Act—section 552(b) of title V of the United States Code, transcripts must be taken. The House bill did not contain such provisions. The conference report accepts the principle that advisory committee meetings should be open, and that documents associated with advisory committees should be available to the public on request. Under the conference version, however, meetings can be closed to the public, and documents can be withheld, under the exemptions in the Freedom of Information Act. In cases where meetings are closed, the President or agency head who closes them must say why. Another requirement is that detailed minutes be kept of each meeting, but these are not available to the public in cases where meetings are required to be closed.

Otherwise, the bill continues to contain provisions regulating the cost, establishment, and termination of the over 1,000 Federal advisory committees that are now estimated to exist at a cost of over $70 million. It is an innovative, important bill that will create order out of the chaotic situation that now exists. I wholeheartedly recommend adoption of the conference report.

Mr. President, I have only one point upon which I would very much appreciate a clarification by the distinguished manager of the bill.

I would like to say I think this is the Government Operations Committee at its best. We have an oversight responsibility, where 1,800 of these advisory commissions and committees are in existence, at a cost of $75 million. I think, by putting them under control, we have a strong management bill before us.

I ask the distinguished Senator from Maine this question: I note that the only standard contained in the bill regarding membership of advisory committees is the provision in section 5(b)(2) requiring the Congress, in creating new advisory committees, to insure that the membership of such committees be "fairly balanced in terms of the points of view represented and the function to be performed by the advisory committee." As I understand it, there is no limitation on those who may be appointed to be members, including the executives of associations of businessmen or other groups. Indeed, I would infer that the purpose of section 5(c) is to further insure that all advisory committees, whether created by statute, by the President, or by an agency head, are broadly representative.

I would ask the distinguished chairman of the Subcommittee on Intergovernmental Relations (Mr. MUSKIE): Is there anything in the bill that might be construed to limit executives of trade associations from participation in or membership on Federal advisory committees regulated by this act?

Mr. MUSKIE. No; I know of nothing in this bill to that effect. I would hope, of course, that they would not be given a disproportionate influence or role in these committees, but I know of no restriction.

Mr. PERCY. I very much appreciate this observation by the distinguished Senator. This point is of interest to the Senator from Tennessee (Mr. BROCK), who regrets that he could not be here today.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ORDER OF BUSINESS

Mr. RANDOLPH. Mr. President, I yield to the distinguished Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate may proceed to the immediate consideration of Calendar Nos. 1070, 1075, and 1092.

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

AMENDMENT OF THE RAILROAD RETIREMENT ACT OF 1937

The Senate proceeded to consider the bill (H.R. 15927) to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, and for other purposes which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That (a) section 3(a) of the Railroad Retirement Act of 1937 is amended by inserting at the end thereof the following new paragraph:

"(5) The individual's annuity computed under the preceding provisions of this subsection and that part of subsection (e) of this section which precedes the first proviso shall be increased by 20 per centum.".

(b) Section 2(e) of such Act is amended—

(1) by striking out "section 3(a) (3) or (4) of this Act" and inserting in lieu thereof "section 3(a) (3), (4), or (5) of this Act";

(2) by striking out the second sentence of the last paragraph; and

(3) by adding at the end thereof the following new paragraph:

"The spouse's annuity computed under the other provisions of this section shall (before any reduction on account of age) be increased by 20 per centum. The preceding sentence and the other provisions of this subsection shall not operate to increase the spouse's annuity (before any reduction on account of age) to an amount in excess of the maximum amount of a spouse's annuity as provided in the first sentence of this subsection. This paragraph shall be disregarded in the application of the preceding two paragraphs."

(c) Section 2(1) of such Act is amended by striking out "the last two paragraphs" and inserting in lieu thereof "the last paragraph plus the two preceding paragraphs".

(d) Section 3(e) of such Act is amended—

(1) by striking out the word "and" after clause (iv) in the second paragraph thereof and inserting after the semicolon in clause (v) in such second paragraph the following new clauses:

"(vi) individuals not entitled to an annuity under section 2 or 5 of this Act shall not be included in the computation under such first proviso except a spouse who could qualify for an annuity under section 2(e) or (h) of this Act if the employee from whom the spouse's annuity under this Act would derive had attained age sixty-five, and such employee's children who meet the definition as such contained in section 216(e) of the Social Security Act; (vii) after an annuity has been certified for payment and such first proviso was inapplicable after allowing for any waiting period under section 223(c)(2) of the Social Security Act, and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under such first proviso, or was then applicable but later became inapplicable, any recertification in such annuity under such first proviso shall not take into account individuals not entitled to an annuity under section 2 or 5 of this Act except a spouse who could qualify for an annuity under section 2(h) of this Act when she attains age sixty-two if the employee from whom the spouse's annuity would derive had attained age sixty-five, and who was married to such employee at the time he applied for the employee annuity; (viii) in computing the amount to be paid under such first proviso, the only benefits under title II of the Social Security Act which shall be considered shall be those to which the individuals included in the computation are entitled; (ix) the average monthly wage for an employee during his lifetime shall include (A) only his wages and self-employment income creditable under the Social Security Act through the later of December 31, 1971, or December 31 of the year preceding the year in which his annuity began to accrue, and (B) his compensation up to the date his annuity began to accrue; and (x) in computing the average monthly wage in clause (ix) above, section 215(b)(2)(C)(ii) of the Social Security Act shall, solely for the purpose of including compensation up to the date the employee's annuity began to accrue, he deemed to read as follows: 'the year succeeding the year in which he died or retired'; and

(2) by striking out in the third paragraph thereof ", or on application, would be".

(e) Section 5(l)(1) of such Act is amended by striking out from the first sentence thereof "and (g)" and inserting in lieu thereof "(g), and (k)".

(f) Section 5 of such Act is further amended by inserting at the end thereof the following new subsection:

"(p) A survivor's annuity computed under the preceding provisions of this section (except an annuity in the amount determined under the proviso in subsection (a) or (b) shall (before any reduction on account of age) be increased by 20 per centum."

SEC. 2. (a) All pensions under section 6 of the Railroad Retirement Act of 1937, all annuities under the Railroad Retirement Act of 1935, and all survivor annuities deriving from joint and survivor annuities under the Railroad Retirement Act of 1937 shall be increased by 20 per centum.

(b) All such widows' and widowers' insurance annuities which are payable in the amount of the spouse's annuity to which the widow or widower was entitled, shall, in cases where the employee died prior to October 1, 1972, be increased by 20 per centum.

(c) All such joint and survivor annuities shall be computed under section 3(a) of the Railroad Retirement Act of 1937 and shall be reduced by the percentage determined in accordance with the election of such annuity.

SEC. 3. All recertifications required by reason of the amendments made by this Act shall be made by the Railroad Retirement Board without application therefor.

SEC. 4. For the purposes of approximating the offsets in railroad retirement benefits for increases in social security benefits by reason of amendments prior to the Social Security Amendments of 1971, the Railroad Retirement Board is authorized to prescribe adjustments in the percentages in the Railroad Retirement Act of 1937 and laws pertaining thereto in order that these percentages, when applied against current social security benefits not in excess of the primary insurance amount applicable for an average monthly wage of $650, will produce approximately the same amounts as those computed under the law in effect, except for changes in the wage base, before the Social Security Amendments of 1971 were enacted.

SEC. 5. (a) The amendments made by this Act, except for subsections (d) and (e) of section 1, shall be effective with respect to annuities accruing for months after August, 1972 and with respect to pensions due in calendar months after September, 1972. The provisions of clauses (vi) through (x), which are added by section 1(d)(1) of this Act, and the provisions of section 1(d)(2) of this Act, shall be effective as follows: clause (vi) shall be effective with respect to annuities awarded after the enactment of this Act; clauses (vii) and (viii), and the provisions of section (1)(d)(2), shall be effective with respect to annuities awarded or recertified after the enactment of this Act; and clauses (ix) and (x) shall be effective with respect to calendar years after 1971.

(b) The first three sections of this Act, except for subsections (d) and (e) of section 1, and the amendments made by such sections, shall cease to apply as of the close of June 30, 1973. Annuities accruing for months after June 30, 1973, and pensions due in calendar months after June 30, 1973, shall be computed as if the first three sections of this Act, except for subsections (b) and (e) of section 1, and the amendments made by such sections, had not been enacted.

SEC. 6. It is the policy of the Congress of the United States that the 20-percent increase in annuities of Railroad Retirement beneficiaries provided by this Act, as well as the 10-percent and 15-percent increases provided by Public Law 92-46 and Public Law 91-377, respectively, all of which will expire by the terms of such Acts on June 30, 1973, can be made permanent only if at the same time a method is adopted to insure the receipt of sufficient revenues by the Railroad Retirement Account to make such Account financially solvent based on sound actuarial projections. Accordingly, representatives of employees and retirees and representatives of carriers shall, no later than March 1, 1973, submit to the Senate Committee on Labor and Public Welfare and the House of Representatives Committee on Interstate and Foreign Commerce a report containing the mutual recommendations of such representatives based upon their negotiations and taking into account the report and specific recommendations of the Commission on Railroad Retirement designed to insure such solvency. A copy of the report of such representatives shall also be submitted to the Railroad Retirement Board, which, no later than April 1, 1973, shall submit to such committees of the Congress a report containing its views and specific recommendations, and those of the administration, with reference to the report submitted by such representatives.

Mr. CRANSTON. Mr. President, as chairman of the Subcommittee on Railroad Retirement of the Labor and Public Welfare Committee, it is a great pleasure to urge Senators to support this measure in the same unanimous spirit that has characterized its consideration in subcommittee and full committee. For the benefit of my colleagues I would like to explain the bill, H.R. 15927 as reported, which amends the Railroad Retirement Act to provide a 20-percent increase in annuities. The bill as amended in subcommittee, was unanimously reported to the full committee, and the Committee on Labor and Public Welfare has unanimously reported it, as amended, to the Senate with the recommendation that it pass.

The bill as reported would provide a temporary 20-percent increase in railroad retirement benefits—matching the amount of the increase in social security benefits enacted in Public Law 92-336—as I proposed in S. 3852; make certain technical changes in the present law to facilitate administration; and direct the representatives of employees and retirees and representatives of carriers to report to the Senate Committee on Labor and Public Welfare and the House Committee on Interstate and Foreign Commerce, no later than March 1, 1973, their mutual recommendations designed to insure the solvency of the Railroad Retirement Account, and directs the Railroad Retirement Board to comment on that report by April 1, 1973.

BENEFIT INCREASE

In recent years, benefit increases in social security and railroad retirement have been linked, with a comparable railroad retirement increase following closely behind each social security increase. The 20-percent increase contained in H.R. 15927 is necessary and desirable in order to keep pace with the recent 20-percent increase in social security benefits contained in Public Law 92-336.

The Railroad Retirement system is a vital income maintenance program to the 984,000 current beneficiaries, and to the approximately 611,000 active railroad men and women who are now contributing to the system and are relying on its stability at the time they qualify for benefits.

In my own State of California, there are some 75,000 railroad pensioners, and approximately 40,000 active railroad employees.

In my capacity as ranking majority member of the Subcommittee on Aging of the Labor and Public Welfare Committee, I have had ample opportunity to observe the plight of our retired citizens—who have already contributed their productive lives to the economic strength of this Nation—who should be entitled to live with dignity and reasonable assurance of an adequate retirement income in their later years.

The 20-percent increase in the benefits of railroad retirees contained in the committee bill is necessary to meet the spiraling cost of living. The effects of an inflated economy are felt by all Americans, but none so drastic—nor so unjust—as the effect on citizens living on fixed incomes. Congress has already recognized the compelling needs of social security beneficiaries, and equitable treatment requires a commensurate increase for railroad retirees. The following chart reflects the impact of this increase, and the 20-percent social security increase in Public Law 92-336, on railroad retirement beneficiaries:

NUMBER OF CASES AFFECTED BY PUBLIC LAW 92-336 (1972 SOCIAL SECURITY AMENDMENTS) AND H.R. 15927 20-PERCENT RAILROAD RETIREMENT ACT AMENDMENT [1]

	Total	Public Law 92-336	H.R. [1] 15927	Average increase
Total	[2] 1,024,000	282,000	742,000	$34
Employees	450,000	28,000	422,000	44
Spouses	[2] 239,000	[2] 36,000	[2] 203,000	22
Aged widows	283,000	171,000	112,000	17
Other survivors	52,000	47,000	5,000	16

[1] A 20-percent increase with no offset.
[2] Includes duplication of 26,000 spouses affected by both laws

COMMITTEE AMENDMENTS

The need to increase railroad retirement benefits to keep pace with the rising cost of living is great, but such increases place a dangerous strain on a retirement system already facing very serious fiscal problems. Perhaps the major cause of the problem has been the declining level of employment in the railroad industry—resulting in a substantial decrease in contributors to the pension fund. The railroad industry has declined from 1,680,000 employees in 1945, to about 611,000 employees in 1970.

The findings of the Commission on Railroad Retirement indicate in its report, received September 7, 1972, that the actuarial sufficiency of the railroad retirement account is in serious decline. The Commission report further estimates that by the year 1985 the account will be bankrupt—and by 2000 could be operating at a deficit in excess of $23 billion—if a more adequate method of financing the account is not implemented.

Railroad employees are now contributing 9.95 percent on the first $750 of each month's pay to the retirement program, and the tax rate will increase to 10.25 percent, with a wage base increase to $900, in January of 1973. Each employee's contribution is then matched by his employee. It is clear, I think, that this source of revenue for the fund is already severely strained.

Because of the serious nature of these problems and the ramifications they have for over 984,000 annuitants and 611,000 active workers—certainly the most im-

portant factor in our deliberations—I offered an amendment to H.R. 15927, accepted unanimously by the committee, which would establish a congressional policy that the temporary increase in the committee bill, along with the 10- and 15-percent increases, all due to expire on June 30, 1973, would be made permanent only if at the same time changes are made in the railroad retirement system to insure the receipt of sufficient revenues to make the railroad retirement account actuarially sound in the foreseeable future.

This amendment thus directs, as I stated previously, labor and management representatives to submit their recommendations, formed with consideration of the recommendations of the Railroad Retirement Commission, designed to insure the solvency of the account if these increases are made permanent. Additionally, the amendment mandates that a copy of these recommendations be directed to the Railroad Retirement Board, and further directs the Railroad Retirement Board to submit to the House and Senate committees its comments and those of the administration on that report. This amendment is supported by the railway clerks and is generally acceptable to the rest of railway labor and to industry.

Mr. President, I wish to point out that the full report of the Commission on Railroad Retirement was received by the Labor and Public Welfare Committee on September 7, 1972, and should be available to the public from the Government Printing Office this week. We will be carefully studying this report as we await the recommendations of labor and management in the March 1, 1973, report.

Also included in the bill as an amendment are the technical provisions incorporated in H.R. 15922, which has been passed by the House and adoption of which was recommended by each witness at the hearings I chaired on this measure on August 10, 1972.

Mr. President, we have tried to move expeditiously on this measure, and I wish to express my personal thanks to the members of the Railroad Retirement Subcommittee, especially the ranking minority member, the Senator from Pennsylvania (Mr. SCHWEIKER), for their excellent cooperation and assistance on this bill. The members of the Committee on Labor and Public Welfare, so ably lead by the distinguished Senator from New Jersey (Mr. WILLIAMS), are also due praise for their thoughtful consideration and prompt action on H.R. 15927. I would like to extend my appreciation for the efforts of the ranking majority member of the committee, the Senator from West Virginia (Mr. RANDOLPH); and to the leadership of the Senate for taking such prompt action on this important bill.

Finally, I wish to recognize the effective staff work on this bill and to thank Jon Steinberg, subcommittee counsel, Gene Mittelman, minority counsel, and Bob Nagle, general counsel of the full Labor Committee, and the general counsel's office of the Railroad Retirement Board for technical help in preparing the bill for reporting.

CONCLUSION

Mr. President, in closing I wish to urge Senators to join with me in unanimous support of this measure today, which reflects a very real responsiveness by Congress to the very real needs of hundreds of thousands of elderly Americans—while stressing the continued solvency of the account in order to meet the future needs of railroad retirees. It is important to note that I have discussed the Senate amendments with the distinguished chairman of the House Committee on Interstate and Foreign Commerce, (Mr. STAGGERS) who has assured me that he will do all he can to see that the other body accepts the Senate version and sends it to the President.

Mr. President, I ask unanimous consent that relevant excerpts from the Senate report—No. 92-1127—on H.R. 15927 as amended, be printed in the RECORD at this point.

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

SUMMARY OF COMMITTEE SUBSTITUTE

The Committee substitute has three purposes:

1. To provide a 20 percent temporary increase in railroad retirement annuities, with respect to annuities accruing after August, 1972, and scheduled to expire on June 30, 1973;

2. To declare a Congressional policy regarding the need to devise an actuarially sound method of financing in order to make permanent the three temporary increases, including the one made by the Committee substitute, totalling—based upon their compounding. on one another—51.6 percent over the rate in 1970—all of which will expire on June 30, 1973; and to direct that representatives of employees and retirees and representatives of carriers report to the Congress (with a copy to the Railroad Retirement Board) no later than March 1, 1973, on this question of financing and that the Board submit comments on such report no later than April 1, 1973; and

3. To make technical amendments to the Railroad Retirement Act of 1937 to simplify the computation of benefits in so far as the consideration of Social Security Act provisions is concerned.

DISCUSSION

I. TWENTY PERCENT TEMPORARY INCREASE

The Committee substitute provides a temporary 20 percent increase in railroad retirement benefits effective with respect to annuities accruing after August, 1972, with a scheduled termination date of June 30, 1973. The increases contained in this legislation are temporary because the cost of a permanent 20 percent increase when added to the costs of the temporary 15 percent increase enacted in 1970 and the temporary 10 percent increase enacted in 1971 (both of which are also scheduled to terminate as of June 30, 1973) would create such a serious actuarial deficiency (estimated by the Railroad Retirement Board at $129 million a year or 2.18 per cent of future payroll) in the railroad retirement system that Congress must give further consideration to the financing of the system before providing benefit increases on a permament basis. By providing the benefit increases on a temporary basis, the creation of such an actuarial deficiency is avoided.

Precedents for the temporary increase

In recent years, increases in social security and railroad retirement benefits have been linked, with a comparable railroad retirement increase following closely behind each social security increase. This was the case in 1966, 1968, 1970, and again in 1971.

At the time that consideration was being given to a railroad retirement benefit increase in 1970, however, serious questions were raised as to the actuarial soundness of the railroad retirement system. In view of these questions and the lack of adequate information on which to base long-term solutions, Congress established a Commission on Railroad Retirement to study the system and its financing for the purpose of making recommendations as to the measures necessary to provide adequate levels of benefits on an actuarially sound basis (Public Law 91-377). At the same time in 1970, Congress responded to the need to provide an increase in railroad retirement benefits to match the 15 percent social security increase it had provided by enacting a temporary 15 percent increase. This temporary increase was originally scheduled to terminate as of June 30, 1972—one year after the date on which the Commission was to submit its report.

In 1971, during testimony on a bill to provide a 10 per cent temporary increase in railroad retirement benefits to keep pace with a similar increase in social security benefits, it was established that the Commission could not complete its study and report by June 30, 1971. Accordingly, the due date of the report and the expiration date of the 15 per cent increase were both extended one year by Public Law 92-46, to June 30, 1972, and June 30, 1973, respectively. That same public law provided an additional temporary 10 per cent increase in railroad retirement benefits, which was also scheduled to terminate as of June 30, 1973.

While the Committee was considering this legislation, the Commission on Railroad Retirement was in the process of issuing its report which was due on June 30, 1972 and received on September 7, 1972. A full evaluation of this report, however, will undoubtedly be a time-consuming process, and in the meantime there is a need to raise the benefits payable to retired railroad workers and their dependents to enable them to cope with the continued rise in the cost of living. This inflation has made it increasingly difficult for retired persons living on fixed incomes to meet the expenses with which they are faced. The interim solution proposed by the Committee substitute is to provide a temporary benefit increase expiring June 30, 1973, which will give Congress adequate time to consider the Commission's report before the proposed increase and the previously enacted 15 percent and 10 percent increases expire.

Relationship to 20-percent social security increase

The need to increase railroad retirement benefits at this time is obvious in view of continuing inflation in the United States. Congress recognized the compelling need to provide retired persons substantial relief from inflationary pressures when it recently enacted Public Law 92-336, providing a 20-percent increase in social security benefits effective with respect to benefits accruing for months after August, 1972. The Committee believes that equitable treatment requires, and the Committee substitute therefore provides, a temporary 20-percent increase in railroad retirement benefits effective on the same date. By reason of the enactment of the 20-percent increase for social security benefits in Public Law 92-336, all annuities under the Railroad Retirement Act which were computed under the overall minimum provisions of the Act will be increased automatically by 20 percent. Such annuitants comprise approximately three-tenths of the present approximately 1,000,000 railroad retirement beneficiaries. However, no increase can be made in the annuities of the remaining almost 700,000 beneficiaries without the enactment of additional legislation.

The temporary 20 percent increase in the Committee substitute would apply to all railroad retirement annuities and pensions ex-

cept those already increased because of an increase in the spouse maximum provision of the Act or by operation of the so-called social security guaranty provision. The spouse maximum provision specifies that the maximum annuity payable under the Railroad Retirement Act to a spouse cannot exceed 110 percent of the maximum possible wife's insurance benefit payable to any wife under the Social Security Act. The social security guaranty provision assures that monthly benefits to a retired railroad employee, and those deriving benefits from him, will not be less than 110 percent of the amount to which they would have been entitled if they had been covered under the social security system. Annuities payable under the social security guaranty or under the spouse maximum provisions are automatically increased whenever social security benefits are increased. Thus, the recent social security increases provided by Public Law 92–336 had the effect of raising the benefits payable to approximately 28 percent of the current railroad retirement beneficiaries. The remaining 72 percent of such beneficiaries who await the enactment of this legislation for comparable treatment are generally those whose entitlement is based upon longer career service in the railroad industry.

Enactment of Public Law 92–336 had a substantial impact on the financial condition of the railroad retirement program as well as providing benefit increases to roughly 28 percent of the beneficiaries covered thereunder. Prior to the enactment of that public law, the railroad retirement program was operating at an actuarial deficiency estimated by the Board at $18.2 million a year (assuming that the 15 percent increase of 1970 and the 10 percent increase of 1971 would expire on June 30, 1973). The financial effect of that public law, however, would—by virtue of the excess of additional railroad retirement tax collection generated by a statutory increase in the maximum taxable wage base plus additional gains due to the financial interchange (based on the additional benefits which would have been paid to the railroad retiremetn beneficiaries under the Social Security Act were railroad rctirement employment not excluded from coverage under that Act) over the amount of the additional expenditures for the railroad retirement benefits under the Social Security guaranty and spouse maximum provision—convert this deficiency into an estimated actuarial surplus of about $99.1 million a year. If the 20 percent increase provided in this bill is payable only for the 10 month period from September 1, 1972, through June 30, 1973, the additional benefit outlay for the railroad retirement program would be about $250 million, and if that 20 percent increase, as well as the temporary 15 percent and 10 percent increases, are not extended beyond June 30, 1973, the program will be operating with an actuarial surplus of about $87.5 million a year. The following table sets forth the effects of Public Law 92–336 and of the Committee substitute on the actuarial condition of the railroad retirement program.

ACTUARIAL EFFECTS OF PUBLIC LAW 92-336 AND S. 2852

	Level annual amounts in millions if 15-, 10-, and 20-percent increases are—	
	Temporary	Permanent
Actuarial deficiency as of Dec. 21, 1970	[1] $16.6	[1] $219.5
Actuarial deficiency adjusted to Dec. 31, 1972	[1] 18.2	[1] 230.4
Effects of Public Law 92–336:		
Additional railroad tax collections [2]	210.4	210.4
Additional railroad benefit payments [3]	216.5	217.1
Additional gains from financial interchange	123.4	123.4
Net reduction in actuarial deficiency	117.3	116.7
Actuarial deficiency or surplus after Public Law 92–336	[4] 99.1	[1] 113.7
Additional benefits due to 20-percent increase in committee substitute	11.6	283.8
Actuarial deficiency or surplus after both Public Law 92–336 and committee substitute	[4] 87.5	[1] 397.5

[1] Deficiency.

[2] Under sec. 3201, 3211, and 3221 of the Internal Revenue Code, the maximum monthly earnings subject to taxation for railroad retirement purposes is equal to 1/12 of the maximum annual wages subject to taxes for social security purposes. Therefore, the enactment of Public Law 92–336 caused the amount of monthly earnings taxable for railroad retirement purposes to be increased from $750 to $900 beginning Jan. 1, 1973, and to $1,000 beginning Jan. 1, 1974.

[3] Railroad retirement annuities payable under the social security guaranty provision were automatically increased as a result of the social security increases provided by Public Law 92–336.

[4] Surplus.

Note: The outlay for the 10-month period from Sept. 1, 1972, through June 30, 1973, will be $250,000,000, and the figure in the table is the interest which the account will lose because this money will have been paid.

In summary, if the 20 percent benefit increase in the Committee substitute is provided on a temporary basis, the railroad retirement system will still be operating with an actuarial surplus because of the financial effects of Public Law 92–336. If, however, the two previous temporary benefit increases and the present 20 percent temporary increase, which are to terminate on June 30, 1973, were to be extended indefinitely, the system would be operating at a serious actuarial deficiency which, the Board estimates, would result in the exhaustion of its funds within a relatively short period of time unless measures are also taken to adequately finance the cost of any such permanent benefit increases.

II. JOINT LABOR/MANAGEMENT RECOMMENDATION ON FUTURE SOLVENCY OF RAILROAD RETIREMENT ACCOUNT

In this regard, in testimony before the Subcommittee on Railroad Retirement, the Chairman of the Commission stated that, based upon the dynamic actuarial model created by the Commission, if the three temporary increases are made permanent—totalling 51.8 per cent cumulatively in three years—and no additional means of raising revenue for the Railroad Retirement Account is adopted, the "account will go broke in the year 1985 and by the year 2000 will run up a debt of $23 billion." Both the Subcommittee and the full Committee were extremely concerned about the Commissions finding in that regard (one member of the Commission dissented from this projection; the four others concurred). However, since the full report of the Commission was not received by the Committee until September 7, 1972, the Committee has been unable to study and evaluate fully the report, recommendations and voluminous tables, charts and explanatory materials included in the Commission's submission.

Accordingly, the Committee felt it could deal effectively both with the need of railroad retirement beneficiaries for an equitable annuity increase and with the financial situation confronting the Account by adopting an amendment (section 6 of the Committee substitute) which declares a Congressional policy that these temporary increases, including the 20 percent increase in the Committee substitute, would be made permanent only if at the same time changes are made in the railroad retirement system to ensure the receipt of sufficient revenues to make the Railroad Retirement Account actuarially sound for the foreseeable future. This section also directs that representatives of employers and retirees and representatives of carriers shall report to this Committee and the House Commerce Committee no later than March 1, 1973, their mutual recommendations designed to ensure such solvency for the Railroad Retirement Account, taking into account the report and specific recommendations of the Commission on Railroad Retirement. Finally, the section provides that a copy of such representatives' report be directed to the Railroad Retirement Board and directs the Board to submit to the two Committees of the Congress its report expressing its views, and specific recommendations, along with those of the administration, on the report of the representatives.

III. TECHNICAL RECOMPUTATION AMENDMENTS

History

Section 3 of the Railroad Retirement Act provides what is generally referred to as the social security minimum guaranty. This provision originated in section 3(e) of Public Law 75–162 (June 24, 1937), which provided as follows:

* * * In no case shall the value of the annuity be less than the value of the additional old-age benefit he would receive under title II of the Social Security Act if his service as an employee after December 31, 1936, were included in the term 'employment' as defined therein.

Section 8 of Public Law 82–234 (October 30, 1951), provided, in pertinent part, as follows:

* * * *Provided, however,* That if for any entire month in which an annuity accrues and is payable under this Act the annuity to which an employee is entitled under this Act * * * is less than the amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act * * * shall be increased proportionately to a total of *such amount or such additional amount.* (Emphasis supplied.)

Section 2(c) of Public Law 86–28 (May 19, 1959) amended the last-quoted provision by striking out "such amount or such additional amount" and inserting in lieu thereof "110 per centum of such amount or 110 per centum of such additional amount".

Principal purpose of the technical amendments

Among the provisions for coordinating the Railroad Retirement Act with the Social Security Act is one which guarantees that the combined amounts for which an individual and a dependent deriving benefits from him are eligible under the Railroad Retirement Act and the Social Security Act (based on the individual's earnings record) would be no less than 110 percent of the amount which would have been payable to that family under the Social Security Act on the basis of the individual's combined railroad and nonrailroad earnings if his railroad earnings had been covered under that Act since January 1, 1937. The implementation of this provision has become more and more difficult with each amendment to the Social Security Act since 1965. The principal purpose of these technical provisions of the Committee substitute (d)(1) and (2), (e) and the second sentence of section 5) is to simplify the implementation of this provision. These provisions were requested by the Railroad Retirement Board and are supported by railroad management (Association of American Railroads), railroad labor (the Congress of Railway Unions and Railway Labor Executives' Association), and the Commission on Railroad Retirement.

These provisions of the Committee substitute would not significantly affect the cost

of administering benefits under the Railroad Retirement Act. Through the simplification and improvement of operations, the cost of administering the system would be slightly lowered. The cost of some of the provisions would be more than offset by the savings from others.

Explanation

A detailed explanation of these provisions of the Committee substitute is set forth under "SECTION-BY-SECTION ANALYSIS OF THE COMMITTEE SUBSTITUTE". These provisions of the Committee substitute would make four changes in administrative operations under existing law:

(1) Under present law, the Board is required to determine whether total benefits to an individual and his family would be greater if computed under the special formula (provided in section 3(e) of the Act) than under the regular formula. The special formula assures that the combined amounts for which an individual and those deriving benefits from him are eligible under the Railroad Retirement Act and the Social Security Act—based on the individual's earnings record—would be no less than 110 per cent of the amount which would have been payable to that family under the Social Security Act on the basis of the individual's combined railroad and nonrailroad earnings if his railroad earnings had been covered under that Act since January 1, 1937. This special formula is used only if it produces a greater amount than the regular formula. (Hereafter in this report, an annuity awarded under the special formula will be referred to as a "special annuity", and an annuity computed under the regular formula will be referred to as a "regular annuity".)

For purposes of comparing the amount of a regular annuity with the amount of a special annuity, the Board must now take into account the annuitant's wife and children and all other individuals in the annuitant's family who would be entitled to benefits under the Social Security Act on the basis of his service, even though many of such other individuals would not qualify for benefits under the Railroad Retirement Act. The Committee substitute would reduce the burden upon the Board in this respect by requiring it to take into account only those of such other individuals who would qualify for annuities under the Railroad Retirement Act. (Sec. 1(a), new clause (vi).)

(2) After an amendment to the Social Security Act, the Board must now make inquiries whether the family of an individual to whom a regular annuity was awarded, was increased or otherwise changed, so that his annuity would have to be recomputed under the special formula. The Committee substitute would relieve the Board of this burden by requiring it to disregard new additions to the family of a retired employee, except a newly acquired wife who qualifies for a spouse's annuity. (Sec. 1(a), new clause (vii).)

(3) Under present law, when computing the special annuity, the Board must take into account not only benefits to which the individual, or any of his family, is entitled under the Social Security Act, but also benefits to which they would be entitled had such individuals applied for them. These potential benefits often preclude entitlement to the special annuity. The committee substitute would, therefore, direct the Board to take into account only the benefits to which the individuals are actually entitled. (Sec. 1(a), new clause (viii).)

(4) Under present law, the Board must take into account an employee's earnings in and after the year of retirement when computing the special annuity. This requires additional recomputations when the record of such earnings becomes available. The Committee substitute would require the Board to make only one computation and disregard earnings after retirement. (Sec. 1(a), new clauses (ix) and (x).)

CONCLUSION

The Committee has provided for a 20 percent increase in railroad retirement benefits on a temporary basis. However, any action to provide benefit increases on a permanent basis should be deferred until Congress has had an opportunity to study and evaluate fully the report of the Commission on Railroad Retirement and the joint Labor/Management report and the Board comments thereon required by section 6 of the Committee Substitute, after which such legislation as is necessary may be enacted to provide permanent benefit levels on an actuarially sound basis. And in order to simplify the administrative work necessary to give effect to the social security minimum guaranty provision contained in section 3(e) of the Railroad Retirement Act, the Committee has adopted the technical amendments recommended by the Board.

COST ESTIMATE PURSUANT TO SECTION 252 OF THE LEGISLATIVE REORGANIZATION ACT OF 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91–510), the Committee estimates that there would be no costs occasioned from appropriated funds by the enactment of the Committee substitute. The financial situation regarding the Railroad Retirement Account if the Committee substitute is enacted is set forth above under "Discussion."

SECTION-BY-SECTION ANALYSIS OF COMMITTEE SUBSTITUTE

Section 1. Subsection (a). Adds a new paragraph (5) to section 3(a) of the Railroad Retirement Act of 1937 which would increase the amount of each regular employee annuity computed under the Act by 20 percent.

Subsection (b). Paragraph (3). Adds a new paragraph to section 2(e) of the Act which would increase spouses' annuities by 20 per cent. In no case, however, would a spouse's annuity be increased to an amount in excess of the maximum amount of the spouse's annuity provided in the first sentence of section 2(e) of the Act. By virtue of the increase in the employee's annuity provided by the new paragraph (5) of section 3(a) of the Act (added by subsection (a) of section 1 of the Committee Subcommittee), the spouse's annuity would be increased before the increase provided by the new paragraph of section 2(e) unless a specific provision precluding the result is included. To avoid this duplication of increases in spouses' annuities paragraph (1) of this subsection of the Committee substitute provides that spouses' annuities would not be increased through the raise this bill would effect in employees' annuities.

Subsection (c). Amends section 2(i) of the Act to insure that the amount of the spouse's annuity against which offsets are applied as to the 1966 and 1968 benefit increases, because of corresponding social security benefit increases in 1965 and 1968, is the amount of the spouse's annuity before it is increased under provisions of the new paragraph (5) added to section 2(c) of the Act by subsection (b) of this section of the Committee substitute.

Subsection (d). Makes changes in the special formula for computing an annuity under the Railroad Retirement Act (provided for in section 3(e) of the Act). This formula assures that the combined amounts for which an individual and those deriving from him are eligible under the Railroad Retirement Act and the Social Security Act on the basis of the individual's earnings record would be no less than 110 per cent of the amount which would have been payable to that family under the Social Security Act on the basis of the individual's combined railroad and nonrailroad earnings if his railroad earnings had been covered under that Act since January 1, 1937. This special formula is used only if it produces a higher amount than the regular formula.

Clause 1. Adds new clauses (vi) through (x) to section 3(e) of the Act as follows:

New clause (vi). For the purpose of determining the amount of a special annuity, the Board is now required to take into account all individuals who would be entitled to benefits under the Social Security Act had railroad service been creditable under that Act. Many of these individuals (such as divorced wives, or divorced or remarried widows) are not entitled to annuities under the Railroad Retirement Act. Consequently, the Board has no information about them, or of their whereabouts, and the effort to secure such information entails many administrative problems. To afford relief in this respect, the new clause (vi) added to section 3(e) by the Committee substitute provides that, for the purpose of determining eligibility for, and the amount of, the special annuity, the Board need take into account only those individuals in the annuitants' families who could qualify for annuities under the Railroad Retirement Act, or who are the annuitants' wives or children.

New Clause VII.—In cases being paid as regular annuities, problems arise when social security benefits are increased. In such cases, the Board is required to ascertain whether the social security increase would result in a transfer of the annuity from the regular formula to the special one. To do this, the Board must determine if the annuitant has qualified dependents (such as minor, disabled or student children) who are not entitled to benefits under the Railroad Retirement Act while the annuitant is alive but who could be included in the computation of the special annuity. This requires the Board to send out questionnaires to get information about the annuitant's family composition at the time of each amendment to the Social Security Act. It is estimated that of about 300,000 such questionnaires which would have to be sent out to regular annuitants, only a small number (less than 2,000) would have such dependents. To relieve the Board of the necessity of sending out questionnaires, the new clause (vii) added to section 3(e) by the Committee substitute authorizes the Board to include only members of the family on the Board's benefit rolls, or those included in the special annuity at the time of such social security increase, for the purpose of determining eligibility for, and the amount of, a special annuity because of the increase. This new provision would be used only in cases where the special annuity could have applied but it had previously been determined that the regular annuity produced a higher benefit. This would not preclude the transfer of a regular annuity to a special one in cases where, for example, the annuitant marries and the sum of his and his wife's annuities is less than required by the special formula; or where the annuitant, who is awarded a reduced regular annuity, attains age 62; or where a disability annuity is awarded under the regular formula solely because the six-month waiting period required by the Social Security Act for eligibility for disability benefits under the Act had not yet expired at the time the annuity was awarded. In the case last described, the regular annuity would be changed to a special one upon the expiration of the waiting period (which would be reduced by section 122 of H.R. 1 (92d Congress, 1st session), if enacted, from six months to five).

New clause (viii). In computing a special annuity under present law, the Board is required to take into account not only social security benefits, if any, to which an in-

dividual is entitled, but also potential social security benefits to which the individual would have been entitled had he applied for them. In the vast majority of cases, however, involving a potential social security benefit, the individual did not file for such benefit either because he did not know he was entitled to it, or because he preferred to wait until he attained age 65 when he would qualify for an unreduced benefit instead of a reduced benefit between the ages of 62 and 65. Under present law, however, the individual is charged with receiving a benefit for which he did not even apply. The inevitable result of this is that very few individuals who are potentially entitled to social security benefits qualify for the special annuity. The new clause (vii) added to section 3(e) by the committee substitute would relieve the Board of computing social security benefits that would have been paid under the Social Security Act if the beneficiary had applied for them; it provides that, in determining the applicability of the special formula for computing an annuity, the Board should take into account only such social security benefits to which an individual is actually entitled.

New clauses (ix) and (x). Presently, when computing the average monthly wage for the special annuity formula, the Board is required under the Social Security Act provisions to include only wages and compensation up to the year the employee retires in the initial computation. Any wages he may have earned in the year he retires and his compensation in that year cannot be used until later in a second computation. Any resulting increase is effective in January of the following year. This is so because, generally, the records of current wages are not immediately available. Since the employee's compensation in the year he retired is available when the annuity is finally certified, the Board could include this compensation in the original computation of the special annuity but is prevented from doing this because of the provision in the Social Security Act. Also, for the purpose of the second computation, the Board obtains the current wage record from the Social Security Administration after they have been posted to their tape records. The added social security earnings generally result in no increase. It is a rare case when taking the latest social security earnings into account will permit the transfer of the regular annuity to a special one. To meet this problem the new clauses (ix) and (x) added to section 3(e) by the committee substitute provide for the inclusion, in new award cases, of an individual's wages and self-employment income only through the year before his annuity began to accrue, and all creditable railroad compensation up to the date the employee's annuity began. The effect of these two clauses would be to reduce the number of computations from two to one. For annuitants on the rolls, social security wages and self-employment income would be used through the end of 1971. In both situations, the average monthly wage and the resulting primary insurance amount would remain fixed, eliminating the need to obtain earnings from the Social Security Administration after the employee retired. The primary insurance amount would, of course, be increased by any cost-of-living or other increases provided by social security amendments. In survivor cases, there would be no change—the primary insurance amount would continue to be based on wages and compensation through the year of death.

Clause 1. Amends the third paragraph of section 3(c) of the Act by deleting the language ", or on application, would be". This amendment, with respect to the computation of certain widows' and widowers' annuities, is complementary to the amendment made by the new clause (viii), discussed above. The effect of both amendments is to eliminate the requirement that individuals be charged with benefits under the Social Security Act to which they are not entitled, thereby eliminating the need for reference to a hypothetical application for social security benefits.

Subsection (e). Amends the first sentence of section 5(1) (1) of the Act to add a reference to subsection (k), as well as subsections (c), (e) and (g) of section 216 of the Social Security Act, for the purpose of computing certain survivor annuities under the Railroad Retirement Act. Section 216(k) was added to the Social Security Act by the 1967 amendments to waive the requirement that a marriage must have existed for nine months in order for a widow, widower, or stepchild to qualify for social security benefits in cases where the wage earner's death was accidental or occurred in the line of duty while he was a member of the armed forces. The amendment to section 5(1)(1) of the Railroad Retirement Act made by the Committee substitute would make clear that the nine-month requirement is also to be waived in such cases in determining eligibility for railroad retirement benefits.

Subsection (f). Adds a new subsection (p) to section 5 of the Act to increase survivor annuities by 20 per cent.

Section 2. Provides for a 20 per cent increase in annuities awarded under the Railroad Retirement Act of 1935 (as continued under section 6 of the Railroad Retirement Act of 1937), in pensions, in survivors' annuities deriving from joint and survivor annuities, and in certain widows' and widowers' annuities payable in an amount to which they were previously entitled as spouses.

Section 3. Authorizes the Board to make any adjustments necessitated by enactment of the bill without application being made by annuitants. Such adjustments would be made even without express authorization; however, specific inclusion of this paragraph conforms to past practice in amendments provides for increased railroad retirement benefits.

Section 4. The Railroad Retirement Act provides that where individuals are entitled to social security benefits in addition to railroad retirement annuities, the annuity increases which were provided by the 1966, 1968, and 1970 railroad amendments are reduced by the approximate amount of the increases which these individuals received in their social security benefits as a result of the social security amendments of 1965, 1967, and 1969. At the present time, section 4 of the Social Security Amendments of 1971 (P.L. 92-46) gives the Railroad Retirement Board the authority to determine the percentages to be applied to social security benefits at their present level (without undertaking the time-consuming and expensive process of calculating, in each particular case, what an individual's social security benefit would have been prior to social security increases occurring after the 1969 social security amendments) in order to obtain the proper dollar amount for these reductions. While this authority is needed, and will continue to be needed, in order to avoid an unnecessary administrative burden, section 4 of Public Law 92-46 will, in accordance with section 8(b) of that Act, cease to be applicable after June 30, 1973. Section 4 of the Committee substitute is virtually identical to section 4 of Public Law 92-46 and would, therefore, insure that the Board's authority in this regard would continue after June 30, 1973.

Section 5. Subsection (a). Provides the effective dates for the 20 per cent increases in annuities and pensions—with respect to annuities, those accruing for months after August, 1971, and with respect to pensions, those due after September, 1972—as well as for the technical provisions in the Committee substitute.

Subsection (b). Provides that the benefit increases contained in the Committee substitute shall terminate as of June 30, 1973.

Section 6. Declares it to be the policy of the Congress that the temporary benefit increase provided by the Committee substitute as well as the 15 and 10 percent temporary increases provided in 1970 and 1971, respectively, would be made permanent only if at the same time changes are made in the railroad retirement system to ensure the receipt of sufficient revenues to make the Railroad Retirement account actuarially sound for the foreseeable future. This section also directs that representatives of employers and retirees and representatives of carriers shall report to this Committee and the House Commerce Committee no later than March 1, 1973, their mutual recommendations designed to ensure such solvency for the Railroad Retirement Account taking into account the report and specific recommendations of the Commission on Railroad Retirement. Finally, the section provides that a copy of such representatives' report be directed to the Railroad Retirement Board, and directs the Board to submit to the two Committees of the Congress its report expressing its views and specific recommendations along with those of the administration on the report of the representatives.

Title amendment. Amends the title to reflect the inclusion in the Committee substitute of the technical amendments.

Mr. ROBERT C. BYRD. Mr. President, a temporary increase in railroad retirement benefits is sorely needed and can be easily justified. Annuities for retired railroad workers have always paralleled the benefits provided for older Americans under the Social Security System.

Congress, as we all are aware, passed a 20-percent increase in social security benefits earlier this year. In order to assure our retired railroad workers equitable treatment, a 20-percent increase in their annuities should be passed. The increase proposed under this bill would apply to all railroad retirement annuities, save for those already raised by the increase in the spouse maximum provision of the act or by operation of the social security guaranty provision.

This latter provision assures that monthly benefits to a retired railroad worker will not fall below 110 percent of the amount to which he would have been entitled if he had been covered under the Social Security System.

The increase called for in this bill is temporary only insofar as no permanent increases can be passed until the Commission on Railroad Retirement presents its report on the actuarial soundness of the railroad retirement program to Congress. It will take considerable time to properly evaluate this report.

In the meantime, the needs of the retired railroad workers must be met. Steps must be taken to assure that their pensions are not completely eaten away by inflation.

This bill will go a long way toward meeting those needs, if only on an interim basis. I hope Congress will pass this badly needed increase to keep railroad retirement benefits on a par with social security benefits. It did so in 1966, 1968, 1970, and again last year—each time enabling the pensions of railroad workers to keep pace with the rising cost of living. It is time once again for Congress to act in a positive manner on behalf of the retired railroad workers.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An act to amend the Railroad Retirement Act of 1937 to provide a temporary 20 per centum increase in annuities, to simplify administration of the act, and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-112), explaining the purposes of the measure.

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

BACKGROUND

The Subcommittee on Railroad Retirement on August 10, 1972, held a hearing on S. 3852 and H.R. 15927, identical bills to provide a 20 percent temporary increase in Railroad Retirement benefits, and the administration request for technical amendments, passed by House of Representatives on August 14, 1972, in H.R. 15922. The Committee received testimony from the employee and carrier representative members and the chairman-designate of the Railroad Retirement Board; the Chairman, the labor member and the executive director of the Commission on Railroad Retirement; several representatives of employees; and a representative of carriers, and received statements for the record. On August 15, 1972, the Subcommittee met in executive session and unanimously reported to the full Committee H.R. 15922 and H.R. 15927, with an amendment adding a Section 6, and on September 7, 1972, the Committee on Labor and Public Welfare unanimously ordered favorably reported the provisions of both bills and the amendment reported from the Subcommittee (with minor modifications) consolidated into a Committee substitute and a title amendment.

SUMMARY OF COMMITTEE SUBSTITUTE

The Committee substitute has three purposes:

1. To provide a 20 percent temporary increase in railroad retirement annuities, with respect to annuities accruing after August, 1972, and scheduled to expire on June 30, 1973;

2. To declare a Congressional policy regarding the need to devise an actuarially sound method of financing in order to make permanent the three temporary increases, including the one made by the Committee substitute, totalling—based upon their compounding on one another—51.6 percent over the rate in 1970—all of which will expire on June 30, 1973; and to direct that representatives of employees and retirees and representatives of carriers report to the Congress (with a copy to the Railroad Retirement Board) no later than March 1, 1973, on this question of financing and that the Board submit comments on such report no later than April 1, 1973; and

3. To make technical amendments to the Railroad Retirement Act of 1937 to simplify the computation of benefits in so far as the consideration of Social Security Act provisions is concerned.

DISCUSSION

1. Twenty percent temporary increase

The Committee substitute provides a temporary 20 percent increase in railroad retirement benefits effective with respect to annuities accruing after August, 1972, with a scheduled termination date of June 30, 1973. The increases contained in this legislation are temporary because the cost of a permanent 20 percent increase when added to the costs of the temporary 15 percent increase enacted in 1970 and the temporary 10 percent increase enacted in 1971 (both of which are also scheduled to terminate as of June 30, 1973) would create such a serious actuarial deficiency (estimated by the Railroad Retirement Board at $129 million a year or 2.18 per cent of future payroll) in the railroad retirement system that Congress must give further consideration to the financing of the system before providing benefit increases on a permanent basis. By providing the benefit increases on a temporary basis, the creation of such an actuarial deficiency is avoided.

Precedents for the Temporary Increase

In recent years, increases in social security and railroad retirement benefits have been linked, with a comparable railroad retirement increase following closely behind each social security increase. This was the case in 1966, 1968, 1970, and again in 1971.

At the time that consideration was being given to a railroad retirement benefit increase in 1970, however, serious questions were raised as to the actuarial soundness of the railroad retirement system. In view of these questions and the lack of adequate information on which to base long-term solutions, Congress established a Commission on Railroad Retirement to study the system and its financing for the purpose of making recommendations as to the measures necessary to provide adequate levels of benefits on an actuarially sound basis (Public Law 91-377). At the same time in 1970, Congress responded to the need to provide an increase in railroad retirement benefits to match the 15 percent social security increase it had provided by enacting a temporary 15 per cent increase. This temporary increase was originally scheduled to terminate as of June 30, 1972—one year after the date on which the Commission was to submit its report.

In 1971, during testimony on a bill to provide a 10 per cent temporary increase in railroad retirement benefits to keep pace with a similar increase in social security benefits, it was established that the Commission could not complete its study and report by June 30, 1971. Accordingly, the due date of the report and the expiration date of the 15 per cent increase were both extended one year by Public Law 92-46, to June 30, 1972, and June 30, 1973, respectively. That same public law provided an additional temporary 10 per cent increase in railroad retirement benefits, which was also scheduled to terminate as of June 30, 1973.

While the Committee was considering this legislation, the Commission on Railroad Retirement was in the process of issuing its report which was due on June 30, 1972 and received on September 7, 1972. A full evaluation of this report, however, will undoubtedly be a time-consuming process, and in the meantime there is a need to raise the benefits payable to retired railroad workers and their dependents to enable them to cope with the continued rise in the cost of living. This inflation has made it increasingly difficult for retired persons living on fixed incomes to meet the expenses with which they are faced. The interim solution proposed by the Committee substitute is to provide temporary benefit increase expiring June 30, 1973, which will give Congress adequate time to consider the Commission's report before the proposed increase and the previously enacted 15 percent and 10 per cent increases expire.

Relationship to 20 Percent Social Security Increase

The need to increase railroad retirement benefits at this time is obvious in view of continuing inflation in the United States. Congress recognized the compelling need to provide retired persons substantial relief from inflationary pressures when it recently enacted Public Law 92-336, providing a 20 percent increase in social security benefits effective with respect to benefits accruing for months after August, 1972. The Committee believes that equitable treatment requires, and the Committee substitute therefore provides, a temporary 20 percent increase in railroad retirement benefits effective on the same date. By reason of the enactment of the 20 percent increase for social security benefits in Public Law 92-336, all annuities under the Railroad Retirement Act which were computed under the overall minimum provisions of the Act will be increased automatically by 20 percent. Such annuitants comprise approximately three-tenths of the present approximately 1,000,000 railroad retirement beneficiaries. However, no increase can be made in the annuities of the remaining almost 700,000 beneficiaries without the enactment of additional legislation.

The temporary 20 percent increase in the Committee substitute would apply to all railroad retirement annuities and pensions except those already increased because of an increase in the spouse maximum provision of the Act or by operation of the so-called social security guaranty provision. The spouse maximum provision specifies that the maximum annuity payable under the Railroad Retirement Act to a spouse cannot exceed 110 percent of the maximum possible wife's insurance benefit payable to any wife under the Social Security Act. The social security guaranty provision assures that monthly benefits to a retired railroad employee, and those deriving benefits from him, will not be less than 110 percent of the amount to which they would have been entitled if they had been covered under the social security system. Annuities payable under the social security guaranty or under the spouse maximum provisions are automatically increased whenever social security benefits are increased. Thus, the recent social security increases provided by Public Law 92-336 had the effect of raising the benefits payable to approximately 28 percent of the current railroad retirement beneficiaries. The remaining 72 percent of such beneficiaries who await the enactment of this legislation for comparable treatment are generally those whose entitlement is based upon longer career service in the railroad industry.

Enactment of Public Law 92-336 had a substantial impact on the financial condition of the railroad retirement program as well as providing benefit increases to roughly 28 percent of the beneficiaries covered thereunder. Prior to the enactment of that public law, the railroad retirement program was operating at an actuarial deficiency estimated by the Board at $18.2 million a year (assuming that the 15 percent increase of 1970 and the 10 percent increase of 1971 would expire on June 30, 1973). The financial effect of that public law, however, would—by virtue of the excess of additional railroad retirement tax collection generated by a statutory increase in the maximum taxable wage base plus additional gains due to the financial interchange (based on the additional benefits which would have been paid to the railroad retirement beneficiaries under the Social Security Act were railroad retirement employment not excluded from coverage under that Act) over the amount of the additional expenditures for the railroad retirement benefits under the Social Security guaranty and spouse maximum provision—convert this deficiency into an estimated actuarial surplus of about $99.1 million a year. If the 20 percent increase provided in this bill is payable only for the 10 month period from September 1, 1972, through June 30, 1973, the additional benefit outlay for the railroad retirement program would be about $250 million, and if that 20 percent increase, as well as the temporary 15 percent and 10 percent increases, are not extended beyond June 30, 1973, the program will be operating with an

actuarial surplus of about $87.5 million a year. The following table sets forth the effects of Public Law 92-336 and of the Committee substitute on the actuarial condition of the railroad retirement program.

ACTUARIAL EFFECTS OF PUBLIC LAW 92-336 AND S. 3852

	Level annual amounts in millions if 15-, 10-, and 20- percent increases are—	
	Temporary	Permanent
Actuarial deficiency as of Dec. 21, 1970	[1] $16.6	[1] $219.5
Actuarial deficiency adjusted to Dec. 31, 1972	[1] 18.2	[1] 230.4
Effects of Public Law 92-336:		
Additional railroad tax collections [2]	210.4	210.4
Additional railroad benefit payments [3]	216.5	217.1
Additional gains from financial interchange	123.4	123.4
Net reduction actuarial deficiency	117.3	116.7
Actuarial deficiency or surplus after Public Law 92-336	[4] 99.1	[1] 113.7
Additional benefits due to 20-percent increase in committee substitute	11.6	283.8
Actuarial deficiency or surplus after both Public Law 92-336 and committee substitute	[4] 87.5	[1] 397.5

[1] Deficiency.
[2] Under sec. 3201, 3211, and 3221 of the Internal Revenue Code, the maximum monthly earnings subject to taxation for railroad retirement purposes is equal to 1/12 of the maximum annual wages subject to taxes for social security purposes. Therefore, the enactment of Public Law 92-336 caused the amount of monthly earnings taxable for railroad retirement purposes to be increased from $750 to $900 beginning Jan. 1, 1973, and to $1,000 beginning Jan. 1, 1974.
[3] Railroad retirement annuities payable under the social security guaranty provision were automatically increased as a result of the social security increases provided by Public Law 92-336.
[4] Surplus.

Note: The outlay for the 10-month period from Sept. 1, 1972, through June 30, 1973, will be $250,000,000, and the figure in the table is the interest which the account will lose because this money will have been paid.

In summary, if the 20 percent benefit increase in the Committee substitute is provided on a temporary basis, the railroad retirement system will still be operating with an actuarial surplus because of the financial effects of Public Law 92-336. If, however, the two previous temporary benefit increases and the present 20 percent temporary increase, which are to terminate on June 30, 1973, were to be extended indefinitely, the system would be operating at a serious actuarial deficiency which, the Board estimates, would result in the exhaustion of its funds within a relatively short period of time unless measures are also taken to adequately finance the cost of any such permanent benefit increases.

II. Joint labor/management recommendation on future solvency of railroad retirement account

In this regard, in testimony before the Subcommittee on Railroad Retirement, the Chairman of the Commission stated that, based upon the dynamic actuarial model created by the Commission, if the three temporary increases are made permanent—totalling 51.8 per cent cumulatively in three years—and no additional means of raising revenue for the Railroad Retirement Account is adopted, the "account will go broke in the year 1985 and by the year 2000 will run up a debt of $23 billion." Both the Subcommittee and the full Committee were extremely concerned about the Commission's finding in that regard (one member of the Commission dissented from this projection; the four others concurred). However, since the full report of the Commission was not received by the Committee until September 7, 1972, the Committee has been unable fully to study and evaluate fully the report, recommendations and voluminous tables, charts and explanatory materials included in the Commission's submission.

Accordingly, the Committee felt it could deal effectively both with the need of railroad retirement beneficiaries for an equitable annuity increase and with the financial situation confronting the Account by adopting an amendment (section 6 of the Committee substitute) which declares a Congressional policy that these temporary increases, including the 20 percent increase in the Committee substitute, would be made permanent only if at the same time changes are made in the railroad retirement system to ensure the receipt of sufficient revenues to make the Railroad Retirement Account actuarially sound for the foreseeable future. This section also directs that representatives of employers and retirees and representatives of carriers shall report to this Committee and the House Commerce Committee no later than March 1, 1973, their mutual recommendations designed to ensure such solvency for the Railroad Retirement Account, taking into account the report and specific recommendations of the Commission on Railroad Retirement. Finally, the section provides that a copy of such representatives' report be directed to the Railroad Retirement Board and directs the Board to submit to the two Committees of the Congress its report expressing its views and specific recommendations, along with those of the administration, on the report of the representatives.

DESIGNATION OF THE ALDO LEOPOLD WILDERNESS, GILA NATIONAL FOREST, N. MEX.

The Senate proceeded to consider the bill (S. 3256) to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex., which had been reported from the Committee on Interior and Insular Affairs with amendments.

On page 1, line 5, after the word "the", strike out "Aldo Leopold Primitive Area," and insert "Black Range Primitive area,";

In line 8, after the word "Wilderness"," insert "and dated September 1972,";

And, on page 2, line 20 after the word "the", where it appears the second time, strike out "Aldo Leopold Primitive Area" and insert "Black Range Primitive Area"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 891; 16 U.S.C. 1132 (b)), the area classified as the Black Range Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Proposed Aldo Leopold Wilderness", and dated September 1972, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, is hereby designated as the Aldo Leopold Wilderness within and as part of the Gila National Forest, comprising an area of approximately one hundred eighty-eight thousand and ninety-five acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Aldo Leopold Wilderness with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Aldo Leopold Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Black Range Primitive Area is hereby abolished.

The amendments were agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-1132), explaining the purposes of the measure.

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

PURPOSE

S. 3256, as amended, would designate approximately 189,000 acres of the Gila National Forest, N. Mex., as the Aldo Leopold Wilderness. The wilderness so established would be administered by the Secretary of the Department of Agriculture in accordance with applicable provisions of the Wilderness Act of September 3, 1964 (78 Stat. 891; 16 U.S.C. 1132).

DESCRIPTION OF THE AREA

The proposed wilderness is located astride the crest of the Black Range of southwestern New Mexico. The area is located 35 miles northeast of Silver City, N. Mex., and 50 miles west of Truth or Consequences.

Rising from hot dry desert and semidesert the Black Range stands as a prominent land feature from nearly all directions. The proposed Aldo Leopold Wilderness contains the most rugged, wild portions of this mountain range. Over a wide range in elevation, a network of deep canyons, ridges, timbered benches, and many high vista points offer the visitor expansive views and opportunities for solitude. The area is characterized by the superlative beauty of its wild and undisturbed landscape.

Water is an important resource of the proposed wilderness. The area supplies a stable amount of high quality water for use by downstream farmers, ranchers, and the general public. Forage values are significant over most of the area for both wildlife and domestic livestock. About 1,000 head of cattle are permitted to use the area. Domestic livestock grazing will be continued. The area provides habitat for mule deer, whitetailed deer, elk, turkey, mountain lion, bear, bobcat, and coyote. A great variety of smaller game, mammals, and birds live within the area. Gila trout, an endangered species of fish, live in the headwaters of Diamond Creek at the northern end of the area.

Commercial timber stands occupy 58 percent of the area. The other portions of the area contain pinyon-juniper-oak woodland, brush areas, scattered patches of aspen at higher elevations, and small patches of chaparral at lower elevations. Classification of the area as wilderness will have only a minor effect on national forest timber harvest because under current primitive area classification the commercial timber stands have been withheld from inclusion in the forests' timber-producing base.

The U.S. Geological Survey and U.S. Bureau of Mines have examined the proposed wilderness to determine mineral values. They found no minable mineral deposits in the primitive area although minable mineral de-

posits do occur in nearby areas. It is considered unlikely that fossil fuels exist in the primitive area.

COST

Enactment of the bill will involve no Federal expenditure.

AMENDMENT

The committee accepted the recommendations of the Secretary of Agriculture for those areas to be included in the wilderness, with but one exception. In the commitee's view, exclusion 6, containing 894 acres along Morgan Creek, is suitable for addition to the National Wilderness Preservation System. This is a scenic area which includes a waterfall, and its inclusion will not only add to the beauty of the wilderness, but provide an improved and more logical boundary line. The evidence of the past timber-harvesting activities occurred in the late 19th century, and was accomplished with horses and oxen. As a result, disturbances are virtually unnoticeable today.

In such instances as this, where time is rapidly erasing man's handiwork and the disturbance is slight, the committee believes Congress should designate the area if it otherwise meets wilderness criteria.

The committee accordingly amended the map reference of S. 3256 so as to include exclusion 6. As pointed out, the committee agreed with the Forest Service as to its other exclusions or addictions. The reasons for determining whether or not the various areas were acceptable are recounted in the testimony of J. W. Deinema, Associate Deputy Chief of the U.S. Forest Service, included in this report under "Administration Views."

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs in executive session unanimously recommended the enactment of S. 3256.

JOHN S. ATTINELLO

The bill (H.R. 6204) for the relief of John S. Attinello was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1148), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay John S. Attinello of Alexandria, Va., $100,000, in full satisfaction of his claims against the United States as recommended by the Chief Commissioner of the U.S. Court of Claims in a congressional reference case, for the loss of patent rights in Great Britain for a highlift circulation system for aircraft.

STATEMENT

The committee adopts the substance of House Report No. 92–1134 on this legislation.

The Department of the Navy in its report to the committee on the bill indicated it would not object to legislation providing equitable compensation to Mr. Attinello for the loss of his foreign patent rights.

The bill, H.R. 6204, was referred to the Chief Commissioner of the Court of Claims by the House of Representatives in accordance with the provisions of House Resolution 401, which passed the House on June 1, 1971. The matter was designated as Congressional Reference Case No. 1–71, *John S. Attinello* v. *the United States*. The opinion in that case was filed March 13, 1972, and transmitted to the Speaker of the House of Representatives on that date. The opinion and the findings of fact in that case is set out and made a part of this report. The opinion outlines the facts of the case. The patent rights which are referred to in the bill concern a highlift supercirculation system for jet powered aircraft.

The opinion and the findings of fact go into considerable detail concerning the invention and its purpose. In general it is intended to provide a system or means to reduce the landing and takeoff speed of supersonic aircraft and involves a means for increasing the lift at reduced speeds by injecting high speed air over the trailing edge of the wings. The facts outlined by the Chief Commissioner indicate that in December 1952, Mr. Attinello disclosed his invention, entitled "High Lift Supercirculation System Using Supersonic Blowing," to the Patent Division of the Department of the Navy. Shortly thereafter, and before a U.S. patent application had been prepared or filed on his invention, claimant was asked by the British Ministry of Supply to disclose his invention at a confidential conference to be held in England. With the approval of the Chief of Naval Operations, claimant did disclose his invention at the April 24, 1953, Boundary Layer Control Conference at Farnborough, England. The presentation which claimant made at the conference was embodied in a classified British record of the conference that was printed in July of 1953. The presentation was also reproduced in this country as a classified Navy document in May 1953. In November 1953, claimant and the Department of the Navy entered into an agreement which recognized that title to the invention and to any patents belonged to claimant, but at the same time claimant agreed that the United States was to have a nonexclusive, irrevocable, royalty-free license under any patents that might issue. In addition, the agreement gave defendant an irrevocable and exclusive right to transact all Patent Office business having to do with claimant's U.S. application.

Since claimant was an employee of the Navy at the time he made his invention, the Government Patents Board was called upon to determine if the defendant was entitled to all rights, title, and interest to the invention. The Board found, on January 11, 1955, that defendant's contribution to the making of the invention was insufficient to entitle it to an assignment of the entire right, title, and interest in and to the invention. Instead, the Board concluded that title to the invention should be left with the claimant subject to a nonexclusive, irrevocable, royalty-free license being granted to defendant.

Because claimant's invention related to classified subject matter, the patent application was filed on February 10, 1954, by the Navy as a security classified document. On April 7, 1954, a secrecy order under the provisions of 35 U.S.C. sections 181–188 was issued by the Commissioner of Patents. As a result, claimant was ordered to keep the details of his invention secret unless he first obtained the written consent of the Commissioner of Patents to disclose the same.

In June of 1954, the Department of the Navy disclosed the basic features of claimant's invention in an unclassified publication, entitled "Naval Aviation News." In addition, public disclosure of claimant's invention, in the form of detailed magazine articles, also occurred in England on November 12, 1954, and December 3, 1954. All of the public disclosures were made without authority or approval of claimant.

While claimant willingly granted defendant a nonexclusive, irrevocable, royalty-free license for Government use of his invention, he intended to retain all rights to commercial use of his invention in the United States. Also, the license granted to defendant has been interpreted in the past so as not to give the U.S. authority to license foreign governments to produce or utilize an invention abroad, except where the equipment is manufactured in the United States pursuant to defendant's license. The Commissioner also observed that indeed, claimant was interested in protecting his rights to foreign patents. He was particularly interested in obtaining British and Canadian patents to prevent commercial or governmental use of his invention in either of those countries without just compensation.

Therefore, on June 30, 1954, on the basis of his prior disclosure at the April 24, 1953, confidential conference at Farnborough, England, and the classified documents based thereon, claimant requested the Navy to petition the Patent Office for modification of its secrecy order. At that time he only sought permission to file a British patent application which would correspond to his then-pending U.S. application.

The request was not made by the Navy Department. Accordingly, in January 1955, claimant again requested that Navy patent counsel petition the Patent Office to file a patent application in Great Britain. By this time, of course, the details of Mr. Attinello's invention had been publicly disclosed in both this country and in England. The Department of the Navy did petition the U.S. Patent Office on January 21, 1955, for a modification of its outstanding secrecy order. Permission to file in Great Britain was mailed to the Office of Naval Research on February 2, 1955.

Relevant English law prevents an applicant from filing for a patent after the details of his investigation have been publicly disclosed. However, since both the United States and England are members of the International Patent Convention, Mr. Attinello could, notwithstanding any public disclosure which occurred after the filing date of his U.S. application, file for a British patent if such application were made within 1 year of the filing date of his U.S. application. In essence, Mr. Attinello's British patent application would be given the benefit of his earlier U.S. filing date to thus avoid the debarring effects of the publications which occurred in June 1954, in this country and in November and December of 1954, in England.

It, accordingly, was imperative that Mr. Attinello file his British application before February 10, 1955. However, because of the delay by the Navy in petitioning the Patent Office for modification of its outstanding secrecy order, it was impossible for Mr. Attinello to file a British application within the time demanded by the provisions of the International Patent Convention.

The Commissioner pointed out that since the Department of the Navy knew that the classified material incorporated in claimant's invention had been disclosed to British authorities at the confidential conference in 1953, and since the Navy itself published an unclassified description of the basic invention in June 1954, the long delay by the Navy in petitioning the Patent Office for modifications to the secrecy order with respect to Great Britain is found to be unjustified and inexcusable. The Commissioner concluded that the failure of the Department of the Navy to expedite claimant's June 1954 request for modification of the secrecy order did prejudice Mr. Attinello's right to obtain a British patent.

On the basis outlined above and more fully set forth in the opinion of the Commissioner and the Findings of Fact, the Commissioner found that Mr. Attinello was equitably entitled to a payment of $100,000. It is recommended that the bill providing for payment of that amount be favorably considered.

[Before the Chief Commissioner of the United States Court of Claims, In Congressional Reference Case No. 1–71 (Filed Mar. 13, 1972)]

JOHN S. ATTINELLO v. THE UNITED STATES

(Report to the United States House of Representatives)

Irvin A. Lavine, attorney of record for plaintiff.

Charles L. Whitham, with whom was *Assistant Attorney General L. Patrick Gray, III*, for defendant.

Before DAVIS, *Presiding Commissioner of the Review Panel*, WHITE and STONE, *Commissioners*.

OPINION

By THE REVIEW PANEL: Upon referral of the bill (H.R. 6204, 92d Cong., 1st Sess.) "for the relief of John S. Attinello" to the Chief Commissioner of the Court of Claims by the House of Representatives, and the subsequent filing of a petition by the claimant, the Chief Commissioner referred the case to Trial Commissioner Joseph V. Colaianni for the conduct of further proceedings in accordance with the Rules of the Chief Commissioner. On February 14, 1972, Commissioner Colaianni reported his decision, based on facts stipulated by the parties. On February 18, 1972, the parties by joint motion requested that the Review Panel "adopt the report of Commissioner Colaianni * * * [thereby] waiving review of such report on the part of the panel." Accordingly, the Review Panel adopts Commissioner Calaianni's report and agrees with his conclusion that claimant "has no legal claim against the United States" but does have "an equitable claim against the United States in the sum of $100,000." The Review Panel recommends to Congress that such claim be paid.

This determination is submitted to the Chief Commissioner for transmittal to the U.S. House of Representatives.

OPINION OF THE TRIAL COMMISSIONER

COLAIANNI, *Commissioner:* Pursuant to 28 U.S.C. §§ 1492 and 2509, the House, on June 1, 1971, referred H.R. 6204, 92d Cong., 1st Sess., to the Chief Commissioner of the Court of Claims.

The bill involved in this referral, H.R. 6204, is entitled "A bill for the relief of John S. Attinello." The bill proposes that the Congress enact legislation authorizing and directing the Secretary of the Treasury to pay:

"* * * the sum of $100,000, in full satisfaction of all claims of the said John S. Attinello against the United States for loss of patent rights in Great Britain and Canada on a highlift supercirculation system for aircraft which was developed and patented in the United States by him (United States Patent Numbered 2,868,480), but which was not patented in such countries as a result of the failure of the Department of Defense to forward to the appropriate American embassies applications filed with such Department by the said John S. Attinello."

The reference of H.R. 6204 to the Chief Commissioner of the Court of Claims was accomplished by means of H. Res. 401, 92d Cong., 1st Sess. The resolution indicated that the reference was made pursuant to 28 U.S.C. §§ 1492 and 2509 for "* * * further proceedings in accordance with applicable law."

The petition of Mr. Attinello was filed with the Clerk of the Court of Claims on August 24, 1971, and defendant's answer was filed on October 21, 1971. The parties, in lieu of trial, submitted an extensive stipulation of all of the relevant facts. The stipulation of facts, along with documents referred to in the stipulation, was admitted into the record.

On the basis of facts established by the evidence in the record, as summarized in this opinion and set forth more fully in the findings of fact, I conclude that:

(1) Claimant has no legal claim against the United States, but

(2) He does have a claim, founded on equity and justice within the meaning of *Burkhardt* v. *United States*, 113 Ct. Cl. 658, 84 F. Supp. 553 (1949), and there is equitably due claimant, from the United States, the sum of $100,000.

Claimant, John S. Attinello, is an American citizen who for many years was employed by the Department of the Navy. During the early 1950's, he was the Head of the Supersonic Section, Applied Mathematics Branch, Research Division, Bureau of Aeronautics, Department of the Navy. While so employed, he became aware of the serious landing and takeoff problems that were plaguing jet-powered aircraft. The matter was of particular concern to the Navy because its jet fighters were landing at speeds which made them unsafe for aircraft carrier use.

Considerable research had been directed to conceiving a structure or system for reducing the landing and take-off speeds of supersonic fighters. By and large, the research programs of that period were directed at efforts to somehow favorably affect the flow of air over the aircraft's wings, or, in other words, to materially affect the circulation of air about an airfoil through boundary layer control. The majority of aeronautical engineers in the early 1950's felt that stabilizing or removal of the boundary layer would permit an aircraft to fly at lower speeds with increased lift.

Mr. Attinello felt that efforts to solve the problem by reducing or stabilizing the boundary layer would be unsuccessful. To the contrary, he felt that increased lift at reduced speeds could best be accomplished by injecting high speed air into the air already flowing over the trailing edges of the wings. By the use of Mr. Attinello's invention, which is described and disclosed in detail in his United States Patent No. 2,868,480 and Reissue Patent No. 24,917, it was found that the boundary layer of air did not separate to the same extent as before from the wing skin at slow or near stalling speeds. By substantially reducing the separation of air flow over the wings at slower speeds, the lifting capacity of the wings was found to be greatly increased. In turn, this enabled jet fighters to land at lower and safer speeds.

In December 1952, Mr. Attinello disclosed his invention, entitled "High Lift Supercirculation System Using Supersonic Blowing," to the Patent Division of the Department of the Navy. Shortly thereafter, and before a United States patent application had been prepared or filed on his invention, claimant was asked by the British Ministry of Supply to disclose his invention at a confidential conference to be held in England. With the approval of the Chief of Naval Operations, claimant did disclose his invention at the April 24, 1953, Boundary Layer Control Conference at Farnborough, England. The presentation which claimant made at the conference was embodied in a classified British record of the conference that was printed in July of 1953. The presentation was also reproduced in this country as a classified Navy document in May 1953. In November 1953, claimant and the Department of the Navy entered into an agreement which recognized that title to the invention and to any patents belonged to claimant, but at the same time claimant agreed that the United States was to have a nonexclusive, irrevocable, royalty-free license under any patents that might issue. In addition, the agreement gave defendant an irrevocable and exclusive right to transact all Patent Office business having to do with claimant's United States application.

Since claimant was an employee of the Navy at the time he made his invention, the Government Patents Board was called upon to determine if the defendant was entitled to all rights, title and interest to the invention. The Board found, on January 11, 1955, that defendant's contribution to the making of the invention was insufficient to entitle it to an assignment of the entire right, title and interest in and to the invention. Instead, the Board concluded that title to the invention should be left with the claimant subject to a nonexclusive, irrevocable, royalty-free license being granted to defendant.

Because claimant's invention related to classified subject matter, the patent application was filed on February 10, 1954, by the Navy as a security classified document. On April 7, 1954, a secrecy order under the provisions of 35 U.S.C. §§ 181–188 was issued by the Commissioner of Patents. As a result, claimant was ordered to keep the details of his invention secret unless he first obtained the written consent of the Commissioner of Patents to disclose the same.

In June of 1954 the Department of the Navy disclosed the basic features of claimant's invention in an unclassified publication, entitled Naval Aviation News. In addition, public disclosure of claimant's invention, in the form of detailed magazine articles, also occurred in England on November 12, 1954, and December 3, 1954. All of the public disclosures were made without authority or approval of claimant.

While claimant willingly granted defendant a nonexclusive, irrevocable, royalty-free license for Government use of his invention, he intended to retain all rights to commercial use of his invention in the United States. Also, the license granted to defendant has been interpreted in the past so as not to give the United States authority to license foreign governments to produce or utilize an invention abroad, except where the equipment is manufactured in the United States pursuant to defendant's license. Indeed, claimant was interested in protecting his rights to foreign patents. He was particularly interested in obtaining British and Canadian patents to prevent commercial or governmental use of his invention in either of those countries without just compensation.

Therefore, on June 30, 1954, on the basis of his prior disclosure at the April 24, 1953, confidential conference at Farnborough, England, and the classified documents based thereon, claimant requested the Navy to petition the Patent Office for modification of its secrecy order. At that time he only sought permission to file a British patent application which would correspond to his then-pending United States application. The request was not made by the Navy Department. Accordingly, in January 1955, claimant again requested that Navy patent counsel petition the Patent Office to file a patent application in Great Britain. By this time, of course, the details of Mr. Attinello's invention had been publicly disclosed in both this country and in England. The Department of the Navy did petition the United States Patent Office on January 21, 1955, for a modification of its outstanding secrecy order. Permission to file in Great Britain was mailed to the Office of Naval Research on February 2, 1955.

Relevant English law prevents an applicant from filing for a patent after the details of his invention have been publicly disclosed. However, since both the United States and England are members of the International Patent Convention, Mr. Attinello could, not withstanding any public disclosure which occurred after the filing date of his U.S. application, file for a British patent if such application were made within one year of the filing date of his U.S. application. In essence, Mr. Attinello's British patent application would be given the benefit of his earlier U.S. filing date to thus avoid the debarring effects of the publications which occurred in June 1954 in this country and in November and December of 1954 in England.

In addition, the parties are in agreement that there is no judicial precedent to indicate that Mr. Attinello's confidential disclosure in Great Britain in April of 1953 would have acted as a bar to the granting of a British patent on his invention.

It, accordingly, was imperative that Mr. Attinello file his British application before February 10, 1955. However, because of the delay by the Navy in petitioning the Patent Office for modification of its outstanding secrecy order, it was impossible for Mr.

Attinello to file a British application within the time demanded by the provisions of the International Patent Convention.

Since the Department of the Navy knew that the classified material incorporated in claimant's invention had been disclosed to British authorities at the confidential conference in 1953, and since the Navy itself published an unclassified description of the basic invention in June 1954, the long delay by the Navy in petitioning the Patent Office for modifications to the secrecy order with respect to Great Britain is found to be unjustified and inexcusable. The failure of the Department of the Navy to expedite claimant's June 1954 request for modification of the secrecy order did prejudice Mr. Attinello's right to obtain a British patent.

Claimant's only recognition for his technologically significant invention, which defendant admits to using to the present day on substantially all supersonic fighters, was a citation for Meritorious Civilian Service and a limited ingrade raise in salary.

Because of the significant contribution which claimant's invention has made to aircraft technology, defendant has indicated that it does not object to legislation which would acknowledge this contribution by providing equitable compensation for the loss of claimant's British patent rights. The damage to claimant caused by failure to obtain a British patent is directly related to the number of aircraft produced in England, which, when flown, would constitute a Crown use of his patent.

The parties have stipulated that the British Government has utilized claimant's invention on some 261 supersonic aircraft. Accordingly, since it costs approximately $20,000 to install claimant's system on each aircraft, and since a similarly situated patentee would be entitled to a royalty of between 2 and 3 percent of the total-dollar procurement, claimant's recovery, had he obtained a British patent, would be in the order of $104,400 to $156,600. By way of compromise, the parties are in agreement that claimant is equitably entitled to $100,000 as compensation for the loss of any British patent.

I, accordingly, conclude that claimant has no legal claim against the United States, but that under the standards of *Burkhardt* v. *United States, supra,* claimant does have an equitable claim against the United States in the amount of $100,000.

FINDINGS OF FACT

1. (a) Pursuant to H. Res. 401, 92d Cong., 1st Sess., H.R. 6204 was referred to the Chief Commissioner of the U.S. Court of Claims.

(b) The text of H. Res. 401 reads as follows:

"*Resolved,* That H.R. 6204 entitled "A bill for the relief of John S. Attinello", together with all accompanying papers, is hereby referred to the Chief Commissioner of the Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, for further proceedings in accordance with applicable law."

2. (a) H.R. 6204, 92d Cong., 1st Sess., is entitled "A BILL for the relief of John S. Attinello."

(b) The text of H.R. 6204 reads as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John S. Attinello of Alexandria, Virginia, the sum of $100,000 in full satisfaction of all claims of the said John S. Attinello against the United States for loss of patent rights in Great Britain and Canada on a high lift supercirculation system for aircraft which was developed and patented in the United States by him (United States Patent Numbered 2,868,480), but which was not patented in such countries as a result of the failure of the Department of Defense to forward to the appropriate American embassies applications filed with such Department by the said John S. Attinello.

"SEC. 2. No part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

3. (a) As a result of its consideration of H. Res. 401, House Report No. 92–172, 92d Cong., 1st Sess., was prepared by the Committee on the Judiciary.

(b) The report indicates that the subject matter of the bill (H.R. 6204) had been previously considered at a July 31, 1969, hearing by a subcommittee of the full Committee on the Judiciary, pursuant to a bill pending before the 91st Congress. In addition, reports were submitted on the bill being considered by the 91st Congress by the Department of the Navy on August 8, 1969, and by the Department of Commerce on July 31, 1969.

(c) The report also indicates that certain patent aspects of the case were felt to be of sufficient importance to both the Government and its employees that a full investigation was warranted. The Committee felt that only after a full investigation had been made could the claim be evaluated "* * * to determine whether it is a proper subject for legislative relief."

4. (a) In accordance with the Rules of the Chief Commissioner, claimant's petition was filed on August 24, 1971. Defendant's answer was filed on October 21, 1971.

(b) The parties, on December 28, 1971, submitted a stipulation of facts, along with supporting Joint Exhibits 1 through 19, inclusive. The stipulation and exhibits were intended by the parties to embody all of the records and material essential to a determination of the facts. Proof was, therefore, closed on December 28, 1971.

(c) The stipulation provided that the parties did not desire to submit requested findings of fact or briefs as permitted by Rules 134(d) and (e) of the court.

(d) The findings of fact which follow are based primarily upon the stipulation of the parties, as supplemented by Joint Exhibits 1–19, inclusive, and, as well, by the July 31, 1969, hearings by the subcommittee of the full Committee on the Judiciary and the reports of the Department of the Navy and Commerce.

5. (a) John S. Attinello is a citizen of the United States, residing in Alexandria, Va.

(b) In 1952, Mr. Attinello was employed by the Department of the Navy as Head of the Supersonic Section Applied Mathematics Branch Research Division Bureau of Aeronautics.

6. (a) With the advent of jet power in the late 1940's or early 1950's pilots found it necessary to take off and land their planes at speeds significantly higher than had been the case with propeller driven aircraft. Runways at existing airports and on aircraft carriers were found to be too short to safely accommodate the higher landing speed of jet aircraft. The problem was particularly acute for the Navy since aircraft carriers provided a minimum of runway space for both the takeoff and landing of supersonic planes. By and large, the aerodynamists of the early 1950's were in substantial agreement that the design of supersonic aircraft had to be modified to achieve higher lift at lower speeds. However, the means for achieving high lift at lower speed eluded their best efforts.

(b) The majority of aeronautical engineers in the early 1950's apparently felt that stabilizing or removal of the circulation of air about the airfoils of an aircraft would enable the aircraft to generate greater lift at lower speeds. Therefore, the research programs of that period were broadly concentrated on the following categories: (i) boundary layer control devices which relied either on suction or low-speed blowing, and/or (ii) wing camber and wing area increasing means. Mr. Attinello did not agree. To the contrary, he felt that increased lift at reduced speeds could best be accomplished by injecting high-speed air into the air already flowing over the trailing edges of the wings. Claimant's concept proved to be correct for it was found that as a result of using his system, the separation of the air or boundary layer, flowing over the wings as the aircraft approached stall or near stalling speeds, was substantially reduced. It was also found that, by use of Mr. Attinello's concept, an aircraft could land at significantly lower speeds, since the lifting capacity of the wings was greatly increased. Claimant's invention, as described and disclosed in United States Letters Patent No. 2,868,490 and Reissue Patent No. 24,917, has been used continuously to date on substantially all American supersonic fighters.

(c) In December 1952, Mr. Attinello disclosed his invention to the patent division of the Department of the Navy. The invention, entitled "High Lift Supercirculation System Using Supersonic Blowing," ultimately proved to supply the long-sought-after solution that enables supersonic jets to take off and land at moderate speeds.

7. (a) After Mr. Attinello disclosed his invention to the Navy Department, but before a patent application had been prepared for filing with the United States Patent Office, a request was made by the British Ministry of Supply that he disclose his invention at a confidential conference which was to be held in England on April 24, 1953. As a result of the British Ministry of Supply's request, and with the approval of the Chief of Naval Operations, Mr. Attinello did disclose his invention at the April 24, 1953, Boundary Layer Control Conference at Farnborough, England. The confidential conference was attended by 132 British subjects who represented, in addition to various British governmental agencies, 18 aircraft firms, four engine firms, five universities, and two airway corporations.

(b) The discussions and presentations at the conference are embodied in the July 1953 Royal Aircraft Establishment, Technical Memo No. Aero. 367, "Record of the Symposium Held at R.A.E. on Friday, 24th April 1953, on Boundary Layer Control By Suction." The record of the conference was classified "Confidential-Discrete" under the British Official Secrets Act.

(c) Included among the papers contained in the record of the symposium is the speech presented by Mr. Attinello, entitled "Suction and Blowing at a Flap Gap." The paper disclosed the details of Mr. Attinello's invention.

(d) In May of 1953 the technical paper delivered by Mr. Attinello at the Boundary Layer Control Conference in Farnborough, England, was duplicated as a Bureau of Aeronautics, Research Division, report and issued as classified NAVAER Report No. DR–1533, entitled "Augmenting Life by Means of a Supersonic Jet Directed Over Flaps."

8. (a) The Department of the Navy in due course prepared a patent application based on Mr. Attinello's December 1952 invention disclosure. However, prior to the filing of the application with the Patent Office, Mr. Attinello and the Department of the Navy, on November 19, 1953, entered into a license and agreement.

(b) The agreement acknowledges that Mr. Attinello had concurrently executed an oath, power of attorney and petition for a patent application, entitled "High Lift Su-

percirculation System Using Supersonic Blowing." The agreement granted the United States a nonexclusive, irrevocable, royalty-free license to Mr. Attinello's invention and under any patent that issued thereon. In addition, the agreement provided that Navy Department attorneys would have full charge over prosecution of Mr. Attinello's application through the Patent Office.

(c) Mr. Attinello's application was filed with the United States Patent Office on February 10, 1954. Because the application covered classified subject matter, the patent application was filed by the Department of the Navy as a security classified document.

(d) Subsequently, and particularly on April 7, 1954, a secrecy order under the provisions of 35 U.S.C. §§ 181–188, was issued by the Patent Office.

(e) The secrecy order provided, in pertinent part:

You are hereby notified that your application * * * has been found to contain subject matter, the unauthorized disclosure of which might be detrimental to the national security, and you are ordered in nowise to publish or disclose the invention or any material information with respect thereto, including hitherto unpublished details of the subject matter of said application, in any way to any person not cognizant of the invention prior to the date of the order, including any employee of the principals, but to keep the same secret except by written consent first obtained of the Commissioner of Patents, under the penalties of 35 U.S.C. (1952) 182, 186.

9. (a) On the theory that the subject matter of his patent had already been disclosed at the April 24, 1953, confidential conference at Farnborough, England, claimant, on June 30, 1954, requested the Navy Department to petition the Patent Office for modification of its secrecy order to permit him to file a patent application, which would correspond to his pending United States application, in Great Britain. In further support of his request, Mr. Attinello called attention to the confidential NAVAER report of May 1953 which also described his invention.

(b) At approximately the same time, but unknown to Mr. Attinello at the time of his request, the June 1954 issue of *Naval Aviation News*, an unclassified publication, disclosed the basic features of Mr. Attinello's invention in an article entitled "Boundary Layer Control."

(c) In addition, public disclosure of Mr. Attinello's invention was also made by the following unclassified British publications:

(i) *Flight*, November 12, 1954, and

(ii) *The Aeroplane*, December 3, 1954.

10. (a) In January of 1955, almost seven months after his original June 30, 1954, request, Mr. Attinello again asked Navy patent counsel to petition the Patent Office for permission to file in Great Britain a patent application corresponding to his pending United States application. In response to this second request, patent counsel for the Department of the Navy did petition the United States Patent Office on January 21, 1955, for such permission. On February 2, 1955, the United States Patent Office mailed a permit to the Office of Naval Research.

(b) The procedure usually followed by the Department of the Navy in handling mail from the Patent Office called for the Patent Records Branch, which received such mail, to send it to the "field patent branch" that was prosecuting the patent application. The mail could be sent to the "field branch" by way of appropriate Bureau Patent Counsel or the mail could be sent directly to the "field patent oranch" with an information copy being forwarded to the appropriate Bureau Patent Counsel. The applicant-inventor would then be notified of the Patent Office's action by either the "field patent branch" or, in some instances, by the Bureau Patent Counsel. In any case, claimant did not receive notice of the Patent Office's modification of its secrecy order until some days after February 2, 1955.

11. (a) Under British law, broadly speaking, an application for a patent cannot be validly filed after public disclosure of the inventive subject matter in Great Britain.

(b) The question of whether Mr. Attinello's invention had been publicly disclosed in England was of prime importance in this case, since it was known that he had disclosed the details of his invention to British authorities in April of 1953, and, as well, since the *Naval Aviation News* carried an unclassified description of the basic invention in June of 1954.

(c) However, the provisions of the International Patent Convention, to which both Great Britain and the United States are parties, permit the filing of a patent application in Great Britain even after a public disclosure in England has occurred, if a British application is filed within 12 months from the date of a previously filed foreign application. Accordingly, in this instance, Mr. Attinello would not have to concern himself with the public disclosure of his invention if he filed a Brtish application for a patent, corresponding to his United States application, within one year of his United States applicaiton. In addition, the effect of claimant's confidential disclosure in 1953 on his right to obtain a British patent is not clear. The Navy's investigation of this matter apparently was far from conclusive. In the words of the stipulation:

* * * the situation was unusual and, having no judicial precedent which directly applied, British patent experts consulted by the Navy declined to give an opinion concerning the legal affect [sic] of the 1953 confidential disclosure.

It was, therefore, imperative that Mr. Attinello's United Kingdom application be filed in Great Britain on or before February 10, 1955.

(d) Thus, under these circumstances, the delay by the Navy until January of 1955 to petition the Patent Office for modification of its secrecy order to permit Mr. Attinello to file an application in Great Britain is found to be unduly long.

(e) Even under the best of conditions, Mr. Attinello could not have filed a United States patent application in the few days which remained between the time he received notice of the Patent Office's February 2, 1955, permit for filing and the February 10, 1955, one-year anniversary date of his United States patent application. Moreover, further aggravating the plight of Mr. Attinello, was the requirement in the Patent Office's February 2, 1955, permit that:

"* * * the papers for the foreign application[s] and its [their] prosecution shall be transmitted in a manner approved for information classified as above to the Initiating Agency [Bureau of Aeronautics, Department of the Navy] for forwarding * * *."

12. Mr. Attinello apparently encountered additional difficulties in determining the appropriate Department of the Navy security channels for filing his patent application in Britain. It was not until August 9, 1955, that he submitted papers, as required by the Patent Office's February 2, 1955, permit, for filing a British application to offices within the Bureau of Aeronautics for transmittal to Great Britain. The files of the Navy Patent Organization indicate that the papers were not forwarded to England for processing but no explanation or reason is given for this failure.

13. (a) Inasmuch as Mr. Attinello had not filed a United Kingdom patent application in Great Britain by February 10, 1955, the first anniversary date of his United States filing, he was correctly informed by his British patent agent that he was barred from obtaining corresponding valid British and Canadian patents. Particularly, Mr. Attinello was advised by his British patent agent that the unclassified publications occurring after his February 10, 1954, United States application, but before February 10, 1955, would bar his present attempts to patent his invention in Great Britain and Canada.

(b) Since Mr. Attinello was debarred from obtaining a British patent after February 10, 1955, the failure of the Navy to transmit the paper which he filed with the Bureau of Aeronautics on August 9, 1955, to Great Britain is of no legal consequence.

14. Mr. Attinello's right to obtain a patent in Great Britain was prejudiced by the failure of the Department of the Navy to expedite and process his original June 30, 1954, request for Patent Office permission to file an application, corresponding to his United States filed application, in Britain. Particularly, since Mr. Attinello's April 1953 confidential disclosure in England was done with the knowledge and approval of the Chief of Naval Operations, and, also, since Mr. Attinello's invention was disclosed in as unclassified Navy publication, his June 30, 1954, request that the Navy petition the Patent Office for modification of its secrecy order was reasonable and should have been promptly expedited by the Navy Patent Organization.

15. On June 29, 1955, Mr. Attinello requested that the Navy Patent Organization petition the Patent Office for modification of its April 1954 secrecy order and permit the filing of a corresponding application in Canada. The petition to the Patent Office was made on September 9, 1955, and the permit was allowed and mailed by the Patent Office on September 22, 1955. However, since both Mr. Attinello's request and the Patent Office's permission were some months after the first anniversary filing date of his United States application, he was barred, because of the prior public disclosure of his invention, from obtaining a Canadian patent.

16. (a) The right of Mr. Attinello to retain the full title to his invention was established by the Government Patents Board on January 11, 1955.

(b) The Government Patents Board was apparently supplied with a report which outlined the factual setting in which Mr. Attinello's invention was made. Based on the information presented, Mr. Archie M. Palmer, Chairman of the Government Patents Board, concluded:

"Upon the basis of the information submitted on this case, it appears that the contribution of the Government to the making of the invention is insufficient equitably to entitle the Government to assignment of the entire right, title and interest in and to the invention.

Therefore, pursuant to paragraph 1 of Executive Order 10096, the Chairman of the Government Patents Board concurs in the determination of the Department of the Navy that title to the invention be left in the inventor, subject to the license granted to the Government by the inventor."

17. (a) Mr. Attinello's original and reissue patents state that:

"The invention described herein may be manufactured and used by or for the Government of the United States of America for governmental purposes without the payment of any royalties thereon or therefor."

(b) Mr. Attinello's invention is primarily directed to aircraft operating at supersonic speeds. Thus, it has not, to date, been used commercially in the United States. Indeed, the only use in the United States for Mr. Attinello's invention has been on military aircraft operating at supersonic speeds.

(c) For his invention, Mr. Attinello was presented the Meritorious Civilian Service Award by the Department of the Navy. The citation acknowledged and recognized that:

"Mr. Attinello's contribution towards solving this acute problem is considered an espe-

cially significant technological advancement in naval aviation."

(d) Aside from a small in-grade raise in his Government salary for some 14 months, Mr. Attinello received no monetary award from the Government for his invention.

(e) Mr. Attinello's license to the United States was limited to his United States patent application. Under the agreement, Mr. Attinello retained the rights to obtain foreign patents to protect his invention from use by foreign countries or foreign business establishments for aircraft made and/or used outside of the United States. It was in furtherance of these rights that Mr. Attinello timely moved for permission to file a corresponding patent application in Great Britain.

18. (a) On July 15, 1966, having left the employ of the Government, Mr. Attinello presented a claim to the Navy for compensation. Mr. Attinello's claim was directed to aircraft, which incorporated his invention, that were built in this country for use by the British and other allied countries.

(b) Mr. Attinello's claim was denied by the Department of the Navy on September 29, 1966, for the reason that procurement in the United States under Navy contracts was covered by his grant of the license to the Government, regardless of the ultimate disposition of the procured aircraft. The Navy also based its denial on the grounds that Mr. Attinello was a Government employee at the time his invention was made and that his duties were such that 22 U.S.C. § 2356 or 28 U.S.C. § 1498 precluded his bringing a suit against the United States.

19. However, Mr. Attinello's license to the United States does not authorize or permit foreign governments to produce or utilize his invention abroad, unless the invention was manufactured in the United States pursuant to said license. Therefore, the damages to Mr. Attinello, had he not been prevented from filing for a United Kingdom patent, and had he thereafter been successful in obtaining a corresponding British patent, would be directly proportional to the number of aircraft produced in Great Britain for the Crown.

20. Since the claimant's invention was a significant contribution to aircraft technology, defendant does not object to legislation which would acknowledge Mr. Attinello's contribution by providing equitable compensation to him for the loss of his British patent rights.

21. The parties have stipulated that:

(a) *Jane's, All the World's Aircraft,* is an authoritative reference sourcebook;

(b) *Jane's,* for 1960–1961, states that the British Government had obtained Scimitar aircraft employing supersonic blowing over the upper surfaces of the flaps;

(c) *Jane's,* for 1970–1971, states that the British Government had obtained Buccaneer aircraft employing "supercirculation" boundary layer control with aid outlet slots forward of the flaps; and

(d) The British Research and Development Staff of the British Defense Staff, Washington, D.C., was requested by the Department of the Navy to verify the number of military planes of British manufacture which utilized the invention. Mr. F. R. Robinson, then Assistant Director of Patents, replied that the invention had been used in 73 Scimitars and 186 Buccaneers.

22. The cost of installing a system to permit the use of claimant's invention is approximately $20,000 per aircraft. Further, the parties agree that a similarly situated patentee could expect to receive for the use of his invention a royalty of between 2 and 3 percent of the total-dollar procurement, or between $104,400 and $156,600 (2 or 3 percent of $5,220,000 ($20,000 x 261)). Accordingly, the parties are in agreement that:

"It would thus appear that compensation in the amount of $100,000, as provided in H.R. 6204 entitled 'A bill for the Relief of John S. Attinello', would be equitable.

CONCLUSION

1. Claimant has no legal claim against the United States.

2. Under the standards of *Burkhardt* v. *United States, supra,* claimant does have an equitable claim against the United States in the sum of $100,000.

[Certified, a true and correct copy, this 13th day of March 1972, at Washington, D.C.]

MARION T. BENNETT,
Chief Commissioner, U.S. Court of Claims.

TRIBUTE TO SENATOR RANDOLPH

Mr. MANSFIELD. Mr. President, I am delighted that I could call up this legislation and am happy that the Senate has approved it unanimously. I wish to thank the distinguished chairman of the Committee on Public Works (Mr. RANDOLPH) and to note for the record that he has been the foremost exponent and leader in the field of railroad retirement benefits. This is another indication of the great work and initiative which he has taken.

Mr. RANDOLPH. I thank the distinguished majority leader.

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

Mr. RANDOLPH. I yield.

FEDERAL-AID HIGHWAY ACT OF 1972

A KANSAS CITY TO CHICAGO INTERSTATE HIGHWAY

Mr. SYMINGTON. Mr. President, I ask in my amendment that there be added to the routes to be studied a route from Kansas City, Mo., or its vicinity to Chicago, Ill., or its vicinity, so alined as to cross the Mississippi River in the vicinity of Hannibal, Mo., and Quincy, Ill.

This amendment, for which I have obtained the approval of the chairman of the committee, would simply be one more route to be added on page 60 to the routes already decided on.

Mr. RANDOLPH. Mr. President, I want to comment that in the pending legislation there are five other studies. This would be in the same category, and the Senator from Kentucky (Mr. COOPER) and I would be delighted to take the amendment.

Mr. SYMINGTON. I thank the Senator very much.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

The amendment will be stated.

The legislative clerk read as follows:

On page 60, between lines 20 and 21, insert the following:

(e) A route from Kansas City, Missouri, or its vicinity, to Chicago, Illinois, or its vicinity, so alined to cross the Mississippi River in the vicinity of Hannibal, Missouri, and Quincy, Illinois.

Mr. SYMINGTON. Mr. President, quite simply, this amendment would provide for a feasibility study of a direct interstate highway between Kansas City, Mo., and Chicago, Ill.

I have offered the amendment for myself and on behalf of my distinguished colleague (Senator EAGLETON), and for our colleagues representing the neighboring State of Illinois (Senator PERCY and Senator STEVENSON).

They are cosponsoring the amendment.

For more than a decade, the States of Missouri and Illinois have worked together toward the establishment of an interstate highway between the two great metropolitan areas of Kansas City and Chicago.

The Federal Aid Highway Act of 1972 offers the Congress an opportunity to provide for a study of the need for such a highway. After many years of discussion, this route still offers better freight and passenger connections by air and rail than it does for highway users. Three airlines and 10 railroads provide a direct link between these two cities, but interstate highway users must travel either through Des Moines or St. Louis.

Former Kansas City Mayor Ilus W. "Ike" Davis, chairman of the Greater Kansas City Chamber of Commerce which is working for a Kansas City-Chicago interstate route, has observed that this corridor is one of the most heavily traveled freight routes in the United States, noting that a direct interstate highway would be 145 miles shorter than through Des Moines and 125 miles shorter than traveling through St. Louis.

The Kansas City Department of Transportation has received estimates that such a direct route would soon be carrying 10,000 vehicles a day, and the Chamber of Commerce has among its studies a projection that the estimated 10-year savings for passenger cars would be $63 million, and for trucks, $277 million in mileage alone, not counting time saved.

Businesses, civil organizations, and government officials in Kansas City and Missouri have long supported establishment of a direct interstate link between Kansas City and Chicago. The City Council of Kansas City this spring passed a resolution which described the importance of such a highway link to the north-central United States.

In light of the great interest in our State and in Illinois in this direct interstate link between these two great cities, I ask that the Federal Aid Highway Act of 1972 be amended to authorize the Secretary of Transportation to report to the Congress by January 1, 1974, on the feasibility of constructing a Kansas City to Chicago interstate route.

Mr. PERCY. Mr. President, I am most pleased to cosponsor the amendment of the Senator from Missouri (Mr. SYMINGTON) calling for a feasibility study of a Chicago-Kansas City interstate highway crossing the Mississippi River between Quincy and Hannibal.

This would be a much more direct route between Kansas City and Chicago saving motorists considerable time and money. Currently motorists must go through St. Louis or Des Moines in a roundabout route to get from Chicago to Kansas City.

The State of Illinois' interest in such an interstate highway can be seen from the fact that the State has just appropriated $90,000 for a feasibility study of a bridge across the Mississippi River between Quincy and Hannibal which would

be the link between the Illinois and Missouri segments of the highway.

I am hopeful that the Federal Government will pursue the feasibility study of this route as such a route is an economic necessity for the growth and expansion of west central Illinois.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Mark Schneider of my staff be accorded the privilege of the floor during the consideration of this measure.

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

Mr. HANSEN. Mr. President, I ask unanimous consent that Patty MacMillan of my staff be accorded the privilege of the floor during the consideration of this measure.

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

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

Mr. RANDOLPH. I yield.

Mr. BAYH. I ask unanimous consent that Mr. Michael Helfer of my staff be accorded the privilege of the floor during the consideration of this measure.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Leon Billings be accorded the privilege of the floor during the debate on the pending measure.

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

Mr. RANDOLPH. Mr. President, I ask unanimous consent that Mr. Robert Malakoff of the Committee on Banking, Housing and Urban Affairs be accorded the privilege of the floor during the consideration of this measure.

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

Mr. RANDOLPH. I also ask unanimous consent that Mr. Elwin Styles, minority counsel of the Subcommittee on Banking, Housing and Urban Affairs, may have the privilege of the floor during the consideration of this measure.

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

The bill is open to further amendment.

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

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

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

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

Mr. WEICKER's amendment is as follows:

On page 21, line 5, strike out the words "made available by the State to" and insert in lieu thereof "divided equally between the State and."

On page 21, after line 24, insert the following new section and renumber subsequent sections accordingly:

"SEC. 115. (a) Section 105(a) is amended by deleting the words 'State highway department' in the first sentence and inserting in lieu thereof 'Governor' and by adding at the end thereof the following new sentence: "The Secretary shall not approve any project except that which is in accordance with the planning process required pursuant to section 134 of this title.'.

"(b) Section 105(b) is amended by striking out the words 'except in States where all public roads and highways are under the control and supervision of the State highway department, that such project be selected by the State highway department' and inserting in lieu thereof the following: 'that such project be selected by the State Governor,'.

"(c) Section 105(g) is amended by striking out the words 'State highway departments' and inserting in lieu thereof 'Governors'.".

On page 15, line 6, strike out the words "the State highway department" and insert in lieu thereof "the Governor of each State".

On page 29, after line 16 and insert the following:

"(b) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in the development of long-range, comprehensive public transportation plans and programs which are properly coordinated, which include plans for the development of all modes of transportation, which take into consideration the plans of adjacent States, which are formulated with due consideration of their probable effect on the future development of each State, and which fully consider alternative modes of transportation and routes for each project included. The Secretary shall not approve under this title any program for projects in any State unless he finds (1) that such projects are in accordance with a continuing comprehensive public transportation planning process carried on cooperatively by States and local communities in conformance with the objectives of this section, (2) that all reasonable measures to permit, encourage, and assist public participation in such continuing planning process have been taken, and (3) that all social, economic, and environmental aspects of such program and its alternatives have been fully considered in the comprehensive planning process. The Secretary, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such process, which shall include hearings, held at least annually, at which there shall be a review of the transportation planning process, plans, and programs, and opportunity provided for the consideration of alternative modes of transportation. No project may be constructed in a State unless the responsible local officials of the area in which the project is located have been consulted and their views considered with respect to the corridor, the location and the design of the project."

Mr. WEICKER. Mr. President, I yield myself such time as I may use.

Mr. President, this amendment is very simple. It says that any highway construction project funded with Federal money must be part of an overall transportation plan rather than simply a highway plan. It also says that the Governor has ultimate responsibility for such planning and not just State highway officials.

This amendment is important because it recognizes that highways, while a vitally important part of any balanced transportation system, should not be planned in isolation from mass, intercity rail or air transportation facilities. All should tie in with each other. All should recognize the varying environmental, social, and economic impact of alternate modes of transportation in all areas—rural as well as urban.

I recall one day in February 1969, the incredible picture of Kennedy International Airport completely cut off from the outside world by a snowstorm. Runways and highways were covered with snow and ice and with no rail link to the city, thousands of passengers were literally stranded in the midst of the world's most modern transportation hub. With comprehensive planning, this never would have been permitted.

There are airports which serve every major city in the country yet in only one case—Cleveland, Ohio—is there a rail link between the terminal and the central city.

On the other side of the coin, there are rail lines ending in major downtown terminals in most of our cities but the suburban station linking rails to newer highways is far too rare.

Both of these situations can and must be eliminated. We have got to wipe away the planning mentality which allows the creation of uncoordinated transportation happenings at the expense of an overall system.

Amendment No. 1503 would not authorize the spending of more money. Section 104(g) of the basic act as amended by S. 3939 already allocates one-half of 1 percent of the highway trust fund for planning. This amendment would simply mandate the pass through of one-half of these funds to urban areas while the remaining funds would remain with State transportation planning agencies.

Neither would this amendment impair metropolitan-areawide planning or the creation of local planning agencies which S. 3939 would require. Local officials would definitely be consulted by State planners and local plans, created locally would be carefully plugged into broader State programs.

The kind of coordination this amendment requires is absolutely essential, and I would hope that other Senators would support it.

Mr. RANDOLPH. Mr. President, will the Senator from Connecticut yield?

Mr. WEICKER. I yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, if it is agreeable to the Senator, perhaps we could shorten the comment on his very helpful amendment.

The Senator from Kentucky (Mr. COOPER) presumably will want to speak in his own right. I have studied the amendment, however, and I believe there is need for statewide planning programs in this area.

What was the sum of money involved under the authorization?

Mr. WEICKER. There are no additional funds allocated for this. It merely relates to the method of allocating the funds. No additional funds are involved in this amendment whatsoever.

Mr. RANDOLPH. I just wanted to clarify that point.

As for myself, as chairman of the committee, I would be very glad to accept the amendment.

The PRESIDING OFFICER. Do Sena-

tors yield back the remainder of their time?

Mr. COOPER. Mr. President, I understand the purpose of the amendment, and I agree with the Senator from West Virginia that planning for all the complexities of modern traffic, which is moving on an ever larger scale, on a local level is no longer adequate. I am happy to join the Senator from West Virginia in accepting the amendment.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. WEICKER. Mr. President, I express my appreciation to the Senator from West Virginia for accepting the amendment and bringing in the concept of statewide planning. I cannot express my thanks clearly enough for his accepting this amendment.

Mr. KENNEDY. Mr. President, I just want to commend the Senator from Connecticut for bringing up this amendment, and thank the chairman of the committee for accepting it. I think it is extremely useful and helpful, and strengthens the whole program. I, too, am delighted that it has been accepted by the committee.

Mr. WEICKER. I thank the Senator from Massachusetts.

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

Mr. RANDOLPH. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Connecticut.

The amendment was agreed to.

AMENDMENT NO. 1482

Mr. KENNEDY. Mr. President, I call up my amendment No. 1482, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, this is an amendment on behalf of the Senator from Connecticut (Mr. WEICKER) and myself. I ask unanimous consent that further reading of the amendment be dispensed with, as I will make an explanation of it.

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

Mr. KENNEDY's amendment (No. 1482) is as follows:

On page 33, beginning on line 12 strike out all through line 4 on page 34 and insert in lieu thereof the following:

(a) To encourage the development, improvement, and use of public mass transportation systems within urban areas and in such rural areas as may be designated by the State and approved by the Secretary on the basis of local transportation need, so as to increase the traffic capacity of the Federal-aid systems, sums apportioned in accordance with paragraphs (1), (2), (3), (5), (6), and (7) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within their respective systems, for the acquisition and construction of rail facilities, exclusive or preferential bus lanes, traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public mass transportation passengers, and for the purchase of equipment including rolling stock, except that funds allocated in accordance with such paragraph 5 shall not be available for the acquisition or construction of rail facilities or the purchase of rail rolling stock.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. As I understand, there is a time limitation of 1 hour. Is that correct?

The PRESIDING OFFICER. The time limitation is 1 hour.

Mr. KENNEDY. One-half hour to each side?

The PRESIDING OFFICER. To be equally divided.

Mr. KENNEDY. I yield myself 10 minutes.

At the outset, let me commend the chairman of the Public Works Committee for some of the steps which the committee already has taken. I believe that this bill moves further in the direction of achieving a sound transportation policy than any previous highway-aid bill presented to this body.

Two elements of the bill deserve special mention: First, the decision to permit metropolitan planning agencies to be formed and to permit funds to be passed directly to them.

Second, the committee also moved to provide relief in those urban areas which have rejected and blocked interstate routes that they believe are detrimental to their communities.

Both of these provisions were urged by both Senator WEICKER and me in S. 3825 which we submitted earlier this session.

However, while the committee and its distinguished chairman should be commended for these and other provisions which merit our full support, the bill still falls short of addressing the transportation crisis that faces this Nation.

A satellite photo of the United States traces narrow black ribbons that crisscross over mountains, around valleys, and through cities. The neat lines seem to represent a carefully designed orderly arrangement attesting to human intelligence and ingenuity.

Unfortunately, up close the rationality of the photo is distorted. For up close, we are aware that our transportation system is in crisis, we are aware that 55,000 homes are displaced by freeways each year. We are aware that two-thirds of our urban land area has been given over to the auto and its alleys, highways, and parking lots.

I would recall for the Senate the statement made in the national transportation policy statement of the Department of Transportation a year ago. Its report was not pollyannish in the remotest sense. For it found, and I quote the Secretary:

On the whole, the transportation system which has evolved, both consciously and unconsciously, represents an uneven fabric ill suited to today's needs, and is, itself, a major contributor to the problems facing transportation today.

The DOT analysis found a nonsystem distinguished by these byproducts: too many cars and trucks in urban areas, severe deterioration of local public passenger service, hazards to safety, decay of the environment, and financial distress in key segments of the transport industry.

This analysis and a host of other expert studies have confirmed that the critical flaw in our transportation system is that each mode of travel is linked to separate Federal and State construction programs, each demanding separate planning and each receiving funds from separate sources.

And each program has its own host of special interests hovering about like a swarm of jealous bees. The auto manufacturers, the trucking interests, the contractors, and the oil interests which comprise the highway lobby all have made it clear that they consider the highway trust fund their personal feed trough.

And the result of their success is that no city, no State, no region is able to select the mix of road, rail, and air services to fit its special circumstances and needs.

They find Federal aid available for highways and for little else. And so they build highways.

And the cities suffer most. For urban residents pay more than their fair share of the cost of the highway trust fund; yet they receive substantially less in return.

They pay more than half of all taxes paid into the trust fund yet the vast majority of trust fund moneys have been spent outside the urban areas.

And the cities pay most of the indirect costs of the highway program as well. They receive most of the pollution, most of the congestion and most of the neighborhood destruction which rides along with the highway program.

For all of these reasons, I introduced in 1970 a single transportation trust fund to permit comprehensive and integrated planning and funding for all transportation programs.

It was the same desire to promote more flexible use of Federal funds for the solution to both urban and rural transportation problems that prompted Senator WEICKER and me to introduce S. 3825.

And it is the same desire that prompts us today to offer this amendment.

For the amendment we now offer has as its goal increased flexibility for States and localities to devise their own solutions to their own transportation problems.

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

Mr. KENNEDY. I would like to make my statement, and then I will be glad to yield.

Mr. RANDOLPH. I will be glad to yield when I am speaking, and I thought we might have questions as we went along.

Mr. KENNEDY. I would like to make my presentation and then engage in a colloquy with the chairman.

Let us examine what the amendment does: It does authorize cities and States to use noninterstate funds, specifically the primary system allocation, the secondary system allocation, the urban system allocation, for the acquisition and construction of rail facilities and equipment in addition to the other uses authorized by the committee. This would

open some $2.3 billion of the trust fund for this purpose if States so desire.

Thus, it would permit States and localities to find their own answers to the transportation puzzle in their communities and to develop a transportation plan to meet those problems, free from the lure of easy trust fund dollars if they pick highways.

In some States, there may not be a dollar spent differently next year, even if this amendment is adopted, because rail mass transit may have low priority.

But in other States, particularly the large urban industrialized areas where some 80 percent of our population resides, many elected officials will for the first time be able to place highway trust fund allocations in the area of their greatest need, in public mass transportation.

Not all will choose subways. Some may decide that other mass transit systems are the answer.

But for the first time, they will have this option.

And it is about time. Highways have been funded from an almost unlimited account that has been pumping more than $3 billion a year into concrete for the past 6 years and more than $53 billion for the past 16 years.

Yet the Nation's cities have been unable to obtain even one-tenth as much for urban mass transit. Mass transit expenditures averaged less than $200 million between 1965 and 1970.

Even with the passage of the Urban Mass Transportation Assistance Act in which $3.1 billion was authorized over 5 years, the administration has hamstrung the program by impounding appropriations.

We have a $4 billion backlog in requests for urban mass transit assistance from the Nation's cities.

Yet, the administration still has refused to release some $300 million.

And it is important to recognize that the desire for flexibility in using highway trust funds does not stop with urban States alone.

At the Governor's Conference a year ago, support was voiced for a single national transportation trust fund to provide discretion in the use of trust fund moneys.

Governors of our Western and Midwestern States recognize that changes are taking place in the country.

Many of the 67 cities which have to reduce auto traffic to meet Clean Air Act standards are not east coast or west coast cities. They are from the heartland of the Nation.

Mr. President, I ask unanimous consent to have the list of cities printed in the RECORD.

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

AIR QUALITY CONTROL REGIONS WHERE THE ESTIMATED AIR QUALITY IS SIGNIFICANTLY BELOW THE LEVEL NECESSARY TO PROTECT PUBLIC HEALTH DUE TO ONE OR MORE AUTO-RELATED POLLUTANTS (NITROGEN OXIDES, CARBON MONOXIDES, OR HYDROCARBONS)

ALABAMA

1. Metropolitan Birmingham.
2. Mobile.

ARIZONA

3. Phoenix and Tucson.

ARKANSAS

4. Metropolitan Memphis.

CALIFORNIA

5. San Francisco Bay Area (Rail in Progress).
6. Monterey-Santa Cruz.
7. Metropolitan Los Angeles (Rail Planned).
8. Sacramento Valley.
9. San Joaquin Valley.
10. Southeast Desert (Riverside-San Bernardino).
11. San Diego.

COLORADO

12. Metropolitan Denver.

CONNECTICUT

13. Hartford-New Haven.

DISTRICT OF COLUMBIA

14. National Capital Region (Rail in Progress).

FLORIDA

15. Panama City-Pensacola.
16. Jacksonville.
17. Miami.

GEORGIA

18. Metropolitan Atlanta (Rail in Progress).

ILLINOIS

19. Metropolitan Chicago (Rail in Operation).

INDIANA

20. Metropolitan Indianapolis.

IOWA

21. Des Moines.

KANSAS

22. Wichita.

KENTUCKY

23. Louisville.

LOUISIANA

24. New Orleans (Rail in Operation).

MARYLAND

25. Metropolitan Baltimore (Rail Planned).

MASSACHUSETTS

26. Metropolitan Boston (Rail in Operation).
27. Springfield.

MICHIGAN

28. Metropolitan Detroit (Rail Planned).

MINNESOTA

29. Minneapolis-St. Paul.

MISSOURI

30. Kansas City.
31. St. Louis (Rail Planned).

NEBRASKA

32. Omaha.

NEVADA

33. Las Vegas.

NEW MEXICO

34. Albuquerque.

NEW YORK

35. Niagara Frontier (Buffalo) (Rail Planned).
36. Central New York Region.
37. Genesee-Finger Lakes Region.
38. Metropolitan New York (Rail in Operation).

NORTH CAROLINA

39. Metropolitan Charlotte.

OHIO

40. Metropolitan Cleveland (Rail in Operation).
41. Metropolitan Cincinnati.
42. Metropolitan Columbus.
43. Metropolitan Dayton.
44. Metropolitan Toledo.

OKLAHOMA

45. Oklahoma City.
46. Tulsa.

OREGON

47. Portland.

PENNSYLVANIA

48 Metropolitan Philadelphia (Rail in Operation).
49. Northeast Pennsylvania.
50. South Central Pennsylvania.
51. Central Pennsylvania.
52. Pittsburgh (Rail in Operation).

RHODE ISLAND

53. Providence

TENNESSEE

54. Nashville.
55. Chattanooga.
56. Memphis.

TEXAS

57. Austin-Waco.
58. Corpus Christi-Victoria.
59. Metropolitan Houston-Galveston.
60. Metropolitan Dallas-Ft. Worth.
61. Metropolitan San Antonio.
62. El Paso.

UTAH

63. Salt Lake City.

VIRGINIA

64. Richmond.
65. Norfolk Region.

WASHINGTON

66. Seattle Region (Rail Planned).

WISCONSIN

67. Milwaukee.

Mr. KENNEDY. It is not just the traditional Boston to Washington corridor cutting across 12 States where there is a need for upgraded rail passenger service.

There are other urban corridors developing, many in rural States, corridors where governors and mayors are beginning to think about mass rail transit as part of the answer to their transportation needs.

These are Philadelphia-Pittsburgh, Miami-Jacksonville, Chicago-Indianapolis-Cincinnati, Detroit-Chicago, Chicago-St. Louis, St. Louis-Kansas City, Milwaukee-Minneapolis, Seattle-Portland, Oklahoma City-Dallas-Houston, Memphis-New Orleans, San Diego-Los Angeles, and Oakland-Sacramento.

Governors may well decide that transportation needs in these corridors demand priority and that the best answer is not further highways but mass rail transit.

The critical issue to be decided is whether we will give them the option to make those choices.

Whether urban metropolis or rural America, I believe local and State officials have the best understanding of the transportation priorities of their regions. And they must have the capability to blend together highways and mass transit in a balanced transportation system if we are to meet the Nation's transportation requirements. This amendment would permit them to achieve that balance.

Now let us examine what this amendment does not do:

First, it does not touch the authorization within the bill reported by the Public Works Committee for the expenditure of $3.25 billion a year for the completion of the Interstate System.

Second, it does not change a dollar of the allocation to any State provided under the present formula. No State would receive less and no State would receive more if this amendment were adopted.

Third, it does not mandate a single dollar to urban rail mass transit. It mere-

ly offers that option to mayors and governors.

Finally, it does not diminish in any way funding under the Urban Mass Transit Assistance Act of 1970.

The amendment we propose merely seeks to offer to States and cities an option in resolving their transportation problems that they do not now have.

If we hope to avoid the continual decay of our central cities and the distortion in our transportation system that the Department of Transportation itself acknowledges to exist, then we must end the bias in favor of building highways and permit the development of an integrated comprehensive transportation system.

Our highways can only serve the purpose for which they were built, to carry people and things from city to city, if they are not clogged and congested.

New subways have meant that some 15 percent of the passengers switched from private autos to mass transit. The result was to ease the traffic on the highways, to reduce the pollution from the auto and to help achieve the goals of carrying people and things where they want to go efficiently and effectively.

And that ultimately must be our goal. It is time to provide modern transportation options to our cities and States to permit them to cope with modern transportation problems. I urge the adoption of this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President. I would like to yield to the Senator from Connecticut at this time, and then, hopefully, we will be able to enter into a dialog.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield to the Senator from Connecticut such time as he desires.

Mr. WEICKER. Mr. President, I thank the Senator from Massachusetts. I support wholeheartedly his efforts to bring balance to our transportation system. It is a fight in which he has been prominent, and it is one that is justified in Connecticut, in Massachusetts, in all of New England, and, indeed, in the entire United States.

Mr. President, it took the man on the street a long time to associate the soot in his eye with the word "pollution."

It never occurred to him to relate the murkiness of his rivers and streams to the word "environment."

Until recently he had never tied the word "ecology" to such abominations as smog, litter, heat inversions, oil spills, wildlife slaughter, and shattering noises.

But how times have changed, because today the environment is everything.

For too long I had hoped to see a similar awakening with respect to the Nation's transportation problems. Sad to say it has not happened. Why?

Because it has been creeping rather than instantaneous catastrophe.

Transportation is a city that has lost a park to an expressway.

Transportation is the elderly dying of respiratory disease because the air is gunked up.

Transportation is our children who become statistics—55,000 fatalities on our highways each year.

Transportation is the couple who owned the corner newsstore before it was torn down for another expressway.

Transportation is the poor without cars to get to work.

So, when we realize what transportation is, we understand that the fight for an intelligent, balanced transportation policy is a fight for all about life.

Admittedly transportation is an issue which ranks low in the polls. I had occasion to see such a poll in my State of Connecticut, which certainly is in the midst of this crisis; and, as I recall, only 3 percent of the State's people thought this was an important issue. Yet I am sure that if they had been asked any one of the individual questions, of which I have just given examples, they would have ranked about at the top of the list. So perhaps those of us fighting the battle have been remiss in not coining a real grabber of a descriptive phrase.

But the time has come, now, for action on the floor of the Senate. So public support is not so important as it is for each one of the Senators in this body to live up to the trust imposed on him, rather than the highway trust fund.

Senator KENNEDY and myself, and in another amendment, Senators COOPER and MUSKIE, have offered amendments that would permit highway trust fund moneys to be used for mass transit systems in addition to highways.

Neither of these amendments are antihighway. The pending amendment would not force the cities or the States to build mass transit systems. Rather, for the first time, transportation decisions would be made by humans living in 1972, rather than a highway trust fund created in 1956.

As I stated before, the Committee on Banking, Housing, and Urban Affairs, in the hearings on this bill, someone turned on the automatic pilot in 1956. The problem is that no one has turned it off in 1972. Even though times have changed, we are still guided by this legal artificiality rather than the realities around us and the decisions made by flesh and blood.

Both amendments state that in diversity rather than in sameness lies the answer to mobility in the United States.

Why this concern from Senators representing such diverse States as Maine, Massachusetts, Connecticut, and Kentucky?

Item: 55,000 men, women, and children will be killed on our highways this year.

Item: 2 million more will be disabled; $14.3 billion will be lost as a direct result of traffic accidents.

Item: 60,000 people are displaced from their homes and businesses each year because of highway construction.

Item: 44.3 percent of all air pollution comes from motor vehicles and causes $8 billion in damage annually.

Item: 70 percent of the national transportation budget for 1973 will be spent on highways while 5 percent will be spent for mass transit.

What is clear is that highways alone, or in overwhelming proportions, are a mobility, environmental, and safety disaster. In fact, we have become a nation of automotive lemmings.

The time for the public to speak is in an election year when Congress has rabbit ears.

The choice, as I see it, is between moving America on for 2 more years—since this is a biennial review—or getting killed by fumes, or cars, or just waiting.

I am reminded of the parable of how not to "cook a frog." If we were to boil a pot of water and drop the frog in, his reflexes would cause him to jump out of the pot, thus saving him from being cooked. On the other hand, put him in a pot of cold water, heat it slowly, and he would eventually be cooked.

In terms of transportation in this Nation, we are the frog—and we had better jump.

Mr. RANDOLPH. Mr. President, as I did last week, I regret that we had to wait to come to grips with this subject again. I told Members of the Senate that the able Senator from Indiana (Mr. BAYH) had conducted a very detailed and thorough hearing on the Highway Act of 1972. Since then he has been assigned to the Appropriations Committee. He is here today, and I would like for him to speak on this subject, and I yield 5 minutes to him for that purpose.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. BAYH. Mr. President, the Senator from Indiana, for a brief time, served as the chairman of the Roads Subcommittee. I served at the time this measure was being considered. We heard from some 74 or 75 different witnesses.

I find myself now in the uncomfortable position of opposing my good friend from Massachusetts and my good friend from Connecticut. My position is uncomfortable because we are all trying to accomplish the same goals. Perhaps it is an inappropriate pun to use but whether one wants to go by rail or by highway what we want to do is to find ways adequately to finance a comprehensive transportation system.

The Senator from Indiana salutes both his friends who are the authors of this amendment for the goals they are pursuing, but he has grave reservations about the means which they use. The Senator from Massachusetts was accurate in pointing out what his amendment would do and what it would not do. I think the Senator was very accurate in describing it.

But let me briefly, if I may, ask my former chairman, inasmuch as I am no longer a member of the Public Works Committee, if I may deal with the reasons why I am inclined to oppose the amendment which seeks to reach a salutary goal.

First of all, since my first tenure in the State legislature, I have come head-on with a number of various kinds of new taxes. Every State has them. It just so happens that part of the gasoline tax is a dedicated Federal fund. When anyone buys a tank full of gasoline he has a commitment written into the 1956 Highway Act that a certain portion of that highway tax money would be spent

to build highways. It is a user tax. We might say it is out of date. Some people might argue we should not build any more highways but I will not accept that argument.

Mr. President, I think a grave legal question can be raised as long as we presently have that Federal highway commitment under the Revenue Act of 1956 as to whether we can suddenly take funds that are paid in gasoline taxes pursuant to the 1956 act—to be used for programs related to highways—and use it in the rail system that the Senators would make possible under their amendment.

The second concern I have is very closely related to the first, and that is that I share the view of my two friends and colleagues that there is a great need for mass transit. It is going to cost us about $50 billion between now and 1990, according to the reports I have seen.

I am concerned that there are some—and I do not put either of my colleagues in this category—who would like nothing better than to go into the highway trust funds and get all the funds there for mass transit. There are some, I fear, who want to say, "OK. We are giving you some of the highway trust funds. We do not need to give you as many dollars. We must back off." But we will never meet the mass transit needs if we do back off.

The majority of the Congress have not been willing to stand up and be counted as being willing to commit additional funds from the general funds to build this type of needed mass transit.

The Senator from Indiana and the Committee on Public Works thought that the approach which we used was a step in the right direction to get around the legal concern which we had about moving into the highway trust fund and invading the highway trust fund for which dedicated funds had been paid by gasoline purchasers.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RANDOLPH. Mr. President, I yield the Senator from Indiana an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. BAYH. Mr. President, for the first time we provided $800 million in the urban fund. We increased that fund eight times, from $100 million to $800 million. And we give authority to the States and local communities to use that money for mass transit related to highway use. Primarily that would be bus use. We already permit parking lots and bus lanes, but we went further and permitted the purchase of buses. Between now and 1990, I remind the Senate, $13 billion would be required for just bus transportation.

If we can take this money out of the highway trust fund, which we can do in good conscience and legally, it frees that much money from the urban mass transit program—taken from the general fund—which can go into the type of rail system which the two Senators are desirous of funding out of the highway fund.

In addition, Mr. President, I would like to point out that the Public Works Committee permitted for the first time $50 million for rural mass transit.

I think it is important for us to recognize that there are very few cities in America that do not have a need for a bus system. There are very few rural areas where we can get a lot of the unfortunate and underprivileged people to the markets, to the theaters, to the recreation areas and back. We made available for the first time out of the highway trust fund money for this kind of transportation. This has never been done before. I think it can stand the test of legality. And I think there is a real need for the service.

I would also like to point out that we still have significant highway needs. The Senator from Massachusetts in his speech very eloquently talked about these black ribbons, and he described the amount of concrete that has been dedicated for highways and parking lots.

I have not checked the figures. However, I think that we have gone a long way and we have gotten ourselves into some very controversial fixes as far as this is concerned. The Senator was kind enough to point out that we alleviated some of these situations in the bill. However, we still think that we have a commitment to finish the highway system. We have done this in a way which will not force an interstate highway to be driven through a city if the city does not want it. And we have provided funds to go into all types of highway-related public transit.

And this is a significant contribution in that direction. However, any one who has followed the thrust of highway building over the last 20 years knows that it has been interstate oriented. Anyone knows that they can get 9 Federal dollars for each State dollar. Because of that, a number of primary, secondary, and rural roads have been ignored.

I think the time has come when we should provide in the bill a significant increase for primary and secondary roads and urban extensions—for roads that have not been attended to because all of the money has been spent to build this big Interstate System.

Mr. President, I hope that the Senate will give emphasis to changing these roads that have become antiquated.

Mr. President, there is one last point that I would like to mention at the risk of being considered to be a bit proud. I refer to the highway safety sections, which the Senator from West Virginia (Mr. RANDOLPH), the Senator from Kentucky (Mr. COOPER), the Senator from Indiana, and others were responsible for. These sections show that the pending highway bill is one which goes beyond mere concrete.

Mr. President, I would like to read to the Senate the first paragraph, if I might, from an editorial published in yesterday morning's Washington Post. It tells the message better than anything I have seen. It reads as follows:

> It comes as a surprise to many people, but the crime that kills and injures more people and destroys more property than all street crimes combined is drunken driving. Almost half the 55,000 road deaths in the United States last year were due at least in part to alcohol; and it has been shown in previous years that twice as many innocent bystanders are killed by drunken drivers as are killed by robbers, rapists, arsonists and thieves combined. The property damage from accidents attributable to drinking drivers runs at about six times that of the property stolen in all the robberies, larcenies, and burglaries in the country.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RANDOLPH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 19 minutes remaining.

Mr. RANDOLPH. Mr. President, I yield 3 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 3 minutes.

Mr. BAYH. Mr. President, I thank the Senator from West Virginia.

The editorial points out that, although we are concerned about criminals, about muggers, robbers, and rapers, the big killer in America today is not that criminal with a gun that sticks up the corner grocery store. It is that unconscionable fellow that gets behind the wheel of a car and starts driving when he has alcohol in his own tank.

Mr. President, we make a great contribution in the bill to the matter of alcoholism and to meeting a number of other important safety factors.

We authorized $700 million for safety. That means that more than 10 percent of the entire amount is devoted not to building an interstate system, not to building highways, but to try to make the highways we now have safer. Drug addicts, alcoholics, railroad crossings, bridge abutments and other high hazard areas are other topics covered by the bill.

For the first time we have provided the opportunity for studying and surveying a very badly needed program of providing ambulance services. People die on the highways because they get no attention at all. They die before the ambulance gets there or they get the wrong kind of attention when some amateur gets there in an ambulance and gives them the wrong kind of treatment and they die on the way to the hospital. We have plowed back more funds into safety than we ever did before to correct these problems.

I would like to suggest that, although this bill is not perfect, I think we have gone as far as we can to meet legitimate highway needs.

The bill was considered by the Committee on Public Works and by the Banking, Housing, and Urban Affairs Committee. We have made a new major commitment to the very type of rail transit that the Senator from Massachusetts wants. And I, for one, although I oppose his amendment, will march to the very jaws of hell with him to get the kind of money we need from the general fund to develop the kind of mass transit systems he feels is needed and that I feel is needed.

I appreciate the Senator's courtesy. I did not intend to take as much of the Senator's time as I have.

Mr. RANDOLPH. Mr. President, I yield 5 minutes to the able Senator from

Kentucky (Mr. COOPER), the ranking minority member of the subcommittee and the full committee.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOPER. Mr. President, I thank the chairman and manager of the bill.

I rise in opposition to the amendment which has been offered by the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Connecticut (Mr. WEICKER).

In doing so I want to say that I know that our objectives are the same, that is, to achieve a more balanced system of transportation, and to move toward curing the awful traffic congestion we find in some areas in most of our States.

I realize that because the Senator from Maine and I have an amendment pending, it might seem that I am thinking only of my own amendment; but I do not think so, aside from the usual amount of pride that all of us have.

Mr. President, I oppose this amendment for the following reasons. I believe we should limit the highway trust funds available for rail mass transit to those funds which are allocated to the urban system as defined in the Highway Act that is, to systems in areas of 50,000 or more population.

To distinguish between the two amendments, the amendment offered by the Senator from Massachusetts and the Senator from Connecticut would permit the use of a total of $2.3 billion annually—$950 million in primary road funds, $500 million in secondary road funds, $50 million in small urban system funds, and $800 million in urban system funds—for rail transit.

The amount which the Senator from Maine and I propose would be $800 million for each of 2 years, each year, that is, only those funds apportioned to the metropolitan areas for the urban system.

It seems to me that is fair, and if it is determined later by the Congress that more funds are needed, more funds could be allocated to the urban system.

Not so much in my own area of Kentucky because we have an on-going system of roads, but in the Southwest and West they have great distances which are almost inaccessible. I recall for example the majority leader, Mr. MANSFIELD, saying some time ago that Montana would stretch almost from Boston to Washington.

I think that most people throughout the country would recognize that these great areas still need their primary and secondary roads. We need to provide accommodations for rural residents and farmers, the people in small towns and in those areas where there is little need for rail transportation. But we cannot escape the need to begin to help the city.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. RANDOLPH. I yield 2 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, great advances have been made in this bill by the Committee on Public Works, under the leadership of Senator RANDOLPH, as I point out in my views in the committee reports. Urban system funds are increased eightfold; the funds are earmarked for each urbanized area according to its population; local officials select the routes on the urban system. The committee bill also provides authority to purchase buses, with the increase in urban funds if the metropolitan areas wish to do so. I believe the amendment is consistent with the committee action; it simply removes the restriction against rail, in use of the urban system funds for public transportation.

There is no conflict between the pending amendment and authorization and commitment of funds for urban mass transportation, because Secretary Volpe went before the Committee on Banking and recommended further authorizations of $1 billion a year for 3 years and that assurance has been incorporated in title III of the bill.

In the Committee on Public Works this amendment was approved by a vote of 8 to 7, and then was later reversed 7 to 8. The bill was referred to the Committee on Banking, Housing and Urban Affairs. There, after further hearings, that committee recommended the Cooper-Muskie measure by a vote of 10 to 0.

Secretary Volpe has written a letter, which is now on the desks of Senators, which strongly supports the use of the $800 million urban fund for rail transit but does not support the pending amendment.

Second, there is still a need in rural areas, particularly in the great West, for primary and secondary roads.

Third, Mr. President, we cannot escape the problems of the city. We cannot ignore the mass transit need.

I live in a relatively small community. It would not have any funds under this amendment, but the metropolitan centers cannot be ignored. Our effort is one to begin to assist these urban areas.

I recognize the purposes of the sponsors of this measure, but I think their proposal goes much too far. I oppose the adoption of the Kennedy-Weicker amendment.

Mr. RANDOLPH. Mr. President, what is the time situation of the opponents and proponents?

The PRESIDING OFFICER. The proponents have 13 minutes remaining and the opponents have 9 minutes remaining.

Mr. KENNEDY. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, I appreciate the comments of the Senator from Kentucky in recognizing the need in the urban areas of this country. If we are not successful in this effort I intend to support his amendment. It would provide $800 million to the States with the same flexibiilty to allow them to choose whether to spend those funds for highways or mass transit. Ours is for $2.3 billion.

Those who understand the tremendous problems we are facing in our cities recognize they can use these funds overnight for mass transit. And many of those cities are in the heartland of this country, as well as on the east coast.

It is interesting to me to wait for the response of those who oppose the amendment. Why should we not permit the Governors to make the decision on transportation needs in their communities?

There is a concern here that rural areas will not be served. The governors understand the transportation needs best. Rather than having a strict formula, and being dictated to by Congress. I am waiting to hear why the governors are not better equipped to make the decision on the make-up of their State's transportation system.

It is interesting to hear those who feel there is a moral responsibility to those riding the highways and paying into the highway trust fund to assure that it is not used for mass transit.

This bill has already met that issue by making provision for buses. It provides for certain purchases of buses. It provides as well for bicycle pathways. So we are beyond the hurdle of whether these funds should be directed only to highway construction.

If we have such a strong commitment to those urban areas, why do we not have a commitment to assure that the tax resources raised in urban areas are spent in urban areas.

There has been no hesitancy about taking the funds or moneys that are paid by urban residents and use them in the rural communities. There is no hesitancy about that whatsoever. I think what we ought to do is keep our minds on the target, which is serving people, not just modes of transportation. By providing the alternatives in our amendment, we will be serving those who use the highways, because there will be more people riding buses and mass rail transportation and there will be less congestion on the highways. We will thereby be serving the people who use the highways in a more efficient and effective way.

I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I have a great deal of admiration and respect for the Senator from Indiana and know of his interest in mass transit, but I think it is important to comment, in reference to the statement by the Senator from Massachusetts, that this business that those of us who buy our gasoline and pay our taxes are expecting a commitment through highways is a fiction. We want to be able to move. That is what I pay my taxes for when I buy gasoline or pay any of the other money that goes into the highway trust fund. I want to be able to move. At times when I am in my automobile, I want to be able to move, and I cannot do it. At times when I am in an airplane I cannot move, and I want to be able to move. Rail? Almost totally nonexistent. So I think we might as well put that fiction to bed.

In effect, what is being stated here today is that the policy engineered by this Congress in 1956 is binding on all Americans in the year 1972. That is not the way we run the United States of America. We still like to be able to choose, and it is only when choice is taken away and logic does not have to

prevail that we get into trouble. That is what in effect the highway trust fund people are arguing for—no more logic. We do not have to have logic to justify our spending. We point to this entity, the vehicle we created in 1956, and say that is logic enough. That is bunk. That is fiction.

A recent article in the Hartford Courant, for September 10, 1972, discusses the mass transit situation in the Hartford area. It reads in part:

The only significant public reaction to all this impending highway construction has been vehement opposition. Yet there is every indication that the highways will be built, the public's opposition causing only delay and inconvenience in doing the inevitable.

Weicker is hardly alone in his assessment of I-291, but the issue is not—and seemingly never has been—whether to build the highway.

The public has never been given the choice of spending billions to create efficient mass transit rather than building highways. Actually, in most instances, the public cannot even choose whether to build a highway.

Almost inevitably, the public clamor has not been for, but vehemently against, more highways in Connecticut.

Yet the 1972 Connecticut Master Transportation Plan prepared by the State Department of Transportation projects that 92 per cent of the $6.4 billion to be spent on transportation in Connecticut by 1990 will go into highways.

Less than 2½ per cent of the total transportation expenditure is allocated to bus equipment in the plan and less than 1½ per cent is allocated to actual mass transit services.

The people of Connecticut do not want some $5 billion worth of new highway construction in the state by 1990. In many cases they don't even want the new highways now being built.

This is just a case history that can be applied nationally. We are not arguing for the elimination of highways. I understand there are great areas in this country that need them as their primary mode of transportation, but I do not think that the people of Connecticut have to have a Montana solution for a Connecticut problem, any more than the people of Montana have to have a Connecticut solution rammed down their throats.

The Senator from Indiana mentions that 10 percent is going to safety and, somehow, this gives dignity to the legislation. It does not give dignity. It is skirting the issue entirely. It is another 10-percent subsidy by the people of the United States to the individual mode of transportation—to the automobile—because, let me assure the Senate that if we had a decent mass transportation system, with almost no deaths for the number of people traveling over that system, we would not need to spend 10 percent of our money on a safety program.

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

Mr. WEICKER. I yield.

Mr. BAYH. The Senator has been very kind. I do not want to take much of his time, but I want to point out that much of these additional funds for highway safety is coming 100 percent from the highway trust fund for the first time, so that those who use the highways are paid for their own safety. Prior to this time, as the Senator from Connecticut knows, a significant chunk of it has been coming from the general funds.

I thank the Senator for yielding.

Mr. WEICKER. I thank the Senator from Indiana. The fact is that we are apparently paying this substantial amount of money to save us from ourselves.

I think the point is quite clear. There is no choice right now available to the American public. They are locked in to policies of 1956, even though the circumstances have altered radically.

How well I remember standing on the floor of the Senate several months ago, when the distinguished Senator from Louisiana (Mr. LONG) made the comment, in urging additional highway building, that people who work here in the Capital were having a great deal of difficulty coming into Washington from suburban Maryland and Virginia on the interstate highways, because they were bumper to bumper in traffic jams. That is the whole situation which is before us. Those highways were not meant for commuting into Washington, D.C. They were meant to be interstate highways, but they are being used as commuting arteries, because there is no mass transportation system. So, in fact, the failure to provide for mass transit has itself hurt the effectiveness of the interstate system. The problem is balanced transportation.

It is in fact true that over the years we have been able to move long distances in faster times, and yet when we reach our destinations——

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. WEICKER. May I have 1 more minute?

Mr. KENNEDY. I yield 1 minute to the Senator.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. WEICKER. And we reach our destination and are subject to short and intermediate travel, there the time has actually increased over the years, so the net result is a longer time on the trip.

I would hope that for all the reasons I have cited—life and limb, environment, mobility—we will bring about a balance to our transportation spending here in this country.

The PRESIDING OFFICER. Who yields time?

Mr. RANDOLPH. Mr. President, again may I inquire what the time situation is?

The PRESIDING OFFICER. The Senator from West Virginia has 9 additional minutes.

Mr. RANDOLPH. What do the proponents have?

The PRESIDING OFFICER. The proponents have 3 additional minutes.

Mr. RANDOLPH. Mr. President, perhaps it is the proper time to read into the RECORD of this debate the words of the Secretary of Transportation in a letter addressed to me, a like letter being addressed to the Senator from Kentucky (Mr. COOPER). I read only the part of that communication that is pertinent to the pending amendment. The following words were written by Secretary John A. Volpe:

The Kennedy-Weicker proposal would make every noninterstate highway program, primary and secondary as well as urban, eligible for financing rail rapid transit. Such a step could in some States lead to the diversion of primary-secondary highway funds into subway construction in our major cities, a step not conducive to a balanced transportation approach.

Mr. President, I value, of course, the counsel of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. WEICKER) in connection with their amendment. I think it is important to say that we have in this bill brought to the Senate an approximate balance of 50–50 in connection with the allocation of highway funds to urban areas of the country, and to the more rural areas of the country.

We have thought in terms of a balanced program. I think it is also necessary to say that there are today in this country millions and millions of persons who are moving, in any 24-hour period, by means of motor vehicles of one type or another.

Some of the remarks—and I say this in all good humor—would seem to indicate that there is a stoppage of transportation in this country, that the buses, the trucks, and the cars are not moving; they are just standing without any mobility.

Of course, that is in error. There are hundreds of thousands of children who are moving from their homes to their schools through bus transportation every day in this Nation. There are, of course, the products of the farms and the fields—hundreds of trucks in Connecticut, thousands of trucks throughout the country, bringing to the market, to the consumer, the necessary foodstuffs that are a part of our very existence.

There are the products of manufacturing firms throughout all of America, moving constantly by highway transportation in this country.

I recognize, of course, what the able Senator from Connecticut has said: There are times of frustration. There are times, very frankly, when the Senator from Connecticut would be frustrated in using the rail transportation from the New or Old Senate Office Building to this building, because there are certain times when more persons are traveling than at other times.

Actually, the time of congestion is but a small part of a 24-hour day. Remember, the products of the farms are moving to the cities during the night. Remember, the products of manufacturing firms are moving to the cities during the night. Remember that those roads are being used 24 hours a day.

I say once again that we have made very real advances in this legislation, working, as the Senator from Kentucky (Mr. COOPER) has said, to meet transportation needs on a balanced basis.

Mr. President, the Federal Aid Highway Act of 1972, makes important changes in our national highway program. It reinforces the belief of the committee that the highway program and public transportation are inseparable. The involvement of the Federal aid program in providing public transportation

systems is greatly expanded by this bill by permitting expenditure of urban system funds for a variety of public transportation purposes, including the purchase of buses.

The amendment exceeds the bounds of what is either feasible or right in committing highway revenues to public mass transit activities. It would make funds apportioned to all highway systems, except the Interstate System, available for public transportation purposes, including fixed rail.

The committee rejected a plan to commit highway funds to fixed rail. Such action was taken on a proposal even more modest than that contained in the amendment now before us.

There is also considerable doubt as to our authority to take such sweeping steps in this legislation. The highway trust fund was created by the Highway Revenue Act of 1956. Section 209(i) of that act explicitly designates these funds to be used only for Federal aid highways. This limitation was written into the act by the House Ways and Means Committee and the Senate Finance Committee, which developed that legislation.

The committee believes that its proposals relative to public transportation are consistent with the requirements of the Highway Revenue Act, in that we authorize expenditure of highway funds only for public transportation that is related to highways and the highway program.

It is questionable that we spend highway trust fund revenues on fixed rail transit without appropriate modification of the Highway Revenue Act.

Urban mass transit falls within the jurisdiction of the Senate Committee on Banking, Housing and Urban Affairs. That committee has considered portions of S. 3939 relating to public transportation and has amended that bill to authorize an increase of $3 billion in authorizations for the capital grants program of the Urban Mass Transit Administration.

We provided funds for improved bus transit because this is the way in which urban areas can most quickly alleviate their mass transit problems. I remind the Members of the Senate that 67 major metropolitan areas have included the curtailment of motor vehicle traffic in their plans to reduce air pollution in the next few years. Public transportation obviously must be expanded if this curtailment is to be effective. The only way that public transportation can be expanded within these time constraints is by buses; and S. 3939 as reported provides the means to place these buses on the streets.

I am also concerned that many people apparently are under the delusion that opening the highway trust fund to rail rapid transit would permit rail systems to come into being virtually overnight. This, of course, is not the case. Rail systems require long leadtimes for planning and construction. The resources of the highway trust fund are not infinite. We must remember that even if we could use these funds for rail transit, this country still has substantial needs for highways that must be met.

This amendment, I remind Senators, would open funds for all categories of highways, except the Interstate System, to mass transit construction. This means that funds authorized for rural highways conceivably could be used for subways. The basic fairness of such an approach obviously must be questioned. Equity demands that, if this approach is taken, subway funds should also be made available for rural highways.

A major thrust of S. 3939 is to bring authorizations for rural and urban highway transportation into balance. We must also attempt to achieve a balance between the various modes that comprise the total transportation system on which we rely.

Funding for the urban mass transit program is now approximately $1 billion per year. Recommendations of Secretary Volpe that were adopted by the Banking Committee would add $1 billion to the existing annual level. The Federal Aid Highway Act of 1972 authorizes $800 million a year for urban highways and permits the use of any or all of this money for public transportation purposes. Therefore, existing mass transit law and the provisions of S. 3939 could result in as much as $2.8 billion being available each year for public transportation. This is in addition to any operating subsidies that might be provided.

Mr. President, it is important to remember that the issue we face in providing a balance transportation system is not one of highways or mass transit. We must have both. Mass transit needs in urban areas are substantial. We acknowledge that and we are acting to provide the needed facilities. At the same time, urban highway needs also are great and we must retain the available resources also to provide these roadways so that they, too, may serve as part of the public transportation system.

Mr. President, the adoption of this amendment would not be in the best interests of either the mass transit or the highway programs. I urge Members of the Senate to look at the broad picture as they vote on this proposal and that they vote "no."

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

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. We have 3 minutes left, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I yield a minute and a half to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I just require 30 seconds to be taken from the time for a question of the distinguished chairman, the Senator from West Virginia (Mr. RANDOLPH), as to whether or not it is his intention to follow the admonitions of the Secretary of Transportation, John Volpe, all the admonitions, contained in the letter he has read. The Senator has read an admonition against the Kennedy-Weicker proposal, which is fair enough, but I believe there are other admonitions; would it be the intention of the distinguished Senator from West Virginia to go along with the other admonitions contained in that letter?

Mr. RANDOLPH. I shall discuss those, of course, if and when such proposals are before the Senate. I do not know that they will even be before the Senate. But I shall read the pertinent portion at that time.

Mr. KENNEDY. Mr. President, all of us are clear that the farm products of West Virginia, of Montana, or of Arizona travel across the roads. Let the people in those States make the decision. But in Massachusetts, if our Governor decides, or the Department of Transportation decides, that in order to develop a balanced transportation system we need to add more rail transportation, why should that be prohibited? This amendment would eliminate that prohibition.

All the money could be spent in the urban areas today on urban highways, if the Governor decided to do it. He will be subjected to the same pressures with this amendment as he is at the present time.

As we have pointed out, the amendment does not affect the formula allocating the amount of money that will go to any of the States. All it does is permit the Governors of those States to respond to the need for a balanced transportation system. That is what is needed in many parts of the country, and I for the life of me cannot see why we should not give that option to the Governors of the States, who understand the transportation needs of their States much better than a formula developed here 16 years ago.

Mr. CHURCH. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I yield.

Mr. CHURCH. Can the Senator assure me that under his amendment the amount of money presently allocated to the State of Idaho under the existing formula would not be reduced?

Mr. KENNEDY. The Senator is exactly correct. It would not be altered or changed in any respect.

Mr. CHURCH. All States would get fully as much, but it would be left to the States to decide how it was to be used?

Mr. KENNEDY. The Senator is correct.

Mr. CHURCH. I thank the Senator.

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

The yeas and nays were ordered.

Mr. RANDOLPH. Mr. President, I have time remaining.

The PRESIDING OFFICER. Yes, the Senator has time.

Mr. KENNEDY. Mr. President, I ask unanimous consent that a letter from the Deputy Comptroller General be printed in the RECORD at the conclusion of my remarks. This letter specifies the legitimacy of my amendment to permit funds to be used for mass transit by amending the Federal Highway Aid Act, without the necessity of amending any other legislation.

There being no objection, the letter

was ordered to be printed in thte RECORD, as follows:

WASHINGTON, D.C.,
September 19, 1972.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: You have informally requested our opinion as to whether your Amendment No. 1482, dated September 6, 1972, intended to be proposed by you and Senator Weicker to S. 3939, which, if enacted, would be cited as the "Federal-Aid Highway Act of 1972," would authorize the use of the Highway Trust Fund for the acquisition and construction of rail facilities.

It is our opinion that Amendment No. 1482, if enacted, would authorize, except with respect to the Interstate System, the appropriation of Highway Trust Fund monies for the acquisition and construction of rail facilities.

Sincerely yours,

ROBERT F. KELLER,
Deputy Comptroller General of the United States.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. RANDOLPH. Mr. President, how much time have I?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. RANDOLPH. Mr. President, the able Senator from Massachusetts should remember that, in the Commonwealth which he ably represents, the Bay Area Transportation Authority has drawn up a careful funding plan assigning about 75 percent to highway needs—this is Boston, remember, not some remote rural area of Massachusetts—and 25 percent to rails, the rail funds, of course, coming under the urban mass transit program.

I remind the Senator from Massachusetts, and Senators from any State, that we need every dollar in the highway trust fund now and to be collected in the future to complete the highway system which was begun in the United States of America by the passage of the 1956 act.

Mr. President, if we bring this amendment into being and it is taken to conference with the House of Representatives, we will absolutely forfeit all of the progress made by the Committee on Public Works in the Senate, which has moved now, as it did 2 years ago and 4 years ago, to meet the balanced transportation needs of this country.

Mr. MATHIAS. Mr. President, we are an urban nation. Nearly three-fourths of our population—73.5 percent, according to the latest census—lives in urban areas. And it is in these urban areas where our most vexing surface transportation problems exist.

More than 150 years ago, the English poet Shelly wrote of his nation's capital, "Hell is a city much like London—a populous and smoky city." Were he alive today, what would Shelley say of conditions in some of our cities?

We may not have the thousands of wood and soft coal fires burning day and night which characterized Shelly's London; we choke instead on the traffic and fumes of the internal combustion engine.

Traffic problems may not be new. Nearly 50 years ago Thomas Mann wrote of "funeral processions, their dignity curtailed by present-day traffic conditions."

But in volume, in severity and in sprawl, the problems of urban traffic and the air pollution produced by it reach new levels of magnitude each year. As the committee notes in its report, at least 67 of our metropolitan areas—in well over two-thirds of the States—must curtail motor traffic as part of an overall strategy to reduce the dangers of air pollution to public health.

How many of us, whether here in Washington or in the population centers of our home States, are all to familiar with the experience of taking twice as long to drive a particular route in the rush hour as it takes at an off-peak time? We can no longer tolerate the wasted time, wasted resources and air pollution which traffic congestion has created, particularly in our largest cities. We must provide attractive alternatives in fast, clean and efficient public transportation. In some cities this will be best accomplished by improving existing bus operations through the purchase of new equipment, the refurbishment of old equipment, the construction of special bus lanes and the like. In many of our largest cities, engineers and local officials have determined that rail rapid transit, augmented by an efficient bus feeder system, will form the most efficient public transportation system.

Seventeen such systems, combining rail rapid transit and bus service, are either in existence or in planning. Two of these systems are in my State of Maryland, where nearly 80 percent of the population lives in the Baltimore-Washington metropolitan area. Others, old and new, are scattered across the country from Boston to San Francisco.

The Public Works Committee, under the chairmanship of the distinguished senator from West Virginia, has brought forth important new legislation in this area. In 1970, the committee recommended and the Congress enacted legislation creating the Federal-aid urban highway system. The committee also recommended and the Congress enacted legislation authorizing the use of specified highway funds for the construction of such transit-oriented facilities as exclusive or preferential bus lanes, passenger loading facilities, and fringe or corridor parking areas.

In the bill before us today, the committee has recommended expanding the availability of Federal-aid funds to include the purchase of passenger equipment for bus service at 100 percent Federal cost. This is a much-needed provision and will be most welcome to our small and middle-sized cities in their struggle to maintain and improve their bus lines. However, by denying our largest cities the discretion to use these funds for rail rapid transit facilities, we discriminate against the areas where the traffic problems are worst.

Baltimore, the Nation's seventh largest city is, like other cities of comparable size, choking to death on its traffic jams. The people who have to use streets, whether in private cars or commercial vehicles, are suffering serious delays. The people who would use fast public transit if it were available have no alternative.

Maryland's State Department of Transportation is ready to embark on construction and equipping of the first phase of a rapid transit master plan for Metropolitan Baltimore. This first route, running from the historic Inner Habor commercial area to the city's northwestern border, will cost more than $400 million. Extensions of this route and construction of additional routes will cost hundreds of millions of dollars more.

The people of America's urban areas are not divided neatly into road users and transit users with entirely separate interests. Many motorists and their families have occasion to use mass transit and might well use it more if we had better transit systems. If they do not use mass transit, motorists at least benefit from the traffic relief that mass transit affords them. Transit users, in their turn, help to support roads—if not directly through a gasoline tax, then indirectly through the added expenditures which accompany heavy traffic and the additional taxes that must be raised when urban expressways take millions of dollars of assessable properties off the tax rolls and displace businesses, jobs, and other taxpayers.

We live in a complex society in which each of us has a stake in the development of efficient means of moving goods and people, whether on rubber tires or flanged wheels. We must recognize this by allowing our urbanized States and our great metropolitan areas flexibility in use of these funds.

We cannot allow policy decisions which may have been valid in the past to keep us, literally, locked in concrete as we face the transportation problems of today.

Our cities, particularly our great metropolises such as Washington and Baltimore, must have truly balanced transportation modes if we are to improve the quality of life therein. Buses, rapid transit, commuter railroads, and any of dozens of innovative ideas now just coming off the drawing boards may have a part in the transit system of the future. Let us loosen the restrictions on these funds so that local decisions on transportation modes will be made on the basis of sound engineering and public policy considerations, not on the basis of restricted access to Federal aid.

The integrity of the highway trust fund is not an issue here. By earmarking authorizations for specific Federal-aid systems, the legislation before us assures that States needing to build or improve their primary and secondary highway systems will continue to receive their fair share of available funds. What we must do, however, is give the State and local officials who must cope with transportation planning in our major cities the maximum flexibility in meeting the public's needs, both now and in the future.

Mr. BIBLE. Mr. President, I rise in opposition to this amendment.

I am also deeply concerned over—and opposed to—those features of the committee bill that would not only permit extremely heavy inroads into the highway trust fund for mass transit and transit-related purposes but would also mandate the expenditure of highway dollars for transit-related purposes irrespective of local priorities.

I want to make it very clear that I am not insensitive to the problems and needs

of mass transportation in our urban areas. On the contrary, I recognize that urban transit systems—bus or rail—are no longer able to meet their capital investment requirements, in most places, from the fare box.

I favor, and have favored, the Congress acting in the public interest, making Federal funds available to help relieve this problem and enable the public to enjoy the convenience of modern public transportation which is so badly needed in our urban centers. My interest in and support for the Urban Mass Transportation Act, and the part I played in formulating the rail transit program for the National Capital Area demonstrate my concern for mass transit. My position is that money for urban transit should not come from the highway trust fund.

The interstate construction program is already far behind its originally targeted completion date—1972—and many thousands of miles of our other highways require badly needed modernization.

In my judgment, it is highly unwise to authorize major diversions of highway trust funds for nonhighway purposes when the urgent job of completing the Interstate System and bringing our other roads up to modern standards is only partly done.

Despite numerous misleading reports, there is no huge surplus in the highway trust fund. There are periodic balances of receipts over expenditures, but there is no surplus.

The so-called Cooper-Muskie amendment would allow urban areas to divert up to $800 million away from the trust fund for mass transit projects.

The so-called Kennedy-Weicker amendment would broaden the bill to allow $2.3 billion in noninterstate highway funds to be used for mass transit.

The committee bill itself would permit diversions of a minimum of $350 million—and possibly more than $850 million in each of the next fiscal periods—for the purchase of buses and bus transit facilities.

Mr. President, entirely aside from the fact that such proposals are contrary to the Congress' original and continuing dedication of trust fund dollars to highway purposes, this would be robbing Peter to pay Paul.

I say again—there is no huge surplus in the trust fund. And what there is is vitally needed for the essential national highway program.

The rail rapid transit program for the National Capital region alone now bears a price tag of well over $2 billion.

Transit development programs elsewhere will be similarly expensive.

I do not question the need for such improvements. I do question the capacity of the highway trust fund to bear the financial burden.

The task of the Congress is to respect the original commitment of the trust fund to highway purposes. If we do not, if we approve the massive diversions of funds being sought now, we run the risk of seriously impairing the highway program without achieving any significant gains in high-capacity rail rapid transit.

The further task before the Congress is to identify and cultivate new sources of financial assistance for mass transit.

The administration's commitment to a continuing, separate urban mass transit fund by requesting $3 billion in additional grant authority for the Urban Mass Transportation Administration is a step in the right direction.

The Congress should continue to develop new revenue sources for transit. We should not divert the highway trust fund.

If we do, if we open the door to the massive diversions now being proposed, we will run the further risk of creating a condition where the Urban Mass Transportation Administration may itself become dependent on the highway fund.

We will run the risk of tempering the effort that should be made to generate alternative revenue sources to meet those requirements.

To permit this kind of diversion to take place would be a disservice not only to our national highway needs but to our urban transit needs as well.

I urge that the amendment be rejected.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BEALL (when his name was called). On this vote I have a pair with the Senator from Texas (Mr. TOWER). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Rhode Island (Mr. PELL). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from North Carolina (Mr. JORDAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Iowa (Mr. HUGHES), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

On this vote, the Senator from Iowa (Mr. HUGHES) is paired with the Senator from Mississippi (Mr. STENNIS).

If present and voting, the Senator from Iowa would vote "yea" and the Senator from Mississippi would vote "nay."

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), the Senator from Delaware (Mr. BOGGS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT) and the Senator from Delaware (Mr. BOGGS) would each vote "nay."

The pair of the Senator from Texas (Mr. TOWER) has been previously announced.

The result was announced—yeas 18, nays 60, as follows:

[No. 457 Leg.]

YEAS—18

Brooke	Inouye	Packwood
Case	Javits	Proxmire
Church	Kennedy	Ribicoff
Cranston	Long	Scott
Harris	Mathias	Tunney
Hart	Nelson	Weicker

NAYS—60

Aiken	Ervin	Muskie
Allen	Fannin	Pastore
Anderson	Fong	Pearson
Bayh	Fulbright	Percy
Bennett	Gambrell	Randolph
Bentsen	Griffin	Roth
Bible	Gurney	Saxbe
Buckley	Hansen	Schweiker
Burdick	Hartke	Smith
Byrd, Harry F., Jr.	Hatfield	Spong
	Hollings	Stafford
Byrd, Robert C.	Hruska	Stevens
Chiles	Humphrey	Stevenson
Cook	Jackson	Symington
Cooper	Jordan, Idaho	Taft
Cotton	Magnuson	Talmadge
Curtis	McClellan	Thurmond
Dole	McIntyre	Williams
Eagleton	Miller	Young
Eastland	Mondale	
Edwards	Montoya	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Beall, for
Mansfield, against

NOT VOTING—20

Allott	Goldwater	Moss
Baker	Gravel	Mundt
Bellmon	Hughes	Pell
Boggs	Jordan, N.C.	Sparkman
Brock	McGee	Stennis
Cannon	McGovern	Tower
Dominick	Metcalf	

So the Kennedy-Weicker amendment (No. 1482) was rejected.

BICYCLES: A VIABLE MEANS OF TRANSPORTATION

Mr. BROOKE. Mr. President, one of the hopeful developments in the transportation field has been the increasing recognition and use of bicycles. Today, there are more than 50 million bicycles in use, and each day thousands of Americans are discovering the benefits of bicycle riding.

The bicycle is not a new vehicle. It was invented early in the 19th century and was used as an alternative form of transportation through the "horse and buggy" era. Today its increasing use is of no surprise to the millions of children who have long found it a convenient means of transportation to school or recreation after school.

As our city arteries become clogged with automobiles, and as mass public transportation is, in most cases, unable to fill the demand, more Americans are

turning to bicycles for daily transportation.

Bicycles have many advantages over automobiles. They are cheaper to purchase and maintain. They provide a highly beneficial form of exercise. They take up little space. And in city traffic, they can often move quicker than automobiles.

What is probably more significant, they contribute absolutely no air or noise pollution. At a time when 60 percent of the air pollution by volume in America is emitted by automobiles, the bicycle stands as an important means of resolving our environmental problems. This is particularly true in the cities, where the percentage of pollution that is caused by automobiles is as high as 80 percent.

Therefore, I believe that all levels of government must encourage expanded use of bicycles through an accelerated construction of bicycle facilities and a clarification of the rights and responsibilities of bicyclists.

To their credit, the Departments of Transportation and the Interior last year initiated a concerted effort to promote bicycling, both from the recreation and the transportation perspectives. Transportation Secretary John Volpe has ordered the Federal Highway Administration to explore the feasibility of establishing bicycle commuter routes in metropolitan areas. In addition, Federal agencies have stepped up efforts to provide bicycle racks at Federal buildings, bike parking in transportation terminals, and research into vandalproof racks.

To me, the most important development in bicycling is contained in S. 3939, the Federal-Aid Highway Act of 1972, now before the Senate. I enthusiastically support the provisions of this measure which makes available Highway Trust Fund moneys to help finance the construction of separate or preferential bicycle lanes or paths, bicycle shelters and parking facilities, and the installation of bicycle traffic control devices.

This exciting new dimension in our highway program offers new hope that we shall not be wedded to old modes of transportation when new alternatives are available.

To stimulate State initiatives, S. 3939 authorizes $10 million for each of the fiscal years 1974 and 1975 to be apportioned to the States on a formula basis to fund bicycle projects. I am confident my fellow Senators will support these essential steps in establishing a national program to accommodate tens of millions of American bicyclists. I am hopeful similar legislation will be approved by the House of Representatives.

While the momentum for transportation balance through bicycling picks up, much more still needs to be done.

On the local and State level, for example, there needs to be a better-defined and more unified program for registering, licensing, and insuring bicycles and their users. If we are committed to the development of bicycling as an integral part of our balanced transportation system, then we must provide for orderly legal protection of bicyclists.

Greater attention must also be paid to bicycle safety. According to the National Safety Council in 1971, there were 850 bicycle deaths in traffic accidents and an additional 40,000 injuries. This is in addition to hundreds of thousands of injuries which children suffer each year in bicycle-related accidents.

A large part of the answer to the safety program in bicycling, as is true with all vehicles, lies in better education of the bicyclist. Every rider should be thoroughly familiar with ordinary rules of the highway before riding a bicycle. The danger to a neophyte bicyclist traveling down a heavily used thoroughfare obviously cannot be overstated.

Also, bicyclists should pay regular attention to the maintenance and safety of their vehicles. Pedals, brakes, and gears should be regularly inspected. Tires should be inflated to proper level. The seat should be comfortable. Persons who use their bicycls after dark should make sure they have adequate lights and reflectors so that they can both see and be seen. Perhaps it may be necessary to extend State licensing procedures to all bicyclists using the highway system.

The Federal Government should also encourage research and development of safer bicycles and safer conditions for their operations. Regrettably, there has been only sparse research on the potential role bicycles can play in our transportation network. Despite the fact that the bicycle is over a century old, little real progress has been made in expanding the use of the bicycle in our industrial society. By contrast it is interesting to note that many of the highly populated Asian and European countries have long used bicycles to full advantage. In many countries they are, in fact, the primary means of private transportation.

I hope that in the next Congress we shall expand on recent initiatives to develop safer and exclusive bicycle lanes in urban areas, and to encourage greater development of bicycle trails in rural areas on our offshore islands and in our national parks. Our on-going reorientation of our national transportation policy must certainly include an active role for bicycles.

If we do truly believe in balanced transportation and the goal of enabling people to move about freely and without undue burdens, then it is clear that the bicycle offers untapped opportunities for easing the present commuting crisis in many communities. I pledge my own commitment to an acclerated national bicycle program, and urge that we proceed "four-speed" ahead.

Mr. SCHWEIKER. Mr. President, section 125 of the pending bill, S. 3939, broadens the provisions of section 137, title 23 United States Code to permit the Federal support of parking facilities which impose parking fees for use of the facility which would include the amortization of the cost of construction of the facility borne by the non-Federal share of the project. Only fees to finance the cost of operation and maintenance are now authorized. Is the intent of section 125 of the pending bill to encompass the entire range of Federal aid for parking facilities under the Federal-Aid Highway Act? For example, would this provision apply to a project under the Federal-aid TOPICS program—traffic operation program to improve capacity and safety—which seeks to alleviate vehicular congestion on the streets and highways of a community located within the Standard Metropolitan Statistical Area of Philadelphia, Pa.?

Mr. RANDOLPH. Under the bill, fringe and corridor parking facilities would be able to use parking fees to also finance liquidation of financial obligations of the local share of construction as well as maintenance and operations of the facilities. Although TOPICS will be included within the urban Federal-aid highway construction program as provided by the bill rather than continue as a separate program, section 125 changes Federal aid requirements for parking facilities and it would be applicable in the example you outlined. The committee feels by virtue of this change that as a matter of public policy local efforts to recover capital expenditures for public parking facilities in an urban system through the charging of user fees will not preclude Federal support of such projects.

Mr. BEALL. Section 118 of the bill amends section 122 of title 23 of the United States Code to provide, in the case of the Interstate System, for repayment to the States of an amount equal to the principal and interest of bonds issued by the State, the proceeds of which were used to construct projects on the Interstate System. Where this authorization now permits the repayment of interest, is it to have retroactive application and if so, to what extent?

Mr. RANDOLPH. Yes, the newly permitted interest repayment provision is to have retroactive application to the extent of current projects which may have begun before this bill became enacted. "Current projects" means specifically projects on the Interstate System with regard to which payments are still being made. Where, in fact, construction may have ended but debt service on the bond is still going on, the project shall be considered a current project.

Mr. BEALL. Section 111 of the bill contains language at line 7 of page 17 which we believe implies an unintended limitation on the potential location of a substituted essential connection of the Interstate System. The use of "the" preceding "essential connection" on that line seems to imply that a substituted route would have to connect the same points as the withdrawn route was to connect. This would raise the practical problem of having to build a route parallel and adjacent to, if not nearly identical with, a route which was withdrawn for presumably real and practical reasons. We believe that the creation of such a potentially impossible situation was not intended.

Mr. RANDOLPH. We believe your point is a valid one. It was not intended that a substitute essential connection of the Interstate System be limited in this way. The substituted route must merely be found to constitute an essential connection. We believe there should be a technical change in the bill to delete "the" as pointed out and insert "an".

Mr. BAYH. Mr. President, I am pleased to rise to support the proposed Federal

Aid Highway Act of 1972, S. 3939. This is a sound and a progressive piece of legislation, which is responsive to the highway transportation needs of the entire Nation, urban, small urban, and rural areas alike. The basic framework of the bill was developed in the Roads Subcommittee while I was privileged to serve as subcommittee chairman. The subcommittee's suggestions were largely accepted and in some instances perfected by the full Public Works Committee, under the distinguished leadership of Senator RANDOLPH, whose experience and wisdom in these matters is respected by all.

As chairman of the Subcommittee on Roads, I presided over 8 days of hearings, during which we heard from 75 witnesses on the future of the highway program. We heard a wide variety of opinions, on every possible side of the issue. Our job was to resolve the competing views and produce a highway bill which best served the interests of all of our citizens. I believe that is what the committee has done.

I would like to touch briefly on what I believe are the highlights of the bill we are now considering:

Interstate System: The bill contains a recommitment to the completion of the Interstate System which, since 1956, has been the principal highway activity of the United States. The time for the completion of the system has been extended in recognition of the fact that our original goal of 1972 cannot be reached. Annual appropriations of $3.2 billion are authorized for this system through fiscal year 1979, as recommended in the 1972 National Highway Needs Report to Congress. If this and future administrations will obligate the full amount authorized, and release funds previously impounded, it is the committee's expectation that final interstate obligations will be made in 1980 and construction completed by 1982.

The bill contains a mechanism for resolving the disputes over the construction of interstate highways in a number of urban areas. Many of these disputes involve location problems or environmental considerations. To facilitate the resolution of these disputes and the completion of an interconnected Interstate System, the bill would allow States to substitute alternative segments with the consent of local governments concerned, subject to the approval of the Secretary. In designating alternative segments, dollar-for-dollar substitution of interstate mileage rather than mile-for-mile substitution would be permitted for each project. If no alternative segment would be necessary to assure a connected system, or if the cost of the alternative segment would be less than the cost of the original segment, the funds for the original segment, or the difference in funds between the original segment was withdrawn to carry out projects on the urban system, including highway-related public transportation purposes. This section of the bill helps speed completion of the Interstate System as originally envisioned, so that other highway needs can be funded, and equally important it will help solve the environmental and transportation problems many urban areas face.

Highway public transportation: In urban areas across the country—in Indiana as well as New York, in Alabama as well as California—local government officials believe that in many instances their highway transportation needs could better be met, consistent with protection of the environment, by public transportation instead of building of new roads. To deal with this problem, I suggested to my colleagues on the subcommittee, and they agreed unanimously, that urban areas should be permitted to use money apportioned to them—a total of $800 million across the Nation—for traditional highway purposes or for highway public transportation.

Highway public transportation includes the construction of exclusive or preferential bus lanes, passenger loading facilities, and fringe or corridor parking lots, as now permitted, with certain restrictions, under existing law; and it also includes, for the first time, authority for the purchase of buses, for which the Federal share will be 100 percent. To recognize the need for highway public transportation in rural areas, the bill permits funds in the secondary system—$500 million—to be used for these purposes, where needed. Of course, nothing in the bill would force any community to use its highway dollars for highway public transportation; but, if such a need exists, this bill makes funds available to meet it. However, Federal money from the Highway Trust Fund will not be available to purchase subway or other fixed rail systems or for passenger equipment for these systems.

I wholeheartedly support this provision of the pending bill for several reasons. First, there is an urgent need for bus transportation in large and small urban areas—and some rural areas—across the country. While few cities are large enough to support fixed rail systems, virtually all cities have a need for highway public transportation. In my own State, for example, Richmond, Fort Wayne, and Lafayette, among other cities, have pending applications for assistance in purchasing bases. Second, permitting urban areas to use their Highway Trust Fund money in this way is fully consistent with the origin and purpose of the Trust Fund. Under law, disbursements from the Trust Fund can be made only for expenses "which are attributable to Federal-aid highways." Highway public transportation expenses certainly meet this requirement, for buses and bus lanes and the like will significantly increase the capacity of the Federal-aid highway system.

Thus, this provision is of direct benefit to the highway users whose tax contributions make up the Highway Trust Fund, for highway users will be able to travel in their own cars faster and safer—or use a bus, if they prefer. Third, the use of Trust Fund money for highway public transportation purposes will have an immediate and positive impact on the environment, and it will assist many cities in meeting the requirements of the Clean Air Act. Fourth, the assistance provided for highway public transportation will be a valuable supplement to the assistance provided for bus and rail systems by the Urban Mass Transit Administration, which is funded by general revenues. I emphasize that these funds are supplementary—the needs are so great that highway funds cannot and should not be a substitute for UMTA funds. Finally, the use of this money for highway public transportation will help the young, the poor, and the handicapped who have special transportation problems.

Highway safety: I am pleased to report that the pending bill contains, almost intact, the proposal I made for increasing and expanding our highway safety programs. Every year more than 55,000 persons lose their lives, about 2 million are injured, and more than $13 billion of property damage suffered on our highways. And, despite our efforts, the statistics received so far indicate that 1972 may be the worst year in history. To combat this carnage, the bill markedly increases the funding of State safety programs, the first and best line of attack on the problem. The bill also authorizes complete funding of the safety section out of the Highway Trust Fund—for what could be more highway related than highway safety? And the bill places priority on the intoxicated drive, the "single most important highway safety issue" we face, by requiring States to comply with existing Federal standards in this area and by authorizing new standards relating to enforcement and punishment or treatment of intoxicated drivers. The bill also directs the Department of Transportation to do research into the relationship between highway safety and drug use, and to investigate and report on the possible use of administrative adjudication to replace traffic courts. And, finally, the bill established two new, important programs: one to eliminate existing highway dangers, such as high hazard locations and railroad grade crossings; and the other to provide emergency medical care to victims of highway accidents.

According to Howard Pyle, president of the National Safety Council, automobile accidents "remain the largest violent threat to life in the United States." This bill takes a giant step toward making that not so.

Alternative procedures: Because of the leadership of the chairman of the committee, Senator RANDOLPH, the pending bill contains provisions for alternative Federal-aid highway procedures. These provisions will increase the authority of qualified States to handle their own highway programs without project-by-project Federal review. These procedures will eliminate the frustrating redtape which in the past has delayed completion of many important and needed highway projects. And these new procedures will prevent the impounding of highway funds which has also delayed completion of many important and needed highway projects. And these new procedures will prevent the impounding of highway funds which has also delayed completion of many projects. At the same time, it should be emphasized, this section of the bill in no way affects

the responsibility of the Secretary of Transportation under such crucial national legislation as the National Environmental Policy Act, the Civil Rights Act, and other public laws. And this section of the bill creates a new procedure by which interested members of the public can obtain adjudication of complaints about highways before the Secretary of Transportation—a procedure which has never been available before.

Mr. President, there are many, many other important provisions in the pending bill, all of which are worthy of our support. The bill recognizes that there are tremendous highway needs off the Interstate System, and authorizes increased funding for rural primary and secondary roads. The bill also recognizes that the small urban areas in this country, those with populations between 5,000 and 50,000—and there are many in my State—have particular problems which existing programs do not deal with sufficiently. So a new small urban system of highways is created, with flexibility for these areas to use the money apportioned for them for highways or highway public transportation. And the bill recognizes that a few urban areas of the country have particular highway needs which are not now met, by establishing a Special Urban High Density Traffic Impact program. This program will be available only when certain very specific conditions, designed to protect the environment and to prohibit imposing on residential and recreational areas, are met. I hope that this program will provide a means for completing the Cline Avenue Expressway in Lake County, Ind., thereby relieving an extremely serious commuter and industrial bottleneck. Finally, the bill contains important new provisions for bicycle lanes and for increased public participation in highway decisions.

As amended on the floor, the bill also contains provisions, recommended by the Committee on Banking, Housing, and Urban Affairs, which increase the Federal share of urban mass transportation grants to 90 percent, authorize $800 million for grants and loans for operating expenses, and provide an additional $3 billion in contract authority to continue the program through fiscal year 1977. All the money in this program comes from general funds. I have enthusiastically supported these provisions for some time, and I am glad the Senate has attached them to this bill.

Mr. President, this bill, taken as a whole, is perhaps the most progressive and responsive highway bill this body has ever considered. In the words of Alan Altshuler, Secretary of Transportation of Massachusetts and a recognized authority:

> The bill approved by the full Committee is a landmark of reform in the Nation's highway building program.

I agree, and I am happy to support it.

AMENDMENT NO. 1512

Mr. COOPER. Mr. President, I call up my amendment No. 1512 and ask that it be stated.

The PRESIDING OFFICER (Mr. HANSEN). The amendment will be stated.

The legislative clerk read as follows:

On page 33, beginning on line 8, strike out all through line 6 on page 36 and insert in lieu thereof the following:

PUBLIC TRANSPORTATION

SEC. 128. (a) Section 142 of title 23, United States Code, is amended to read as follows:

"§ 142. Public transportation

"(a) To encourage the development, improvement, and use of public mass transportation systems for the transportation of passengers within urbanized areas, so as to increase the efficiency of the Federal-aid system, sums apportioned in accordance with paragraph (6) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the cost of construction of and acquisition of facilities and equipment for public mass transportation projects. For purposes of this section the term 'public mass transportation' means ground transportation which provides general or special service (excluding schoolbus, charter, or sightseeing service) to the public on a regular and continuing basis, and includes activities designed to coordinate such service with other transportation. Projects which may be financed under this subsection shall include, but not be limited to, exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelter, fringe and transportation corridor parking facilities to serve bus, rail, and other public mass transportation passengers, construction of fixed rail facilities, and for the purchase of passenger equipment, including rolling stock for fixed rail.

"(b) To encourage the development, improvement, and use of public transportation systems for the transportation of passengers in such urban areas and rural areas as may be designated by the State and approved by the Secretary on the basis of local transportation need, so as to increase the traffic capacity of the Federal-aid systems, sums apportioned in accordance with paragraphs (1), (2), (5), and (7) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within their respective systems, for the construction of exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public transportation passengers, and for the purchase of passenger equipment other than rolling stock for fixed rail.

"(c) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of title 23, United States Code.

"(d) For all purposes of this title, a project authorized by subsections (a) and (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(e) No project authorized by this section shall be approved unless the Secretary of Transportation is satisfied that public mass transportation systems will have adequate capability to utilize fully the proposed project and to maintain and operate properly any equipment acquired under this section.

"(f) No equipment which is acquired with financial assistance provided by this section shall be available for use in charter, leased, sightseeing, or other service in any area other than the area for which it was acquired.

"(g) In the acquisition of equipment pursuant to subsections (a) and (b) of this section, the Secretary shall require that such equipment meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act, as amended, and shall authorize, wherever practicable, that such equipment meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act, as amended.

"(h) The Secretary shall assure that the provisions of subsection (a) of section 16 of the Urban Mass Transportation Act of 1964, as amended, relating to planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped (as defined in subsection (d) thereof) shall apply in carrying out the provisions of this section.

"(i) Funds available for expenditure to carry out the purposes of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(j) The provisions of chapters 1, 3, and 5 of title 23 of the United States Code shall apply in carrying out the provisions of this section except with respect to projects within urban areas as to which the Secretary determines the provisions of the Urban Mass Transportation Act of 1964, as amended, are more appropriately applicable."

(b) The table of contents of chapter 1 of title 23 of the United States Code is amended by striking

"142. Urban highway public transportation."

and inserting in lieu thereof:

"142. Public transportation."

Mr. COOPER. Mr. President, this amendment is offered by myself, and Senators MUSKIE, BROOKE, BUCKLEY, CRANSTON, EAGLETON, GAMBRELL, PACKWOOD, ROTH, STEVENSON, TAFT, TUNNEY, and WILLIAMS.

I yield now to the distinguished Senator from Maine (Mr. MUSKIE) for such time as he may need.

The PRESIDING OFFICER (Mr. FANNIN). The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. Mr. President, I am privileged to join the distinguished Senator from Kentucky (Mr. COOPER) in sponsoring this amendment. Some of the issues on this matter have already been covered by debate on the Kennedy-Weicker amendment. I shall try not to be repetitive. However, I think the bare outline of the argument should be made at this point.

Mr. President, the Federal Aid Highway Act of 1972, which we consider today, makes great strides forward from past practice in the highway program. For the first time a highway bill recognizes and attempts to deal with the realities of transportation development in urban areas by improving the funding, degree of control, and options available to local officials for development of transportation systems most appropriate to their own urban areas.

This bill improves the degree of citizen involvement in transportation system decisionmaking by assuring that the public is involved in the early stages of development of highway programs. It also attempts to cut the redtape and funding delays which have affected the highway program in the past without at the same time compromising essential protections built into the highway program through the National Environmental Policy Act, the Department of Transportation Act, the Civil Rights Act, the Uniform Relocation Act, and other Federal laws affecting the Highway Act.

I compliment the chairman of the Committee on Public Works (Mr. RANDOLPH) for his diligent efforts in developing this comprehensive piece of legislation and for the free and open discussion of it which he encouraged during the many executive sessions held to consider this important bill. Credit is also due to the former chairman of the Subcommittee on Roads (Mr. BAYH) who spent much time and energy working on this bill before he assumed his present duties on the Committee on Appropriations.

Mr. President, the legislation which we consider today will have an impact on the Federal highway system and related transportation activities well into the 1980's and the 1990's. Roads constructed with funds made available in the next 2 or 3 fiscal years will be used in 1990 and afterwards. For that reason, we must assure that the options available and the programs which can be supported under the legislation we consider today will be relevant to the transportation needs and priorities which this Nation will face in the decades ahead.

The committee report, discussing the changes in direction included in S. 3939 notes:

> The advantage of personalized motor transportation continues to be desirable to the overwhelming proportion of the American population, but there are signs that the excessive expansion of motor vehicle use is neither practical nor desirable. Congestion on highways and in cities, concern for air pollution, and the necessity to conserve natural resources, require a re-evaluation of the position the highway program occupies in the American way of life and in the establishment of national priorities.

This makes the case for broadened support for bus transportation, and, to my mind, makes an equally strong case for allowing use of highway trust funds for support of rail transportation facilities and equipment in those communities which deem the rail-oriented approach the most appropriate local transportation option.

Mr. President, in 1970 and again this year, I proposed to broaden the use of the trust fund for mass transportation including rail systems. I ask unanimous consent that the language of the amendment and my views on the 1970 act be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. RANDOLPH. Mr. President, a point of order.

The PRESIDING OFFICER (Mr. GAMBRELL). The Senator from West Virginia will state it.

Mr. RANDOLPH. The Senate is not in order. My colleague, a member of the Public Works Committee, is presenting an important statement on a vital amendment and I would hope that we might accommodate not only the Senator from Maine but other Senators who are listening to him.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The Senator from Maine may proceed.

Mr. MUSKIE. I thank the distinguished Senator from West Virginia.

Mr. President, the case for redirection of the Federal highway program toward support for a greater range of locally developed transportation alternatives—including rail rapid transit—is more urgent today because of several factors:

First, proliferating suburban sprawl, recreational land developments, and other questionable land uses are encouraged by the existing highway program;

Second, the high—and steadily increasing—costs of owning cars in an automobile-oriented society is making transportation have-nots of the urban and rural poor, the handicapped, and others without ready access to automobiles;

Third, the looming energy crisis may severely curtail private auto use, perhaps before some of the roads authorized in present legislation will be opened;

Fourth, auto-related air pollution and lead from auto exhausts is increasingly perceived as an unacceptable hazard to health;

Fifth, personal transportation and delivery of needed goods and services is hindered severely by excessive urban congestion.

All of these points are of major and growing significance as our roads become more crowded. All of these demand that the reevaluation of the position of the highway program in the American way of life, which the committee report discusses, include the broadest range of options.

The legislation before us responds to these concerns by making available an $800 million urban system fund in the context of a $7 billion highway expansion and development program for alternative transportation systems. At least $300 million of this must be used for highway-related public transportation, but none can be spent for rail transit. The highway-related public transportation option is also available for other highway programs, but the domination of these other programs by State highway departments reduces the likelihood that the public transportation option will be exercised.

This response is not sufficient to meet our transportation crises and assure proper evaluation of an all-options to the present highway program. Each local community must be able to develop the transportation system most appropriate to its own needs and conditions. S. 3939 must be amended to allow use of the urban system fund for any transportation option including the purchase of rail transit facilities and equipment.

Mr. President, today the Federal highway program, supported by the highway trust fund, is the subject of widespread citizen dissatisfaction in all areas—urban, suburban, and rural—where Federal funds are used to build highways. Trust fund moneys are readily available for highway-oriented solutions to transportation problems and are often provided with a requirement that only a minimal amount of State or local matching funds be put up to secure Federal assistance. On the other hand, Federal support for alternative approaches to solve transportation problems, such as mass transit, is limited and requires a substantial matching contribution from the State or local government.

Federal highway funds are available to States and localities at rates of up to $9 for each $1 of local funds. For mass transit, Federal support is limited to a maximum of $2 for each $1 of local funds.

It is easy to see which will be the more appetizing carrot to those who have the responsibility for stretching local budget funds.

The realities of today's transportation needs can no longer allow Federal support to be provided on a discriminating basis. Many factors argue for major reform of the Federal highway program but discriminatory matching programs which tend to assure selection of the cheapest rather than best alternative are the most outstanding.

Right now in America there are approximately 65 million persons under 16 years of age who are too young to have a driver's license. Millions more cannot drive or do not own a car because of age, infirmity, or poverty. Over half of all households with incomes under $3,000 and about half of all households whose heads are 65 years and older have no car. Tragically, it is this same group—the poor, the handicapped, the old and the very young—who need mobility the most to gain access to adequate education, health care, job opportunities, and other necessities of life which we Americans with access to cars take for granted.

Continuing overemphasis on the private automobile in transportation system planning will only increase the plight of the disadvantaged. Stricter licensing and motor vehicle inspection requirements and the unavailability or high cost of auto insurance and repairs are making it increasingly difficult and costly for the disadvantaged to own cars, which when they are purchased often only perpetuate the circle of poverty.

Though they often have no cars, the poor are directly and adversely affected by overemphasis on the auto. A disproportionately large number of those displaced by highway construction are poor or otherwise disadvantaged, and small businessmen and farmers who face often insurmountable difficulties in starting anew once they have been uprooted by a highway.

Between October 1968 and December 1970, the Federal highway program alone displaced 137,639 people, 630 farms, and 7,573 businesses. That is the equivalent of tearing down and paving over an entire city larger than Springfield, Mo., or Las Vegas, Nev., and only slightly smaller than Kansas City, Kans. This is social dislocation on a massive scale.

The urban poor tend to live in or near those areas with highest traffic concentrations. They are subjected to the greatest health and safety risks from traffic including lead and carbon monoxide concentrations two to four times higher than considered safe for public health in the air they breathe. Their neighborhoods are broken up by freeways, and their local streets become free parking lots to serve commuting suburbanites. For the rural poor, to be without a car is to be shut off from the world.

Concern about air pollution—which is the particular responsibility of the Public Works Committee—has become a particular focus for change in society's perception of automobiles and highways. The Clean Air Amendments passed by Congress in 1970 require establishment of air quality standards including transportation controls where necessary. As the committee report indicates, 67 metropolitan areas have air quality significantly below the level necessary to protect public health due to one or more auto-related air pollutants. In some metropolitan areas, curtailment of auto traffic will be required to achieve air quality standards. For these areas, more highways and devices to make traffic run more efficiently are not relevant. Alternative transportation modes must be found to move high volumes of people in the central city if the city is to survive.

Sixteen of the 67 metropolitan areas have rail systems in operation or planned. Others might consider such systems if trust fund moneys were available to support them. I understand that the argument is made that support for rail systems is impractical because they cannot be constructed in time to meet air pollution requirements when essential elements now exist. However, this argument assumes that an entirely new system of rights-of-way must be built for a rail system to function. I do not agree with that premise.

As a study of the Washington Metropolitan Area done several years ago by the Committee on Public Works demonstrates, an adequate rail system could be developed using existing rail rights of way. I assume similar rail conditions would prevail in other urban areas. All that would be required then is the purchase of adequate rolling stock for those areas that wanted to implement a short term rail option. But more important, my concern is not just with 1975 or 1980. Congestion, noise safety and energy requirements demand provision of alternate central city transportation systems in the next decade.

This option must be available, and the amendment we propose would make it available. It would force no one to build a rail system, but for those who wanted to use funds for rail support—who had adequate foresight—it would provide them.

In 1972, the Federal, State, and local governments will spend approximately $4.3 billion in general tax revenues to subsidize the highway program. The major portion of this highway subsidy, approximately $3.2 billion, will come from local governments—cities and counties—which already face a severe crisis in providing essential services from limited general revenue. In addition, local governments have lost vast amounts of valuable taxable property to highways, in effect further subsidizing highways by tax losses from land taken for highways. The capital requirements of nonhighway transportation systems make it very difficult for local governments, even the largest cities—to plan and fund alternative transportation systems without outside help. Today that outside help is, in effect, biased in favor of building highways. We would propose to end that bias.

A major beneficiary of a redirection of the use of urban highway funds would be such urban highway users as truckers, taxi fleets, and others who must deliver goods and services and for whom public mass transportation is not an adequate substitute. By diverting commuters and other marginal users from the highway system to improved public transportation systems, congestion will be reduced and those who rely on highways for delivery of goods and services will do so with greater facility and economy.

Motor vehicles currently account for 40 percent of all oil consumed in the United States. This factor, combined with escalating demands for energy, the United States' heavy dependence on oil and the limited amount of oil reserves in North America, is cause for increasing concern about fuel supplies and national security. One study estimates that 40 percent of the Nation's oil will come from imports by 1980. Another, by the National Petroleum Council, states that in 1985, 57 percent of U.S. oil will come from abroad.

Because of heavy domestic demands for oil and rapidly expanding demands abroad, it is unwise to place heavy reliance on the individual passenger cars for personal transportation. The use of motor vehicles to carry, on the average, one person to and from residence to office is wasteful of invaluable and nonrenewable resources. The energy demands of our society, present and prospective, will not permit this luxury.

Automobiles effectively utilize only 5 percent of the potential energy from the fuel they burn. The rest is wasted. In light of a growing energy supply problem, this waste is wholly unacceptable. Reduction in oil consumption by motor vehicles through a restructuring of domestic transportation alternatives toward more efficient transportation methods are an obvious and essential way to preserve energy reserves.

We recommend the establishment of a national policy today which will conserve fuel resources for the future. Because if we are wasting our fuel resources in this decade to commute on an inefficient basis, we may have no fuel resources in the decades ahead for future needs.

Despite all of these concerns which cry out for broader uses of highway funds, the highway trust fund revenues remain dedicated to highway purposes alone. Trust fund highway programs do not have to compete for scarce general treasury funds. Mass transit must compete with other essential domestic needs such as crime control, health, education, and other needs. Because funding for highways is assured, there is little pressure to provide projects in terms of the most up to date needs and priorities. The bigger the trust fund, the more roads that can be built; the more roads, the greater the user tax revenues; the more user revenues, the bigger the trust fund. This spiral must be controlled if we are to develop a rational and balanced approach to ground transportation in America. This amendment would allow support for rail systems, will encourage this more rational development and will assure balanced evaluation of available alternatives.

As specified in S. 3939 and as intended in the amendment, grants under the Urban Mass Transportation Act would continue unaffected. While the proceeds from the highway trust fund could provide the long-term and predictable levels of funding needed to develop transportation systems, the Urban Mass Transportation Act must be relied upon for short term input of substantial funding which many localities require to initiate or improve public transportation systems in order to make available realistic transportation alternatives within the community.

Transportation systems to a great extent determine the economic and social structure of a community. The Federal Government should thus avoid imposing any particular transportation system on a community. I have always believed that people at the local level most often know what is best for themselves. The program we propose will allow local citizens to decide for themselves what transportation system is best for their communities and their future.

Mr. President, it is for that reason that I was privileged and proud to cosponsor this amendment in the Public Works Committee with the Senator from Kentucky. As the Senator has indicated, we won that vote 8 to 7 the first time around and lost it 7 to 8 the second time around. The amendment then went to the Senate Committee on Banking, Housing and Urban Affairs, where it received public hearings. That committee voted 10 to 0 to support this amendment. It has broad, bipartisan support. It applies only to the urban system aspect of the highway program that is before us. It involves only $800 million as against several times that figure which would still be available for highway construction.

This is a reasonable step in the direction of using urban funds for nonhighway transportation objects.

I urge my colleagues to support it. If they do so, they will make a significant contribution to a redirection of our transportation priorities in the next decade and in a direction related to public interest, the need of the disadvantaged, the need of the poor, the need for public health, and the need for cities struggling under the impact of problems, so many of which are related to the automobile and automobile related factors.

EXHIBIT 1

INDIVIDUAL VIEWS OF SENATOR EDMUND S. MUSKIE

During this session of Congress, the Senate Public Works Committee held extensive hearings on the Nation's air pollution control efforts and the implementation of the Clean Air Act. It was clear from those hearings that air pollution is becoming worse, that it presents a serious threat to the public health and that the automobile is the greatest single source of at least three major pollutants (carbon monoxide, hydrocarbons, and nitrogen oxides). On the basis of the hearings, the Public Works Committee unanimously recommended to the Senate the approval of the National Air Quality Standards Act of 1970 (S. 4358). The Senate passed that bill on September 22 by a vote of 73 to 0.

The National Air Quality Standards Act would require that national ambient air

quality standards for at least 10 major pollutants—including carbon monoxide, hydrocarbons, and nitrogen oxides—be met in all parts of the country within 14½ years or less. These standards would be set at levels which would protect the health of persons in all areas of the Nation.

In order to achieve and maintain these standards—especially for those contaminants emitted from automobiles, drastic measures will be required in many major metropolitan areas. In Chicago, for instance, the 8-hour average concentration of carbon monoxide in the ambient air is 44 parts per million; a likely national ambient air quality standard for carbon monoxide is 8 to 10 parts per million. The report on S. 4358, signed by all members of the Public Works Committee, clearly stated the kinds of steps which the committee expected would be necessary in many areas:

"In addition to direct emission controls, other potential parts of an implementation plan includes land use and air and surface transportation controls. These should insure that any existing or future stationary source of air pollution will be located, designed, constructed, equipped, and operated, and that moving sources will be located and operated so as not to interefere with the implemention, maintenance, and enforcement of any applicable air quality standard or goal.

* * * * *

"The committee recognizes that during the next several years, the attainment of required ambient air quality in many of the metropolitan regions of this country will be impossible if the control of pollution from moving sources depends solely on emission controls. The committee does not intend that these areas be exempt from meeting the standards. Some regions may have to establish new transportation programs and systems combined with traffic control regulations and restrictions in order to achieve ambient air quality standards for pollution agents associated with moving sources."

"The committee realizes that changes or restrictions in transportation systems may impose severe hardship on municipalities and States, and it urges that agencies of the Federal Government make available any relevant program assistance to the States and regions to meet these obligations. The highway program, various housing and urban development programs, and other sources of assistance should be examined in this connection."

These measures and their ramifications were discussed thoroughly by the committee when S. 4358 was considered. It was especially clear that alternative transportation systems would be needed immediately in many cities if restrictions on the individual use of automobiles are applied.

This committee recognizes that the National Air Quality Standards Act would require fundamental changes in major areas of public policy, but it believed a tough law giving rise to such changes was necessary to protect the health of our citizens. As I said on the floor of the Senate when this bill was being considered:

" * * * clean air will not come cheap and it will not come easy.

"The legislation would require new kinds of decisions with respect to transportation and land-use policies. It would require new disciplines of our desire for luxury and convenience. And it would require a new perspective on our world, a recognition that nothing is more valuable or essential to us than the quality of our air."

During the Public Works Committee hearings on highway legislation, the relationship between freeways and air pollution in urban areas was clarified. A study which I quoted in the August 25 hearing concluded:

"While it is true that automobiles traveling at high speeds emit less carbon monoxide and hydrocarbons per mile than vehicles traveling at lower speeds, emissions of nitrogen and lead increase with higher speeds."

"Furthermore, a high-speed corridor tends to generate entirely new automobile traffic entering the city, making up for some reductions in per-car emissions with more cars. Even if a new road merely transfers existing traffic from other routes, air pollution effects are serious. The outputs of certain pollutants from a freeway may be less than the total accumulation of outputs from a large number of arterial streets; but, the freeway, as a single line source of concentrated pollutants, exceeds the emissions from the arterial streets. The implications for surrounding land use are clear; it is particularly alarming for joint and multiple-use projects which are located over, under and immediately adjacent to the freeway."

The hearings record also indicates that some segments of the Interstate System planned for urban areas will never be completed, and that there is significant public opposition to the completion of other segments. Governors and mayors are growing vocal in their opinions that highways are complicating rather than solving many of the transportation needs of their States and cities. Furthermore, it has been reported to the committee that a surplus of $2.8 billion is expected in the highway trust fund in fiscal year 1971.

In light of these considerations, it seemed to me that the highway program should be flexible enough to permit States not only to build highways with proceeds from the trust fund, but also to build other forms of transportation which may serve their transportation needs more effectively and more wisely. I felt that the committee had a responsibility to recommend changes in the highway program which would be consistent with the requirements of the National Air Quality Standards Act, unanimously approved by the committee only a week earlier.

Therefore, I proposed to the committee the following amendments:

I. SECTION

No funds appropriated under this title shall be available for expenditure for construction of any highway in any air quality control region designated pursuant to the Clean Air Act, as amended, unless such highway construction is consistent with any approved plan for the implementation of any ambient air quality standard for such region.

II. SECTION

(a) Notwithstanding any other provisions of this title, the Governor of a State may utilize any funds apportioned to that State for any fiscal year under this title for construction of interstate highways within a standard metropolitan statistical area in such State to construct alternative public transportation systems to serve such area, if the Governor determines that such alternative public transportation systems are necessary to implement any applicable air quality standards for such area or other public purposes. Federal participation in the cost of constructing such alternative public transportation systems shall not exceed the Federal pro rata share applicable to the construction of interstate highways.

(b) Funds shall not be expended for such alternative public transportation systems—

(1) if after public hearing the Governor receives the negative recommendation of any mayor or city council, county board, or other equivalent duly constituted authority with jurisdiction over such area, or

(2) unless the alternative public transportation system is consistent with any applicable comprehensive transportation plan for the area.

(c) Funds made available under this section for alternative public transportation systems may be expended for acquisition of land or rights-of-way, construction or acquisition of track, buildings or other facilities, and acquisition of rolling stock, vehicles, or other equipment for publicly owned systems.

(d) The provisions of this title (including sections dealing with planning, prevailing rate of wage and advance acquisition of right of way) shall apply to the construction of alternative public transportation systems to the same extent as to the construction of interstate highways.

The first amendment, requiring that the construction of highways under this act be consistent with the implementation of the Clean Air Act as amended, was adopted in principle by the committee in section 9 of the bill.

The second amendment was not accepted. It would have required that the Governor of any State be given the opportunity to divert funds available for the construction of interstate highways in urban areas to the construction of alternative public transportation systems in that area. The funds could have been used for the acquisition of land or rights-of-way, for the construction of facilities, or for the purchase of operating equipment. The local government in the urban area would have had the authority to vote the Governor's decision to divert highway funds.

At the present time, many States and cities are confronted with a harsh either-or choice—between the freeways that can be purchased with the highway trust funds on the one hand, or no transportation system on the other. This choice is inconsistent with efforts to alleviate the transportation housing and employment problems of our urban areas. This choice complicates the urban crisis and threatens continued deterioration in the quality of life in our cities. And this choice makes achievement and maintenance of ambient air quality standards more difficult than necessary. For those reasons, I felt that some gubernatorial flexibility in the diversion of highway funds was justified and urgently needed.

It has been argued that funds from the gasoline tax, the primary revenue source for the highway trust fund, should not be used for the construction of alternative transportation systems. In my view, this is a narrowminded perspective. I do not agree that taxes derived from the operation of the automobile should be used to perpetuate the automobile as the only available form of transportation policies and begin to provide States and cities with the ability to offer the kinds of transportation systems that their citizens need, we will never achieve a livable urban/suburban environment.

I regret that the committee did not adopt the alternative public transportation systems amendment. During the first session of the 93d Congress, I shall propose major revisions in the Federal highway program—intended to make the program more responsive to the transportation needs of all Americans. I hope other members of the Senate will offer similar suggestions, and that the committee will consider ways of making the highway program more consistent with efforts to insure a livable environment.

EDMUND S. MUSKIE.

Mr. CHURCH. Mr. President, would the Senator yield?

Mr. MUSKIE. I yield.

Mr. CHURCH. Mr. President, this is a parochial question. I sympathize with the objectives of the Senator. A few moments ago I cast my vote for the amendment of the Senator from Connecticut (Mr. WEICKER) and the Senator from Massachusetts (Mr. KENNEDY) on the assurance of those responsible for that measure, that it would not result in a diminution of the amount of money that

would otherwise be allotted to the State of Idaho.

I would ask the Senator from Maine the same question. Would the adoption of his amendment result in a reduction of the money that would otherwise be allotted to Idaho?

Mr. MUSKIE. The answer is that it would not. That concerns my State as well. The option is entirely up to the State as to whether these funds would be used for highway or non-highway-oriented purposes.

Mr. CHURCH. Mr. President, with that statement I am certainly free to support the Senators' amendment, and I will be glad to do so.

Mr. JAVITS. Mr. President, would the Senator yield?

Mr. COOPER. Mr. President, I yield 2 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, I think what the Senator from Maine (Mr. MUSKIE) and the Senator from Kentucky (Mr. COOPER) are trying to do is elemental justice and a recognition of the adulthood of the States which have major urban problems.

We have heard a great deal about that, and we have heard also of the grave problems which we have encountered in doing something about it, as we did in the revenue sharing bill which we fought so bitterly here.

When the opportunity comes along to give a State an option and let it engage in self-determination, it should be done.

The colloquy of the Senator from Maine has made this crystal clear. There is a real inducement, at least in this way, to give the urbanized States at least an opportunity to choose how they should spend the money made available to them in the best interests of their people.

I feel deeply grateful to the Senators who are from great populated urbanized States for this initiative.

I shall certainly support the amendment.

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

Mr. COOPER. How much time does the Senator desire?

Mr. TUNNEY. Will the Senator yield me 4 minutes?

Mr. COOPER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 40 minutes remaining.

Mr. COOPER. I yield to the Senator from California.

Mr. TUNNEY. Mr. President, I rise to speak in favor of the Cooper-Muskie amendment to the Federal-Aid Highway Act of 1972, S. 3939, which I supported in the Public Works Committee. Over the next decade the great metropolitan areas of California will experience increasing demand for public systems of mass transportation catered to their particular transport needs and priorities. The proposed amendment would give each metropolitan area the option of choosing the technological solution most suited to its requirements, and of doing so without financing constrictions which arbitrarily favor one mode over another. This amendment would permit the use of urban system funds—up to $800 million—for rail transportation as well as other public transportation systems.

For too long now we have shackled ourselves to a policy which permits little or no flexibility in attacking transportation problems. In the Los Angeles area alone there are 600,000 more cars than there were in 1965. Since 1965, well over $1 billion has been spent building freeways in the Los Angeles area. That works out to nearly $2,000 per additional car that has been squeezed onto the Los Angeles freeways. It is estimated that the Riverside area freeways will be so crowded by 1990 they will have to be widened or access to them from local streets will need to be controlled.

In addition to the congestion, continued overuse of automobiles has also detrimentally affected the quality of our environment. Air pollution from automobile exhaust presents a serious hazard to our health.

Riverside, Calif., has the distinct dishonor of being the area of the Nation that has the worst smog problem. To the credit of the city fathers it has recently brought suit against the Environmental Protection Agency—EPA—to prepare a plan for meeting Federal air quality standards in the south coast air basin by 1975.

The diverse needs of the great metropolitan areas of California underscore the importance of a Federal policy which treats all modes equally in terms of funding. In spite of an inconsistent, and often irrational Federal policy, California has shown leadership in each of three major mass transportation fields:

First. In the field of urban rail technology, I need not remind you that the great Bay Area Rapid Transit system has opened in the past week. Its accomplishments are particularly significant to our decisions here today, given that the local citizens courageously chose to tax themselves in the face of an inadequate Federal funding program in order to bring about a radical change in local transportation policy. The regional rail system of BART, coupled with the dramatic revitalization of the light rail MUNI system, has placed the bay area in the forefront of the world in terms of advanced rail technology.

Second. Concerning the development of applied bus technology, California has long taken the lead in the field of highway mass transportation. Indeed, the first major application of the express bus system occurred in Los Angeles, where today the first major exclusive busway authorized under section 142 is under construction as part of the San Bernardino freeway project.

Third. And, finally, California notes with pride that from its earliest conception, the field of automated guideway transportation, operating small, directly-routed automated transit vehicles, was pioneered by the great research and development institutions of California. Similarly, we note that the leadership in the production of operating prototypical systems has occurred largely through the private sponsorship of California's diversifying aerospace industries.

Because California has taken national leadership in all categories of urban transportation, we are particularly concerned with Federal legislative programs which will allow our metropolitan areas a rational choice between alternative technological solutions.

In California we are ready. In California we have reformed our funding mechanisms to allow local areas to decide for themselves how their transport dollars are to be allocated. Today we have the opportunity to provide this critical flexibility for Federal allocations as well. As the Senator from Maine (Mr. MUSKIE) and I noted in our supplemental views to the committee report on S. 3939:

> Today the Federal highway program, supported by the highway trust fund, is the subject of widespread citizen dissatisfaction in all areas—urban, suburban and rural—where Federal funds are used to build highways. . . . the realities of today's transportation needs should no longer allow Federal support to be provided in this discriminating fashion.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial which was published in the Washington Post Monday.

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

ROADS AND RAILS FOR THE CITIES

The Senate this week has an excellent opportunity to get the highway trust fund on the right track in the cities. The two-year, $14-billion federal-aid highway bill reported by the Public Works Committee already contains significant provisions granting state and local officials some flexibility to cancel controversial urban freeway plans and redirect federal highway funds to less disruptive roads or to bus systems. The bill would also expand the present urban transportation fund eight-fold to $800 million per year, and authorize direct federal grants to metropolitan transportation agencies.

Following such efforts to shelve old, seemingly endless freeway fights and to lure people from private cars into buses, the next logical move would be to get more people off the roads entirely and onto rail transit systems, thus relieving both the congestion on existing arteries and the pressures for still more lanes. The most feasible legislative vehicle for such policy shift is the Cooper-Muskie amendment, which would grant cities the option to use their shares of that $800-million urban transportation fund for rail transit as well as buses, bus lands, fringe parking areas and roads.

The amendment to be offered on the Senate floor this week, enjoys impressively broad, bipartisan support. Senators Cooper and Muskie in fact missed gaining a majority within the Public Works Committee only by one vacillating vote, the amendment was first adopted by that panel, 8–7, then rejected 8–7 the next day when Sen. Robert T. Stafford (R-Vt.) changed his mind with the explanation that "I come from a rural state." The Senate Banking Committee, which handles mass transit bills, endorsed the Cooper-Muskie measure, 10–0, as a supplement to the present program of aid for urban transit systems. The amendment is also blessed with administration backing, primarily as a result of Transportation Secretary John A. Volpe's vigorous—and undaunted—advocacy of unified transportation planning and funding for metropolitan areas. With a flexibility which is refreshing, compared with the our-bill-or-nothing approach taken too often by administration officials, Secretary Volpe has recognized that his "single urban fund" approach has not won congressional favor, and

has swung his enthusiasm behind the Cooper-Muskie move.

Measured against the massive transportation snarls of urban areas and the mammoth pro-highway bias of past federal policies, the Cooper-Muskie amendment is a very modest advance. Permitting cities to use the highway trust fund to build a rail as well as roads is not an improper diversion of that fund, much less a perversion of any sacred trust. To the contrary, truly balanced transportation systems benefit highway users as much as bus riders and subway strap-hangers. Indeed, those who must use the roads—those who, for instance, have no other way to transport goods—have an especially direct interest in curbing highway congestion by offering people other ways to get from place to place. Ideally, each metropolitan region should be able to design and fund whatever mix of roads and rails—and bike paths and pedestrian ways—will meet its particular needs in the most efficient, healthy and humane way. The Cooper-Muskie amendment, while limited, is an important and attainable beginning toward that end.

Mr. RANDOLPH. Mr. President, I yield such time as he may require to the able Senator from Kentucky (Mr. COOK).

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, with all deference, I hope we can develop a good colloquy with my distinguished senior colleague and the Senator from Maine.

The Senator from New York talked about elemental justice if this were done. Here is my problem. In reading the trust itself under chapter 32, item 3, it states that facilities that now include local transit companies, and including rails that use fuels, these companies, these facilities, these transportation facilities which are not utilizing the highways but which do utilize fuels, receive a refund for the fuels they use on their buses, for lubrication, and everything, because under the act as originally passed they do not utilize the highways.

I have asked for an interpretation of the section, because up to 1964, a person who had an outboard motor and bought fuels would pay a tax on it and at the end of the year he would apply for and receive a refund for that tax, because he did not utilize the highways. The fund said the moneys in the trust fund were for construction of highways. In 1964, that was changed, because you came up with a program by which you utilized that fund for the benefit of docks and ramps, so that a person was really receiving something for which he paid a tax.

As I read the amendment of my senior colleague and the Senator from Maine (Mr. MUSKIE), even if this amendment is agreed to and the amount is extracted from the trust, the people that will utilize a mass transit system, and not utilize the highways within the interpretation of section 32, will still not pay a tax on those fuels although they will be receiving refunds from the trust. I am wondering if in some way some language could be put in this amendment that when they avail themselves of these funds, that they then must assume the burden of the tax which is the subject of the discussion. This is the very thing that bothers me.

Mr. COOPER. Mr. President, if the Senator will yield to me on my own time, this matter was discussed in committee. The Senator from Tennessee (Mr. BAKER) raised a question about it, but did not offer an amendment. He thought it a matter which could, perhaps, be worked out between the Committee on Public Works and the Committee on Finance.

With all due regard to my colleague, I must say that I have served on the Committee on Public Works for about 16 years. I serve also on the Committee on Rules and Administration, and the question the Senator raises is a Finance Committee question. A question may be raised as to whether it is just for a person to ride on a tram car or subway, which is supported, in part, by highway trust funds, if he has not contributed something to the trust fund during that ride. But this is a technical matter which has been raised before. What the Senator from Maine (Mr. MUSKIE) and I have tried to address ourselves to is the provision of better transportation, of whatever mode, for the people who live in the cities and travel in the cities.

My colleague lives in the largest city in the State of Kentucky. He knows more about the needs of the people of the cities than I do. My hometown has a population of about 15,000.

This amendment fixes the amount from the trust fund which may be used for rail at $800 million—the sum authorized for the urban system.

As far as I am concerned, I am willing to let the Senate work its will. If the Finance Committee objects then that is a matter for the Finance Committee. If there are some differences between the House and Senate on the issue, we will deal with them in conference. Our purpose here is much broader than the issue to which my colleague is addressing himself.

Mr. President, I ask unanimous consent that there be included in the RECORD at this point the views of Senator BAKER, as contained in our committee report.

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

INDIVIDUAL AND SUPPLEMENTAL VIEWS OF MR. BAKER

I would like to add a brief comment in supplement to the views of Senator John Cooper regarding mass transportation.

There seems to be little debate regarding the need for mass transit systems in the major metropolitan areas of the nation. But there is no shortage of conflicting views and opinions with regard to the method and means for financing these costly ventures. The Administration has proposed the use of Highway Trust Funds directed to projects in urban areas for modes of transportation other than highways. This is the purpose of the amendment urged by the Senior Senator from Kentucky, and I support this move away from single thrust transportation development.

The Highway Trust Fund is founded upon the proposition that those using the highway system by special use taxes pay for the improvement of the system. While I do not believe that the pay-as-you-go concept must tie our hands in applying the Fund to the development of badly needed alternate modes of transportation. I do not believe either that we can afford to scrap the concept so basic to the funding method. I strongly feel that we must establish a method whereby transit systems supported by funds from the Highway Trust Fund will contribute to the fund in turn. I would urge the establishment of a tax based upon the energy consumption of these systems much like the gasoline tax for our highway users.

I realize that at the outset the contributions of these systems could nowhere approach the levels needed from the Fund. But I can foresee the day when mass transportation in our metropolitan areas, if efficiently administered, will enjoy such wide use as to be capable of making a substantial contribution.

With that comment, I join Senator Cooper in his views regarding mass transportation.

HOWARD BAKER.

Mr. COOK. Let me say that that may be true, but in order to get at the broad issues, one has to solve the narrower issues first. We have been discussing the matter of rapid transit. We have discussed the utilization of the Southern Railroad for that purpose between Fort Knox and Louisville, and the utilization of the Monon between Louisville and Indianapolis. None of this will be a reality, but if it were, they would be utilizing diesel fuels. They would be paying the tax. They would be filing for a refund. They would be receiving a refund out of the trust, because they would not be utilizing the highways and would not be taking funds out of the highway trust fund.

If the Finance Committee has dealt with it, that may be so. To talk more of the broader issue than of the narrower one may be correct, but there is such a thing as equity. If in fact we utilize it for this purpose, and if in fact it is used in fields for which the tax is imposed, they should not receive a refund when in fact the money is being withdrawn from the trust fund for the use of that facility. That is the point I raised, and I think it is a serious one.

I only bring this question up in passing, because I am quite sure a great many of the facilities we are talking about will try to be utilized on existing rail facilities of one kind and another.

I would suggest to Members of the Senate that so far this session the Senate has passed S. 2362, which is a surface transportation bill, for which we provided an authorization of $3 billion. We also have already passed S. 1729, which is a so-called railroad freight car bill, for which we have made available to the industry another $2 billion. Here we are saying that, within the framework of this trust fund, we ask for the sum of $800 million. I am not sure that I know of a particular industry that is not assuming its responsibility, that has not come up with a solution to its transportation problems.

As a matter of fact, I think, without any question—I think the Senator from New York will agree with me—they started out methodically, years ago, with the poorest service they could give, in order to get rid of their lines. Yet we have said to this particular industry, one session of Congress is willing to commit, in credits, guarantees, or loans, $5.8 billion. I must say this is a rather surprising thing.

I wish again that some language could have been found that would have said that if, in fact, one is to participate in the creation of a trust, everybody who buys a gallon of gasoline, has to pay into

the trust for the purpose of facilitating a highway program for him.

I might also say to the manager of the bill that I would like to put in the RECORD a letter from the Governor of the Commonwealth, who raises problems outside of this question. They are not concerned with this particular amendment, but they are concerned with other problems. I have questions which at a later time I will ask the Senator from West Virginia (Mr. RANDOLPH) relative to the inquiries the Governor has made.

I do not see how, out of $800 million, with the problems we are faced with in the United States, there are many States in this Union that will get very much of the $800 million for the purpose of effectuating a solution of their transportation problem. I think it is going to cost far more than that. If we are looking to the establishment of a fund, and we come back in the next Congress and say, "We have just scratched the surface. The only thing we can do is solve the problem between New York and Boston, or between New York and Philadelphia" with the $800 million—and we cannot even do that; it is only a pittance—where do we go for more money? Do we continue to take it out of the trust, or do we continue to pay it and take it out for that purpose? If we are going to face this problem, let us face it in a more logical and equitable way. Let us say that the tax shall be in fact exacted from those who use the facility. Then I think I would be far happier with the basic concept of this matter than I am in its present form. I say that with all due deference to my friend.

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

Mr. COOPER. I yield to the Senator.

Mr. WILLIAMS. Mr. President, I appreciate the time granted to me by the Senator from Kentucky.

Mr. President, over the past 15 years the highway trust fund has built for our Nation an interstate highway system which is the finest in the world.

The $52 billion which highway users have paid into the fund has built 42,500 miles of interstate and defense highways.

But in today's dynamic, highly urbanized society, a different type of transportation is of the utmost necessity—urban mass transportation.

With more than 70 percent of our Nation's citizens now living in urban areas, the need to get people to and from work has become one of our Nation's top priorities.

Unfortunately, however, we have not fully met this goal.

And more and more people have been forced to turn to private automobiles to meet their basic transportation needs.

The results have been both predictable and inevitable—our air is fouled with fumes; automobile traffic accidents take more than 55,000 lives a year; in areas where land is at a premium it is devoured by streets, garages, and parking lots.

Today almost 66 percent of the land in urban areas belongs to the car, and as far as the lives of many city dwellers are concerned our highway system has been a complete and utter failure.

While there is nothing better than our interstate highway system for cross-country travel, when the highway meets the city line forward motion stops and traffic congestion begins—traffic congestion which not only adversely affects commuters who travel by bus and car but truckers and manufacturers as well.

The cost which urban industry pays in overtime due to traffic delay, gasoline, and replacement equipment makes it a prime beneficiary of improved urban mass transportation.

Of equal importance is the fact that new highways in many highly urbanized areas may no longer be necessary.

Many cities such as New York, Los Angeles, Chicago, and San Francisco, if given a clear choice, would certainly rather have efficient urban mass transit.

And yet these and other cities throughout our Nation are forced by virtue of the provisions of the Federal-Aid Highway Act to either use trust fund money for low priority highways or receive no funds at all.

In other words, use it or lose it.

Such a restriction may have been most meritorious 15 years ago when this legislation was originally enacted.

But today it unduly penalizes our larger cities by coercing them to build low priority highways rather than efficient, socially worthwhile mass transit systems.

And even with the $3.1 billion authorized for urban mass transit grants under the Urban Mass Transit Assistance Act of 1970, we are still spending approximately $5 for highways for every $1 we spend for mass transit.

Clearly, changes in the operation of the highway trust fund are long overdue

Therefore, the Committee on Banking, Housing and Urban Affairs by a 10-to-0 vote recommended in its report on the Federal Aid Highway Act of 1972 that for the first time highway trust fund money be made available for the purchase of both bus and rail transit facilities and equipment.

This approach, the Cooper-Muskie amendment of which I am a sponsor, would allow the utilization of Federal Aid highway funds apportioned to a State for use within urban areas—the $800 million urban systems fund—to be made available for whatever urban transportation capital grant projects the State deems necessary to meet the needs of its communities.

Under this approach, some communities might choose to use their entire allotment for mass transportation, others for highway construction and some others for both mass transit and highway programs.

The decision, however, would rest at the local level where the problems and their solutions are best known.

This is not a new or radical approach.

For the past 2 years, Federal highway funds have been apportioned to States for use within urban areas for public transportation projects including exclusive bus lanes, traffic control devices and passenger loading areas.

And just this year the Commitee on Public Works recommended that section 142 of the act be amended to provide for $350 million for the purchase of buses in both urban and rural areas.

Therefore, our committee in recommending the Cooper-Muskie amendment is merely extending the concept originated by the distinguished senior Senator from West Virginia, Senator RANDOLPH, chairman of the Committee on Public Works, to include the discretionary purchase of rail transit facilities and equipment with urban systems funds.

It is only in this manner that our Nation's cities will be able to further broaden their transit objectives and assure viable and meaningful alternative methods of transportation for the need of their communities.

In using highway trust fund moneys to fund its public transportation, it makes sense to include all forms of urban mass transportation and not only buses.

In that way, we will give metropolitan areas maximum flexibility.

However, as a sponor of this amendment, I understand and agree that the highway trust fund is not large enough to include the extensive needs of all rail systems.

This problem can only be dealt with by increasing the contract authority under the Urban Mass Transportation Assistance Act.

Title III of the Federal-Aid Highway Act of 1972 meets the problem head on by increasing the amount of contract authority funds available by $3 billion.

Our proposed amendment does not touch the money earmarked by the highway trust fund for primary highway systems, secondary highways systems, or small urban systems as did the Kennedy-Weicker amendment.

Under their proposal, all highway funds would be made available at the discretion of State governments for urban mass transit purposes.

Our committee rejected this approach because, in my opinion, it has little practical benefit.

All highway funds other than the $800 million earmarked for urban systems are committed for years in advance by State highway departments for road construction.

Amending the Highway Act to include such funds for mass transit purposes would, therefore, be an exercise in futility.

No additional money would in reality be made available for urban transit.

And in that way it has, in my opinion, diverted attention from the Banking Committee's recommendation which would for the first time provide mass transit funding from the highway trust fund.

I would like to stress the fact that in using the urban systems fund for mass transit we are not taking away money already earmarked for highway construction.

The urban systems is a new program initiated only 2 short years ago.

It already allows for highway money to be used for bus lanes and traffic control devices.

Extending it to rail and bus projects is a logical move which does not detract from previously committed highway moneys.

For these reasons the Cooper-Muskie amendment is supported by the League

of Cities Conference of Mayors, the American Transit Association, the Institute for Rapid Transit, and the Railway Progress Institute all of whom over the years have been in the forefront of the fight for better urban mass transportation.

The $800 million for urban mass transit under the Cooper-Muskie amendment is intended to supplement funds contained in the Urban Mass Transportation Assistance Act.

This money will be added to the $1 billion which the Congress has already appropriated for urban mass transit for fiscal 1973.

With almost $4 billion in pending applications for urban mass transportation grants and only $1 billion available under the Urban Mass Transportation Act, this money is urgently needed and will be utilized.

Secretary of Transportation Volpe has assured our committee on behalf of the administration that this will be the case when he stated at our September 7 hearings that:

> I did not start this fight until I was given assurance that every dollar that the Congress authorized and appropriated would be spent, because the needs are there, and I have that assurance.

The only question which remains is, Why should automobile and truck owners pay for mass transportation?

Many of these people feel that their money should go for highways, not buses and trains.

The answer to that is simple: we are all in the same traffic jam together and what helps the urban commuter also helps the trucker and the car owner.

Therefore, if we are willing to move forward and adopt the Cooper-Muskie amendment, we can replace our present traffic jams with efficient urban mass transportation systems which will make travel easier and more pleasant and which will help all of our Nation's citizens.

The PRESIDING OFFICER. The Senator from West Virginia has 49 minutes remaining. The Senator from Kentucky has 31 minutes.

Mr. RANDOLPH. Mr. President, I hope that this will not be regarded as a pleasantry. I attempt to accommodate all Members of the Senate. I am ready to stay until 9 o'clock, 10 o'clock, or whatever time is necessary.

I only wish to say that there are many Members of the Senate and will have to leave, who want to vote on this measure. They are going to Rome for the Parliamentary Conference.

Mr. BAYH. Mr. President, I will vote against the pending Cooper-Muskie amendment. In my view, the Federal-Aid Highway Act of 1972 as it is presently structured is properly responsive to the ground transportation needs of the whole Nation—urban and rural areas alike. Though I have the greatest respect for the sponsors of the amendment, I believe that the end they seek is already met in this bill and that the method they would have us use is inconsistent with the origin and purpose of the highway trust fund.

In the pending legislation, we have taken very significant steps to meet the needs of urban areas for public transportation of all sorts. Let there be no doubts these needs exist, and I am in favor of allocating the funds we need to meet them—as the bill before us does.

The bill permits—but, of course, does not require—urban areas to use money apportioned to them from the highway trust fund—a total of $800 million across the country—for highway public transportation. Highway public transportation includes the construction of exclusive or preferential bus lanes, passenger loading facilities and fringe or corridor parking lots—as now permitted, but with certain restrictions, under existing law—and it also includes, for the first time, authority for the purchase of buses—or other vehicles which operate on highways—for which the Federal share will be 100 percent.

Under this provision, money from the highway trust fund could not be used to purchase subway or other fixed rail systems or for passenger equipment for these systems.

But this is not to say that the rail needs of the country—the needs, that is, of those relatively few very large urban areas which can support a fixed rail system—are overlooked by this bill. For the Senate has approved an amendment proposed by the Committee on Banking, Housing, and Urban Affairs which provides new and substantial support for our urban mass transportation program, out of general revenues. I fully supported that amendment, which will provide an additional $3 billion in contract authority for the UMTA program through fiscal year 1977; raise the Federal share of UMTA capital grants to 90 percent; and provide $800 million in grants and loans for operating expenses of transit companies. As I said, this money comes from general revenues, not the highway trust fund. Since the highway trust fund will be picking up some of the costs of buses and highway related transportation, more of the UMTA money will be available to meet the costs of rail transportation than has been true in the past.

Thus the bill as a whole—drawing on the highway trust fund for highway related public transportation and general revenues for other public transportation—provides the money we need to meet both the bus and rail needs we face.

The needs of our great cities for fixed rail mass transportation can and should be met through the UMTA program. But a vast number of cities of all sizes need buses and related equipment and facilities. In my own State many cities, including Vincennes, Richmond, Fort Wayne and Lafayette, need assistance to purchase buses—and this bill presently provides that assistance. In these cities and others, the inflow of money for highway public transportation will have an immediate, positive and lasting impact on reducing congestion, providing more low-cost public transportation, and controlling air pollution, as required by the Clean Air Act.

Finally, I will oppose this amendment because it is inconsistent with the origin and purpose of the highway trust fund. Under law, disbursements from the trust fund can be made only for expenses "which are attributable to Federal-aid highways." Highway public transportation expenses certainly meet this requirement, for buses and bus lanes and the like will significantly increase the capacity of the Federal-aid highway system. Given the fact that we have an earmarked trust fund made up of user taxes, and devoted by law to the benefit of those who contribute to it, the present bill is a proper, fair, and adequate way to finance needed public mass transit.

Mr. COOK. Would the Senator from West Virginia mind my asking him some questions at the request of the State highway department of my State?

Mr. RANDOLPH. Yes; I yield.

Mr. COOK. It will not take long.

Mr. RANDOLPH. I yield myself such time as may be necessary.

Mr. COOK. While the approval of S. 3939 will assist the individual States in their interstate programs by authorizing the Federal Government to pay for 90 percent of the upgrading costs of those turnpikes which have become a part of the free Interstate System, there are no additional funds authorized for this purpose. While I agree that the States should have this assistance, I question if it can be done. By this act we are requiring the States to place these turnpikes in competition with other interstate mileage of high priority for what is now a reduced amount of funds. It would seem to me that the results could be a significant upgrading of an existing system at the cost of much needed new construction. My questions are these: Are we losing sight of the purpose of the bill? Can we still meet our goal of completion by 1982 and not provide the funds required?

Mr. RANDOLPH. Mr. President, I respond to the question of my able colleague from Kentucky by saying that the toll roads to which he refers are part of the Interstate System. They are not being given extra money in addition to that allocated to the interstate network. Upgrading these toll roads to interstate standards could even save money by eliminating the need to build entirely new roads in the same corridor. As for completing the total Interstate System, all of the highway trust funds will be needed for that purpose.

Mr. COOK. Directly related to this is the authority which will raise the Federal share of the primary system from 50 percent to 70 percent of the total funds available. If we maintain the funds available at a constant figure and use 70 percent of this figure for single projects, then there will be fewer projects available for construction. It would seem to me that here again we are threatening the final goal. Can we meet our goal with the funds authorized?

Mr. RANDOLPH. Yes, we can meet the goals if there are no diversions of funds.

Mr. COOK. The last question, which also relates to this matter, concerns the increase in categories contained in the bill. I am speaking primarily of the introduction of a small urban—5,000–50,000—category and new safety measures with specific emphasis on grade crossings. These are necessary features, but I again raise the question concerning adequate funding to prevent the delay or

increased cost of the final completion of our interstate system. Does the Senator feel we can meet this requirement, and meet the new demands, within the framework of the funds presently being considered?

Mr. RANDOLPH. The measure reported by the Public Works Committee was intended to meet the needs of which the Senator from Kentucky speaks, and the revenues would be sufficient.

Mr. COOK. Mr. President, I have always been concerned when as a policy funds are expended for any use other than for those which the funds were specifically authorized. I suggest to my colleagues that we watch this matter very carefully. The goal of the highway bill is to complete the construction of an interstate system by 1982. We have already extended this date. If we intend to do so again and if we are going to have to authorize additional funds to provide this system along with desirable safety features as well as adequate mass transportation, then I say to the Congress, let us face up to the problem and enact honest meaningful legislation.

I ask unanimous consent that a letter from the Governor of Kentucky be printed in the RECORD.

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

OFFICE OF THE GOVERNOR,
Frankfort, Ky., September 15, 1972.

Hon. MARLOW W. COOK,
Senate Office Building,
Washington, D.C.

DEAR SENATOR COOK: Passage of the best possible federal aid authorization bill for highways is vital. The Federal Aid Highway Act of 1972 (S3939) is acceptable, but I do not believe it attacks the greatest problem we face, which is the need to do some things immediately.

As proposed, the act would authorize an increase in federal aid. However, other portions of the act tend to nullify the increase by scattering priorities. In fact, the appropriation for the Interstate System apparently will fall to less than $4 billion, a figure our engineers feel to be the minimum if the system is to be completed before many segments are deficient.

As you know, in Kentucky we have a real need to improve the Kentucky Turnpike, which is part of Interstate 65. State government simply does not have funds available to bring the turnpike to Interstate standards. This act would let the federal government pay for 90 percent of the upgrading costs by making the turnpike eligible under the Interstate program. We believe this to be only right, since the federal government to date has spent nothing on the 36-mile section of interstate. However, since no additional funds are made available—and in fact are cut in this proposal—we are not helped with our biggest need—immediate improvement. As now proposed, this bill will only put the Kentucky Turnpike in competition with other Interstate mileage of high priority for a reduced amount of funds.

We are aware that the reduction in Interstate funds is reflected and offset by a huge increase in urban highway funds. This is desirable. However, the authorization is decreased in a program on which the state relies heavily for major traffic corridors of a state system in order to increase a program over which state control is virtually eliminated. For years, our state highway planners have been working with urban areas to plan an urban system which fits into, and complements, the state system. Under this act, the state will retain responsibility for the state system with less money, while the urban governments will not be required to assume any state system responsibility with their greatly increased authorizations.

We also are concerned that the increased federal participation in the primary system is not backed up with increased funding. Increasing the federal share to 70 percent of the current spending level will relieve some state dollars for expenditure elsewhere, and we can use it. However, the difference between 30 percent and 50 percent of our current level of primary system spending is only $3.6 million per year, which will not build many miles of road. That same amount left in the primary program and matched with 70 percent federal funds would produce more than $10 million to continue to make badly needed improvements on our primary system.

In summary, we are concerned with the great number of categorical grants, which can only weaken each program as funds are thinly spread. We are concerned about the reduction of the state's role in the greatly increased urban programs. We are concerned about reductions in the Interstate program funds. We are concerned about what amounts to holding the line in spending on a deteriorating primary system.

It is true that many of these categorical increases and changes can be helped. But, what concerns us most is exemplified by the situation surrounding the Kentucky Turnpike and the Jefferson Freeway. These are projects which motorist safety and increasing traffic congestion factors demand be completed immediately. Under this bill, we cannot begin construction before 1980!

I appreciate the opportunity to comment and I respectfully request your careful consideration.

Sincerely,

WENDELL.

Mr. RANDOLPH. Mr. President, the amendment before the Senate has as its principal sponsors two members of the Committee on Public Works. This proposal was placed before the committee during its consideration of S. 3939 by Senator COOPER, and strongly supported by Senator MUSKIE.

Both of these members of our committee have wide experience with transportation legislation, and both are articulate advocates of an improved, total transportation system in our country. They have made many worthwhile contributions to our highway legislation during the time they have served as members of the committee.

It is, therefore, with some regret that I must oppose them on amendment 1512, just as I opposed the substance of this amendment when it was offered to the committee in executive session.

Earlier today, there was extensive discussion of the amendment proposed by Senators KENNEDY and WEICKER. At that time I explained why we should not permit highway funds to be used for the construction of rail rapid transit systems. Although the amendment now before us is considerably narrower in scope than the one on which we voted earlier, it contains the same defects.

The needs for highways and highway-related public transportation are just too great at this time to permit the dissipation of highway funds by attempting to use them for rail transit construction. As advocates of a unified approach to meeting our transportation requirements, I am sure that my colleagues who offer this amendment are aware of the important function played by feeder bus routes in the operation of subways and other rail transit facilities. The language of S. 3939 as reported is geared to helping communities provide improved and expanded bus systems not only to supplement rail networks, but to provide the basic services in those communities where rail systems are not feasible answers to the community's transportation needs. The Federal-Aid Highway Act authorizes $800 million for urban highways during each of the next 2 years and provides that all of this money could be used for public transportation purposes, including the purchase of buses, if the States and communities to which it is allocated see fit.

This is a substantial amount of money and I emphasize that it is money that will supplement urban mass transit activities authorized by other legislation. It is not a substitute for these programs, but will help to make the total mass transit effort more responsive to our communities.

The Urban Mass Transit Administration estimates that in the next 20 years our country will need to invest $6.4 billion in the purchase of buses alone. This is considerably more than S. 3939 proposes to be spent from the highway trust fund for this purpose, and shows clearly that the program we are authorizing here is badly needed.

The highway program's involvement with public transportation was started a few years ago when we authorized experimental programs in development of preferential or exclusive bus lanes and such related facilities as fringe parking areas. These and others have become permanent parts of the highway program and their success is evidenced here in the Washington area primarily on the Shirley Highway where a demonstration program has become a permanent and integral part of the Washington area's transportation system. The mass movement of people in urban areas by buses is increasingly recognized as a key factor in solving the urban transportation crisis. More than 250 American communities have been left without any public transportation as the result of bus system closures in recent years. It is important that these and other communities receive support in providing this essential service.

The provisions of the Cooper-Muskie amendment would, if adopted, dilute our ability to tailor the highway program to respond to the transit needs of the great majority of American communities.

Mr. President, the sincerity of my colleagues who sponsor this amendment is above question. On this occasion, however, I fear that they are overresponding to one need with an answer that may compromise our ability to cope with the total problem of public mass transit. This proposal was discussed at great length in the Committee on Public Works, whose members declined to include it as a part of the Federal-Aid Highway Act of 1972. I hope that the Members of the Senate will follow this lead by taking the same action.

Mr. President, I shall take just 3 or 4 minutes to make a little statement from the standpoint of the viewpoint of the

committee vote on the subject of this amendment, which was close.

Mr. President, I would be willing—I would be willing, I repeat—to accept the amendment but for the fact that the law by which highway trust funds are collected will not allow it.

I would accept the decision of the House Ways and Means Committee, and of course that of the Senate Finance Committee, to permit the broader use of these funds. As to what the law provides, I quote from the Highway Revenue Act of 1956, section 209(f) (1):

Amounts in the trust fund shall be available for making expenditures which are attributable to Federal-aid highways.

This is the exact language in the law, Mr. President. We want to do what is possible within the framework of the law, and within that framework we have brought from our Committee on Public Works the advances proposed 4 years ago, 2 years ago, and again today.

The validity of this legal requirement was recognized when the administration submitted its legislative proposal early this year. It included a bill—I must remind Senators—to amend the Highway Revenue Act, as the Senator from Kentucky (Mr. COOK) could agree, so that the trust funds could be used for rail transit.

I have been very frank about this, hoping that it would help us as we come to a vote on this measure. I shall ask unanimous consent to have printed in the RECORD a letter dated today from WILBUR D. MILLS, the chairman of the House Ways and Means Committee, addressed to the Honorable JOHN A. BLATNIK, chairman of the House Committee on Public Works, in which he said:

I agree completely with the observations—

Those made by Chairman BLATNIK—

which you made concerning the fact that diversion of money from the highway trust fund for mass transit purposes as indicated in the amendment set forth in your letter would clearly be a violation of the provisions of section 209 of the Highway Revenue Act of 1956, as amended. I agree with you completely, and I am sure, if I understand the feeling of the Members of the Committee on Ways and Means, that the majority of the committee members would agree with me that this is clearly a matter within the jurisdiction of the Committee on Ways and Means and formal action would have to be taken by our committee before any such diversion could be accomplished.

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:

COMMITTEE ON WAYS AND MEANS,
Washington, D.C., September 19, 1972.

Hon. JOHN A. BLATNIK,
Chairman, Committee on Public Works,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: I have just received your hand-delivered letter of September 19, 1972, concerning the proposal to divert money from the Highway Trust Fund for use in mass transit.

I agree completely with the observations which you made concerning the fact that diversion of money from the Highway Trust Fund for mass transit purposes as indicated in the amendment set forth in your letter would clearly be a violation of the provisions of section 209 of the Highway Revenue Act of 1956, as amended. I agree with you completely, and I am sure, if I understand the feeling of the Members of the Committee on Ways and Means, that the majority of the Committee Members would agree with me that this is clearly a matter within the jurisdiction of the Committee on Ways and Means and formal action would have to be taken by our Committee before any such diversion could be accomplished.

Sincerely yours,

WILBUR D. MILLS, *Chairman.*

Mr. RANDOLPH. Mr. President, I hope that, in what I think would be its right judgment, the Senate will reject the proposed amendment. In saying that, I add something that I wish the RECORD to include: That I have very genuine respect for the Senator from Kentucky as not only a personal friend, but a valued Member of the Senate, and particularly of the Committee on Public Works. I have an equal amount of respect for the able Senator from Maine, who has given such close attention and has worked so closely in alliance with the Senator from Kentucky (Mr. COOPER) on this amendment.

I repeat again that within the framework of the law, it would be wrong for us to accept such an amendment.

Mr. MUSKIE. Mr. President, will the Senator yield me 5 minutes?

Mr. COOPER. I yield.

Mr. MUSKIE. Mr. President, since the point has been raised by the Senator from Kentucky (Mr. COOPER) and by the distinguished chairman of the committee, I think I should make some observations of my own.

First, let me say that we must distinguish between the question of committee jurisdiction with reference to changing the highway trust fund and the authority of Congress to change the law.

On the question of committee jurisdiction, action the Senate took earlier on the land use bill indicates that the Senate is not restrained or inhibited by a committee's assertion of jurisdiction in the enactment of legislation. The land use bill cut across the jurisdiction of at least a half dozen committees, and that did not inhibit the Senate from adopting legislation which was not referred to those committees. So committee jurisdiction is one point.

Now let us get to the question of whether or not it is for Congress to change the law, which is really what is involved: Is it legal for Congress to change the law?

First of all, with respect to the bill in the form in which it was reported from the committee: In that bill, we are in effect amending section 142 (a) of title 23 of the United States Code, which, under the committee bill, would permit portions of the funds to be spent for the purchases of buses and passenger-loading areas and bus lanes. That is in the bill. Thus, we are merely adding with our amendment another purchase, which is just as much in keeping with the overall intent of the proposed legislation.

In addition, Mr. President, the committee's proposed section 142 (c) states that the purposes authorized under (a) of section 142 shall be considered as "highway projects." That clearly would obviate any need to amend any other legislation. All we need to do is to label this a "highway project."

In fact, we have discussed this matter informally with the GAO, and it is their view, after examining the legislation, that there would be no difficulty in expending funds from the trust fund for this purpose—the Cooper-Muskie amendment purpose—were the amendment to be adopted. They state that the congressional action of adopting this amendment to the Highway Act, along with the existence of subsection (c), clearly would be sufficient to authorize funds to be expended from the trust fund.

Mr. President, in connection with the Kennedy-Weicker amendment considered earlier today by the Senate, the Comptroller General of the United States addressed a letter dated September 19, 1972, to Senator KENNEDY, and I ask unanimous consent that the letter be printed at this point in the RECORD.

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

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., September 19, 1972.

Hon. EDWARD M. KENNEDY,
U.S. Senate.

DEAR SENATOR KENNEDY: You have informally requested our opinion as to whether your Amendment No. 1482, dated September 6, 1972, intended to be proposed by you and Senator Weicker to S. 3939, which, if enacted, would be cited as the "Federal-Aid Highway Act of 1972," would authorize the use of the Highway Trust Fund for the acquisition and construction of rail facilities.

It is our opinion that Amendment No. 1482, if enacted, would authorize, except with respect to the Interstate System, the appropriation of Highway Trust Fund monies for the acquisition and construction of rail facilities.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

Mr. MUSKIE. This is the concluding paragraph:

It is our opinion that Amendment No. 1482, if enacted, would authorize, except with respect to the Interstate System, the appropriation of highway trust fund monies for the acquisition and construction of rail facilities.

Mr. President, having covered the question of the law, let me get to the question of what is a highway purpose.

The Washington Post editorial which was inserted in the RECORD earlier by Senator TUNNEY had this to say:

Permitting cities to use the highway trust fund to build rails as well as roads is not an improper diversion of that fund, much less a perversion of any sacred trust. To the contrary, truly balanced transportation systems benefit highway users as much as bus riders and subway strap-hangers. Indeed, those who *must* use the roads—those who, for instance, have no other way to transport goods—have an especially direct interest in curbing highway congestion by offering people other ways to get from place to place.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MUSKIE. Will the Senator yield me 4 additional minutes?

Mr. COOPER. I yield.

Mr. MUSKIE. In my judgment, a major beneficiary of a redirection of the

use of urban highway funds would be such urban highway users as truckers, taxi fleets, and others who must deliver goods and services and for whom public mass transportation is not an adequate substitute. By diverting commuters and other marginal users from the highway system to improve public transportation systems, congestion will be reduced, and those who rely on highways for delivery of goods and services will do so with greater facility and economy.

Mr. President, the point is that there is a connection between congestion and other problems related to the automobile and action of this kind designed to relieve that congestion for the benefit of highway users.

I raise one other point. Automobiles get this sacred trust fund money in the form of highways. Does that sacred trust fund pick up some of the costs generated by these highways? Has anyone ever suggested that the highway trust fund should be used to deal with the problem of urban sprawl created by the automobile? In the writing of air pollution legislation, have we tapped the trust fund to deal with the air pollution problem—created by what? The automobile.

We can go down the whole list of social problems and city problems created by the automobile. No effort has been made to tap the highway trust fund to deal with those problems.

Those who regard the fund as sacred want it both ways. They want the trust fund to be used to build more highways, to stimulate the manufacture of more automobiles, to generate more problems, and then leave the problems to the beleaguered general fund treasuries of the Federal Government, the States, and the cities, which, in addition, are urged upon us as the source of money for rail transportation. That makes no sense at all.

I say to the Senator from Kentucky, to the manager of the bill, and to the Senate that if we, the Congress of the United States, decide that relieving congestion on the highways and thereby relieving the problems of the cities is a legitimate highway purpose, that will be sufficient to legitimatize the use of the highway trust fund for that purpose.

Mr. COOK. Mr. President, will the Senator yield me 3 minutes?

Mr. RANDOLPH. I yield.

Mr. COOK. I say to the Senator from Maine that I agree with just about everything he has said, and I am delighted to agree with him, with one exception, and that exception is that if he wants to tap this trust fund for pollution, tap it. If he wants to do this on that basis and therefore can show that connection, which is obvious, then do so.

But it bothers me when it is said, in fact—even the fact that the bill said it in its original form, as it came here, and I am not on the Committee on Public Works—that bus lanes and facilities will be built so that one can get on and off buses, and then say in the previous law that transit systems are exempt from the tax, is to say something which is wrong.

If the Senator asks me, "If we pass this amendment, have we in fact changed the law?" I say we certainly have changed it, and it is just as good as it can be. There may be someone on the House side who will say that we have not changed the law. But obviously we have. That is our responsibility as legislators. But to say that one will do this and one will expand the funds and then to say to those who will be the recipients of the funds, "You need not contribute to the fund," then it is in reverse to say, "Because there is pollution in the air, you will not need to pay money out of the funds to solve the pollution problem." So I might say it is rather a degree of redundancy on the part of the Senator from Maine when he says that maybe the funds should be tapped by the users.

I do not consider it sacrosanct. I do not consider it sacred. I only consider that if we change the law and make it broader or make its utilization wider, then you impose the obligation on those you include within the framework so that they, too, can contribute to the fund. Then they are entitled to an equitable distribution which comes out of the fund. Therefore, if one wants to come into equity, let him come with clean hands but not file his application for a refund after he has utilized the fuels, paid the tax, and then asked the Federal Government to pay him back at the end of the year.

That is the only point I make, and I think it is a valid one.

Mr. WEICKER. Mr. President, will the Senator from Kentucky yield?

Mr. COOPER. I will yield in a moment.

Mr. President, I say with all deference to my chairman, that this question was not considered at any great length in the committee, as I recall. The Senator from Tennessee (Mr. BAKER) raised the question of assessing some kind of tax on users, but it was not examined as closely as some other issues.

I have heard, Mr. President, many eloquent, rational and logical speeches in the Senate. But I believe the reply of the Senator from Maine (Mr. MUSKIE) was equal to any that I have heard. His answer is founded upon the question of law, upon the question of the power of Congress to amend the law, upon the question of jurisdiction of the committee, and upon his judgment that the need for rail systems, monorail systems, and trams certainly are related to highways to a great degree in our present life. We know this. Finally, he appeals for better transportation for those who do not have cars, those who must have ways to get to work, and those who are poor. I think that his argument is one which should convince us all.

I should like also to pay my tribute to the distinguished Senator from New Jersey (Mr. WILLIAMS). I know of his leadership in the past on the urban mass transit fund. We appreciate very much his strong support.

Mr. President, I ask unanimous consent to have printed in the RECORD, the letter I received from Secretary Volpe and a letter and explanation of the Cooper-Muskie amendment.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 18, 1972.

Hon. JOHN S. COOPER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOPER: The purpose of this letter is to respond to your letter requesting the Department's views on the amendments to the 1972 Highway Act which will be debated on the Senate floor this week. The first of these amendments is the one proposed by you and Senator Muskie, the passage of which we consider to be of utmost importance.

The 1972 Highway Act that the Senate has already debated goes a long way to strike a balance between the rural and urban programs. The bill currently incorporates an eight-fold increase in funding for the Federal Aid Urban System—from $100 million per year to $800 million per year—and makes these funds available directly to the local jurisdictions in our major urban areas. Furthermore, the Senate bill would allow buses to be purchased out of the Highway Trust Fund at the discretion of the recipient of these funds. The Cooper-Muskie amendment would take this one step further and would permit local units of government to use these urban transportation funds for any mass transit capital investment as well as for highway construction. It should be remembered that there will continue to be a separate mass transit capital grants program currently running at a $1 billion annual level.

While providing urban flexibility, the Cooper-Muskie amendment would not jeopardize our primary and secondary highway programs. It leaves unchanged from the Senate bill the purpose to which these primary and secondary funds can be put and continues these programs largely unchanged. This is important in the context of maintaining our critical intercity and rural highway network.

The other important amendment that will be coming up for a vote is the Kennedy-Weicker proposal which in some respects is similar to the Cooper-Muskie amendment. However, there is one major difference that is of sufficient consequence that the Administration quite frankly cannot support the Kennedy-Weicker proposal. The difference is that the Kennedy-Weicker proposal would make *every* non-Interstate highway program, primary and secondary as well as urban, eligible for financing rail rapid transit. Such a step could in some States lead to the diversion of primary and secondary highway funds into subway construction in our major cities—a step not conducive to a balanced transportation approach.

We think that it is essential that we strike a balance between our urban transportation needs and our rural transportation needs. It is our considered opinion that the Cooper-Muskie amendment would strike this balance. It would provide the flexibility so sorely needed in our major urban centers while at the same time insuring the continuation of our very important and very necessary primary and secondary highway programs.

In closing, let me raise one additional issue which has been a matter of concern to representatives of some predominantly rural States. I would stress that under the Cooper-Muskie amendment no State will receive less than it would have otherwise received, and that a State may still use all these funds for highway construction if it chooses.

I hope that this brief explanation of our position on these two important amendments provides you with the information you requested.

Sincerely,

JOHN A. VOLPE.

WASHINGTON, D.C.,
September 13, 1972.

DEAR SENATOR: The Committee on Public Works, on which we serve, has reported the

Federal-Aid Highway Act of 1972, S. 3939, which was then referred to the Committee on Banking, Housing and Urban Affairs. That Committee has now made its recommendations to the Senate, and the bill could be taken up in the Senate late this week or early next week.

The highway bill contains important new provisions for meeting the transportation needs of metropolitan areas, while maintaining a fair and balanced highway program for rural and smaller urban areas. For example, it authorizes an eight-fold increase—to $800 million annually—in funds for the Urban System established by the 1970 Highway Act. The 1970 Act also authorized use of the highway Trust Fund for highway public transportation including the construction of bus lines; the Committee bill extends this public transportation authority to include the purchase of buses. However, existing Section 142 of title 23 U.S.C., and the Committee bill, restrict use of the trust funds to public mass transportation systems "other than on rails."

In the Committee on Public Works, we offered an amendment with respect to the Urban System to remove that restriction excluding rail mass transit—so as to allow city officials and metropolitan transportation agencies to use their portions of the $800 million Urban System funds for such transportation modes as they determine necessary to meet the needs of their people.

The decision of the Public Works Committee was very close. The "Cooper-Muskie" amendment was first adopted by a vote of 8–7, later reversed. We announced our intention to offer the amendment in the Senate.

When the bill was referred to the Banking Committee—which held a hearing September 7 on the provisions of the bill relating to urban mass transportation—the "Cooper-Muskie" amendment received the full support of the Administration through the testimony of the Secretary of Transportation, Mr. Volpe, who strongly urged its adoption. We are glad that the testimony of other groups heard by that Committee also supported the amendment. The Senate Banking Committee, by a vote of 10–0, has now recommended to the Senate adoption of the "Cooper-Muskie" amendment.

We consider it appropriate and necessary for the Congress to say that highway trust funds allocated to urban areas may now be used to supplement mass transportation funds—and that providing such flexibility is perhaps the best hope for reducing traffic congestion and maintaining the usefulness of urban highway systems. We believe the time has come to resolve this issue, and to enable cities to better manage their capital expenditures for these closely related transportation modes.

We emphasize that our amendment is directed solely to the Urban System funds, and would not change the effect of the Committee bill with respect to primary, secondary and Interstate funds—which would continue to be available for highways as under the Committee bill (including public highway transportation such as the construction of bus lanes and purchase of buses). The amendment would not permit the diversion of rural road or inter-city highway funds for subways. We believe it would protect the continued use of the trust fund for these purposes by helping to meet the legitimate needs of metropolitan areas—which if not met could lead to demands to abolish the Highway Trust Fund.

The purpose of this letter is to invite your support of the amendment we will offer in the Senate—numbered 1512. Our views are contained in Senate Report No. 92–1081 between pages 53–63. The report of the Committee on Banking, Housing and Urban Affairs, No. 92–1103, also discusses the amendment as a recommendation of that Committee, beginning on page 5.

If you would like additional information, you may wish to have your staff be in touch with Mr. Guard, ext. 5–7854, or Mr. Billings, ext. 5–7859, of our respective staffs.

With kind regards, we are,

Sincerely yours,

JOHN SHERMAN COOPER.
EDMUND S. MUSKIE.

EXPLANATION: COOPER-MUSKIE AMENDMENT No. 1512 TO S. 3939, FEDERAL-AID HIGHWAY ACT OF 1972

Listed below are the highway systems and programs for which Highway Trust Fund authorization is provided in the Federal-Aid Highway Act of 1972.

The Cooper-Muskie amendment would not divert any of the following Highway Trust Fund authorizations. Their purpose and use would be maintained as under existing law and the Committee bill.

[In millions of dollars]

	Fiscal year 1974	*1975*
Interstate	3,250	3,250
Primary	950	950
Secondary	500	500
Small urban system	50	100
Urban high-density	100	100
Forest highways	50	50
Public land highways	25	25
Parkways	75	100
Scenic enhancement	15	15
Highway beautification	65	65
Economic growth centers	50	100
Alaska assistance	20	20
Bicycle transportation	10	10
Highway safety:		
402 programs	300	300
403 programs	125	125
Bridge replacement	250	250
Pavement marking	10	10
Emergency medical	5	25
Total	5,851	6,020

Only one system would be affected by the Cooper-Muskie amendment—the Urban System in metropolitan areas of 50,000 population and over.

Urban system:	
Fiscal year 1974	$800
1975	800

S. 3939 as reported by the Committee on Public Works provides that the above Urban System funds may be used for public mass transportation *other than rail* (existing law)—including the *purchase of buses* (new). The Cooper-Muskie amendment would remove the restriction against rail.

The Cooper-Muskie amendment was first approved 8–7 in the Committee on Public Works, later reversed by 7–8 vote.

The Committee on Banking, Housing, and Urban Affairs has recommended adoption of the Cooper-Muskie amendment by a vote of 10–0. (Report 1103).

The Cooper-Muskie amendment is strongly supported by Secretary Volpe of the Department of Transportation, on behalf of the Administration.

Mr. MUSKIE. Mr. President, will the distinguished Senator from Kentucky yield?

Mr. COOPER. I yield.

Mr. MUSKIE. I do not want to prolong this discussion needlessly. I think we have covered the issues. I rise as a point of personal privilege to pay tribute to the distinguished Senator from Kentucky (Mr. COOPER) not just for his work on this amendment but also for his work on the Committee on Public Works generally.

The distinguished Senator from Kentucky is leaving the Senate at the end of this session, so that I will never have occasion, perhaps, in connection with any legislation that comes out of that committee, to pay my tribute to him.

We will miss him on that committee. He has adopted a broad, objective, and statesmanlike approach to so many problems.

Take this one. His State is not an urban State in the sense that others are. Yet he is concerned. At a time when many Senators, having made the decision not to run for reelection, would be coasting for the remainder of their term, the distinguished Senator from Kentucky has not done that. He has plunged into this difficult and controversial area. He has done it constructively, and I just want him to know that I have enjoyed my association with him, and I shall miss him.

Mr. WEICKER. Mr. President, will the Senator from Kentucky yield me 12 minutes?

Mr. COOPER. Start at 5 minutes and see how it works out as we go along.

The PRESIDING OFFICER (Mr. MONTOYA). The Senator from Connecticut is recognized.

Mr. WEICKER. I thank the Senator from Kentucky.

Mr. President, I want to commend the Senator from Kentucky and the Senator from Maine for their amendment, an amendment which I believe should be adopted on behalf of the people of this country.

I think it is important to point out that neither the Senator from Maine nor the Senator from Kentucky represents a State brimming over with people. In fact, I would imagine it will probably be a lot easier for the Senator from Kentucky and the Senator from Maine to sit here and go along with business as usual, transportation-wise—which in effect, means the building of more highways.

Thus, I want to express the appreciation of a Senator from a State which clearly has urban problems and problems of population to both my colleagues from Kentucky and Maine for being willing to stand up and speak out for a balanced transportation system.

The help and the initiative comes from a rather unusual quarter in a forum where usually we represent only our own interests.

Earlier, the Senator from Massachusetts (Mr. KENNEDY) and I were confronted with a letter from the Secretary of Transportation which was used by the distinguished Senator from West Virginia (Mr. RANDOLPH) to beat down the amendment of the Senators from Massachusetts and Connecticut.

Specifically the Senator referred to that section of the letter critical of the Kennedy-Weicker amendment.

I asked at the time whether, since he was using the Secretary of Transportation as support for his position it would be appropriate to also include the rest of the admonitions contained in the letter. He said he would at such time as the issue came before the Senate. It is now before the Senate. In that letter, the

Secretary of Transportation states as follows:

The purpose of this letter is to respond to your letter requesting the Department's views on the amendments to the 1972 Highway Act which will be debated on the Senate floor this week. The first of these amendments is the one proposed by you and Senator Muskie, the passage of which we consider to be of utmost importance.

The 1972 Highway Act that the Senate has already debated goes a long way to strike a balance between the rural and urban programs. The bill currently incorporates an eight-fold increase in funding for the Federal-Aid Urban System—from $100 million per year to $800 million per year—and makes these funds available directly to the local jurisdictions in our major urban areas. Furthermore, the Senate bill would allow buses to be purchased out of the Highway Trust Fund at the discretion of the recipient of these funds. The Cooper-Muskie amendment would take this one step further and would permit local units of government to use these urban transportation funds for any mass transit capital investment as well as for highway construction. It should be remembered that there will continue to be a separate mass transit capital grants program currently running at a $1 billion annual level.

While providing urban flexibility, the Cooper-Muskie amendment would not jeopardize our primary and secondary highway programs. It leaves unchanged from the Senate bill the purpose to which these primary and secondary funds can be put and continues these programs largely unchanged. This is important in the context of maintaining our critical intercity and rural highway network.

Then he goes on to criticize the Kennedy-Weicker amendment.

Finally he says:

We think that it is essential that we strike a balance between our urban transportation needs and our rural transportation needs. It is our considered opinion that the Cooper-Muskie amendment would strike this balance. It would provide the flexibility so sorely needed in our major urban centers while at the same time insuring the continuation of our very important and very necessary primary and secondary highway programs.

Then he raises additional points at the end of the letter. So, if we are to follow the advice of the Secretary of Transportation, which advice was so instrumental in the clobbering of the Kennedy-Weicker amendment, we should now overwhelmingly pass the amendment of the Senators from Kentucky and Maine.

Now, Mr. President, the issue is raised as to the trust fund, "tapping the trust fund."

There is only one trust that I recognize. Each one of us on the floor should recognize that that is the legislative trust that was imposed on each of us in our election to this body. Otherwise why not create a range of trust funds—a trust fund for the military, a trust fund for pollution, a trust fund for agriculture, and on down the line—so that we never have to use either our imagination or creativity nor be held responsible for the consequences of our inaction.

To my way of thinking, there is no question as to what trust is important today. It is that legislative trust which is thrust upon each one of us. Yet the Congress of the United States, both the House and Senate, has managed to avoid fulfilling that trust so far as transportation is concerned by differing its power of creativity to the supposed proprieties of an artificiality known as the highway trust fund.

So I am asking that this Senate of live and warm bodies—rather than create a legal artificiality, create the transportation policies of our country. That means tackling the mobility, environmental, and safety crises of the 1970's rather than rehashing the highway shortages of 1956.

Mobility is achieved differently in different places. In 1972, for example, a new interstate highway from the center of Hartford, Conn., to its suburbs of West Hartford, Avon, Farmington, and Bloomfield makes as much sense—and I say this in all due deference to the Senator from Montana—as a subway from Billings to Kalispell, Mont. Yet that is what cities all over the United States are forced to do by virtue of the Federal Government failing to review its legislative trust in transportation for almost 20 years. Now there is a breakdown or a tapping or an erosion of a trust worthy of dismay.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. Mr. President, I yield 3 additional minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 3 additional minutes.

Mr. WEICKER. Mr. President, it is certainly much more so than the self-serving howls of the lobby guarding the highway trust fund.

Mr. President, a short time after the vote on the Kennedy-Weicker amendment, one of the members of my staff was going back to the Senate Office Building. The highway people traveling in the subway were gleeful over the fact that they had won so overwhelmingly. But these are the last of the highway lobbyists. No longer does the highway trust fund have all of its members. Only recently some of them said, "Let us end the highway trust fund." Henry Ford said, "Let us use the money from the highway trust fund for mass transit." The Mobil Oil Co., in a series of advertisements in the New York Times, says: "Open up the fund. We need balance, coordination, sanity."

Slowly but surely everyone in the country is moving ahead but the U.S. Senate. We have been clinging to the highway trust fund. Today the Senate can change the emphasis toward mass transportation.

Personally, I do not know why there is such stubbornness here in the matter of paying these moneys. I never grieve when good fortune is broadened in this country, only when it remains static or diminishes. As highways were needed in 1956, so they are needed today and probably will continue to be in the future, although probably not in the same form, as secondary roads take priority over the interstate system. However, they will be needed.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. COOPER. Mr. President, I yield 2 additional minutes to the Senator from Kentucky.

Mr. WEICKER. Mr. President, what is clear now, however, is that highways alone or in overwhelming proportions are a mobility, environmental and safety disaster. We are well aware on the basis of our own experiences, not from some advertisement, that though long distance travel has improved in this Nation, intermediate and short distance travel has become a nightmare of waiting and that today's traffic jams are no longer restricted to 1 and 2 days, but are expanded to 3 and 4 days.

The United States does not answer the questions, regardlesss of the legalities raised by the Members of this House. How do we answer the heat inversions caused by auto pollution that occur in increasing numbers? How do we answer the fact that businesses are being displaced every day in increasing numbers?

How do we answer the fact that the landscape is being paved over with concrete, all in the name of the God of Mobility, but still no mobility is achieved?

I think it is important that this body maintain our fiscal integrity and maintain the integrity of this program. However, much more important, I think, is that we fulfill our objectives and our objectives and loyalty are not to this highway trust fund. Our loyalties are to the people of this country and their mobility and to the fact that they can live, to the fact that they can breathe, and to the fact that they can move.

That is what I am here for, not to defend a fiction.

Mr. COOPER. Mr. President, does the Senator from Maine desire to speak again?

Mr. MUSKIE. Mr. President, I have said all I want to say on this matter. In fact, I have said about all I want to say for 1 day anyway.

Mr. RANDOLPH. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I hope that we will be able to vote in 2 or 3 minutes on the amendment.

Had the Senator from Connecticut been in the Chamber, he would have known that I answered the second part of his earlier question during the debate. I only want to repeat that I said I would be willing to accept the amendment but for the fact that the law by which these funds are collected will not permit it.

I want the Senator from Connecticut to know that the efforts of the Public Works Committee of the Senate, and not some other committee of this body, are responsible for the administration's recommending an increased authorization of $3 billion for urban mass transit in this country, in addition to the $3.1 billion with which we now work.

It is absolutely wrong for any Member of this body to stand in the Chamber and indicate some concrete or asphalt attitude on the part of the Committee on Public Works.

As the Senator from Kentucky well knows, and as other Members of the Senate are well aware, when we speak of creativity, that is something that has come from the Public Works Committee.

On the subject of pollution, yes. But I say to my friend, the Senator from Maine, also on the subject of economic development in this country and certainly on a dozen subjects across the board, this committee has shown the resourcefulness and the ability to move to meet the problems which we face.

My belief in the importance of all transportation has stimulated my personal involvement in support for these activities. For primary roads, yes; for interstates, yes; for farm-to-market roads, yes; and for all types of roads in between so that this Nation could move forward as it has done. For airports, yes, and that would be airports like Kennedy International to handle transportation to the faraway nations of the earth; airports in a Wyoming county, and a little strip of 2,200 feet to help the people move from the narrow valleys of an area of West Virginia. There is not a form of transportation that I have not attached my mind and my heart to in my service in the House and in the Senate.

Mr. President, I am prepared to vote, of course. I close in good humor, but also in good purpose.

Mr. SPONG. Mr. President, I have reservations about this amendment, but intend to vote for it because of the flexibility it offers for improving transportation in northern Virginia.

As I understand it, the amendment would give the States and urban localities the option of using urban highway funds for mass transit. The proposal would be applicable only to the $800 million authorization for the urban system and not to interstate funds. It would not apply to authorizations in the bill for other highway systems.

Mr. President, many rural communities in Virginia are in urgent need of highway improvements. On several occasions I have requested the administration to release impounded highway trust fund money in order to expedite road construction projects in rural Virginia. For that reason I would oppose any proposal which would divert rural highway construction funds into mass transit programs.

I shall vote for the amendment with the clear understanding that its adoption would in no way reduce the level of funding for highway construction in rural areas, and with the understanding that its provisions with respect to mass transit in urban areas are purely discretionary.

Mr. KENNEDY. Mr. President, I rise in support of the Cooper-Muskie amendment to the Federal Highway Aid Act.

The amendment which we now consider represents a more limited attempt than the Kennedy-Weicker amendment to provide flexibility in the use of the highway trust fund but it does mark a beginning.

At least this amendment would permit urban areas to make the choice between highways and rail transit.

When the current backlog from cities for urban mass transit assistance is $4 billion and when some 17 cities currently are planning to go forward with full-scale transit systems, a Federal financing mechanism that forces them to accept money for highways they do not need—cannot be in the national interest.

Yet that has been the policy that has produced a warped transportation system in this Nation. We send 343,000 cars into downtown San Francisco daily. We send 160,000 cars into downtown Boston. We send 700,000 cars into New York City every day. And then we wonder why our marvelous new cars belching pollution in spite of the devices and our marvelous new highways no longer perform the elementary function of carrying us where we want to go when we want to go.

Instead, we find bumper-to-bumper traffic stacking cars from suburb to central city and we find pollution in the inner city at unacceptably high levels.

Now the cities are rebelling. They are rebelling because the character of life in urban areas no longer is improving. They are rebelling because more highways for more cars means more urban misery.

The evidence is strong that many cities will use their trust fund allocations both for building new roads and for building effective mass transit systems. It is not a case of either/or, it is a question of whether they are able to develop a balanced transportation system.

Today, cities have one option if they want to receive their portion from the highway trust fund, a fund which urban residents have largely paid for. They can accept their allocations and build highways or they receive nothing.

And so most cities find themselves in the awkward position of having to tilt their transportation planning toward more autos and more highways, knowing full well that they are merely putting off the day of reckoning.

Before that time arrives, hopefully we can succeed in providing our urban areas with some flexibility in Federal funding to enable them to meet all of their transportation needs.

The amendment now before the Senate seeks to further this goal. It does not affect all noninterstate funds, nor does it affect all moneys bound for the urban areas. Thus, it does not affect any of the urban extension funds within the primary and secondary systems. Nor does it affect the small urban system funds. It reaches only to the $800 million allotted to the urban system dealing with large urban areas.

It is a measured effort to provide some semblance of rationality to a transportation funding process that has fallen out of step with reality.

Senators COOPER and MUSKIE both should be commended for their efforts to see that the current bill reflects current reality. Their amendment simply repeats their almost successful action within the Public Works Committee to permit these same funds to be used for the construction and acquisition of rail facilities and equipment. At that time, the committee split virtually in half on the issue, one vote adopting the amendment and a second vote rejecting the amendment. Thus, a substantial number of Senators on the Public Works Committee as well as every member of the Banking and Urban Affairs Committee have voted already in favor of this amendment.

I would hope that it would be adopted because it moves in the direction that all observers of the transportation scene desire, in the direction of a balanced and integrated transportation system.

Mr. CRANSTON. Mr. President, I support amendment No. 1512, the Muskie-Cooper amendment, which I am pleased to cosponsor. This amendment would open up the use of urban highway system funds for public transportation including rail transit.

The highway trust fund, created in 1956, has poured billions of dollars into the Nation's Interstate Highway System, now 80 percent completed. In comparison, funding for the Nation's public transportation systems has been pitifully small. The present congressional authorization of $3.1 billion, expiring in fiscal 1975, falls far short of the $32 billion that the Urban Mass Transportation Administration estimates is required over the next decade. By freeing highway trust fund moneys for public transportation within urban areas, Congress will supplement the inadequate urban mass transportation authorization; it should in no way supplant that authorization or diminish it.

For too long, communities have had little Federal aid for developing alternatives to our reliance on the automobile. Those who make the daily commute, the elderly, the handicapped, our young people, the poor who cannot get to jobs and recreation, and all of us who suffer from the congestion and smog—we all need relief. As S. 3939 now reads, localities can buy buses for use on exclusive or preferential bus lanes with highway trust fund moneys. In some areas, this system has been very successful; it is not, however, adaptable to all areas. The addition of funds for rail transit to S. 3939 will give communities the needed flexibility in developing transportation plans best suited to them.

Mr. President, the Senate Banking Committee voted 10 to 0 to support the Muskie-Cooper amendment. Secretary Volpe has stated that he considered passage to be "of utmost importance." I urge my colleagues to join in supporting this critically important amendment.

I would also like to say that I am delighted that S. 3939 contains what is essentially the bill I introduced on August 5, 1971: S. 2440, the Bicycle Transportation Act of 1971. This new language provides that all funds apportioned for Federal aid to highways would be available to finance the Federal share of construction costs for separate or preferential bicycle lanes or paths, pedestrian walkways, and equestrian trails projects could be located on or in conjunction with Federal-aid highway rights-of-way in both urban and rural areas.

In addition, this new bicycle facility authorization provision guarantees at least $10 million annually from the trust fund for carrying out this provision, with each State eligible for a minimum of $100,000. These funds could be used for bicycle projects in connection with either new or completed Federal-aid highway projects.

This is great news for the Nation's 80 million bicycle riders—7 million in California alone. The bicycle boom, which has flourished more in California than in most States, has many positive aspects. Besides its recreational value, bicycling is improving the health, environment, and transportation problems of the Nation.

The urgent need for more and safer bikeways is underscored by the nearly 1,000 bike-related deaths which the National Transportation Safety Board estimates will occur this year. My own State of California reported a 117-percent increase in bicycle fatalities between 1967 and 1970.

In Davis, Calif., where a farsighted city council began developing an extensive bikeway system in 1965, there have been no bicycle traffic fatalities since separate bike lanes were established. And Davis has almost as many bicycles as it has people.

Under the bicycle provisions incorporated into S. 3939, municipalities interested in encouraging bicycle transportation will be able to make application for Federal aid. A survey I conducted earlier this year revealed that at least 153 cities and 22 counties in California are interested in Federal bicycle aid. And from the many letters, postcards, and telephone calls I have received from across the Nation, it seems evident that this interest is shared by municipalities in every State in the Union.

Mr. TUNNEY. Mr. President, I favor the Cooper-Muskie amendment to the Federal-Aid Highway Act of 1972, S. 3939, an amendment, which I supported in the Public Works Committee. Over the next decade the great metropolitan areas of California will experience increasing demand for public systems of mass transportation catered to their particular transport needs and priorities. The proposed amendment would give each metropolitan area the option of choosing the technological solution most suited to its requirements, and of doing so without financing constrictions which arbitrarily favor one mode over another. This amendment would permit the use of urban system funds—up to $800 million—for rail transportation as well as other public transportation systems.

For too long now we have shackled ourselves to a policy which permits little or no flexibility in attacking transportation problems. In the Los Angeles area alone there are 600,000 more cars than there were in 1965. Since 1965, well over a billion dollars has been spent building freeways in the Los Angeles area. That works out to nearly $2,000 per additional car that has been squeezed onto the Los Angeles freeways. It is estimated that the Riverside area freeways will be so crowded by 1990 they will have to be widened or access to them from local streets will need to be controlled.

In addition to the congestion, continued overuse of automobiles has also detrimentally affected the quality of our environment. Air pollution from automobile exhaust presents a serious hazard to our health. Riverside has the worst smog problem in the Nation and has recently brought suit against the Environmental Protection Agency to force EPA to prepare a plan for meeting Federal air quality standards in the south coast air basin by 1975.

The diverse needs of the great metropolitan areas of California underscore the importance of a Federal policy which treats all modes equally in terms of funding. In spite of an inconsistent, and often irrational Federal policy, California has shown leadership in each of three major mass transportation fields:

First, in the field of urban rail technology, I need not remind Senators that the great Bay Area Rapid Transit System has opened in the past week. Its accomplishments are particularly significant to our decisions here today, given that the local citizens courageously chose to tax themselves in the face of an inadequate Federal funding program in order to bring about a radical change in local transportation policy. The regional rail system of BART, coupled with the dramatic revitalization of the light rail MUNI system, has placed the bay area in the forefront of the world in terms of advanced rail technology.

Second, concerning the development of applied bus technology, California has long taken the lead in the field of highway mass transportation. Indeed, the first major application of the express bus system occurred in Los Angeles, where today the first major exclusive busway authorized under section 142 is under construction as part of the San Bernardino freeway project.

Third, and finally, California notes with pride that from its earliest conception, the field of automated guideway transportation, operating small, directly-routed automated transit vehicles, was pioneered by the great research and development institutions of California. Similarly, we note that the leadership in the production of operating prototypical systems has occurred largely through the private sponsorship of California's diversifying aerospace industries.

Because California has taken national leadership in all categories of urban transportation, we are particularly concerned with Federal legislative programs which will allow our metropolitan areas a rational choice between alternative technological solutions.

In California we are ready. In California we have reformed our funding mechanisms to allow local areas to decide themselves how their transport dollars are to be allocated. Today we have the opportunity to provide this critical flexibility for Federal allocations as well. As Senator MUSKIE and I noted in our supplemental views to the committee report on S. 3939:

> Today the Federal highway program, supported by the highway trust fund, is the subject of widespread citizen dissatisfaction in all areas—urban, suburban and rural—where Federal funds are used to build highways. . . . The realities of today's transportation needs should no longer allow Federal support to be provided in this discriminating fashion."

I ask unanimous consent to have printed in the RECORD an article entitled "Roads and Rails for the Cities," published in the Transportation News Digest of the Washington Post.

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

ROADS AND RAILS FOR THE CITIES

The Senate this week has an excellent opportunity to get the highway trust fund on the right track in the cities. The two-year, $14-billion federal-aid highway bill reported by the Public Works Committee already contains significant provisions granting state and local officials some flexibility to cancel controversial urban freeway plans and redirect federal highway funds to less disruptive roads or to bus systems. The bill would also expand the present urban transportation fund eight-fold, to $800 million per year, and authorize direct federal grants to metropolitan transportation agencies.

Following such efforts to shelve old, seemingly endless freeway fights and to lure people from private cars into buses, the next logical move would be to get more people off the roads entirely and into rail transit systems, thus relieving both the congestion on existing arteries and the pressures for still more lanes. The most feasible legislative vehicle for such a policy shift is the Cooper-Muskie amendment, which would grant cities the option to use their shares of that $800-million urban transportation fund for rail transit as well as buses, bus lands, fringe parking areas and roads.

The amendment, to be offered on the Senate floor this week, enjoys impressively broad, bipartisan support. Senators Cooper and Muskie in fact missed gaining a majority within the Public Works Committee only by one vacillating vote: the amendment was first adopted by that panel, 8–7, then rejected 8–7 the next day when Sen. Robert T. Stafford (R-Vt.) changed his mind with the explanation that "I come from a rural state." The Senate Banking Committee, which handles mass transit bills, endorsed the Cooper-Muskie measure, 10–0, as a supplement to the present program of aid for urban transit systems. The amendment is also blessed with administration backing, primarily as a result of Transportation Secretary John A. Volpe's vigorous—and undaunted—advocacy of unified transportation planning and funding for metropolitan areas. With a flexibility which is refreshing, compared with the our-bill-or-nothing approach taken too often by administration officials, Secretary Volpe has recognized that his "single urban fund" approach has not won congressional favor, and has swung his enthusiasm behind the Cooper-Muskie move.

Measured against the massive transportation snarls of urban areas and the mammoth pro-highway bias of past federal policies, the Cooper-Muskie amendment is a very modest advance. Permitting cities to use the highway trust fund to build rails as well as roads is not an improper diversion of that fund, much less a perversion of any sacred trust. To the contrary, truly balanced transportation systems benefit highway users as much as bus riders and subway strap-hangers. Indeed, those who *must* use the roads—those who, for instance, have no other way to transport goods—have an especially direct interest in curbing highway congestion by offering people other ways to get from place to place. Ideally, each metropolitan region should be able to design and fund whatever mix of roads and rails—and bike paths and pedestrian ways—will meet its particular needs in the most efficient, healthy and humane way. The Cooper-Muskie amendment, while limited, is an important and attainable beginning toward that end.

Mr. TAFT. Mr. President, when we argue about the merits of using highway trust fund money for all forms of mass transit, we sometimes overlook the environmental factor.

Building highways throughout the countryside between cities has environ-

mental problems, but miniscule compared with those of streets and roads in the urban center. Cars are forced to bunch up in great numbers spewing noxious fumes into the already fouled air. Adding more roads has not alleviated and will not alleviate the problem, but then commuters have no other way to get to and from work. They do not have fast, clean, economical public transportation.

This is not a problem in which time is not a limiting factor. Time is running out on us to the point where drastic measures may have to be taken. We do not want to get to that point of no return. We have the opportunity now to start turning the situation around by funding mass transit of all types.

We have done a lot with buses and other road vehicles. We have not done enough with rapid rail equipment. In some areas of this country, rapid rail systems may be the sole solution. And would not that be ironic because at the turn of the century rapid rail was the sole means of public transportation in many areas?

I highly commend the efforts of Senators JOHN SHERMAN COOPER and EDMUND MUSKIE to amend the proposed Federal-Aid Highway Act of 1972 to permit highway trust fund money to be allocated for mass transit capital grants. I urge my fellow lawmakers to support this effort.

Mr. BOGGS. Mr. President, I wish to express my support for this amendment offered by the distinguished senior Senator from Kentucky (Mr. COOPER) and the distinguished junior Senator from Maine (Mr. MUSKIE). This amendment is intended to give urban areas the flexibility they need to most effectively meet their transportation problems. The committee bill, of course, gives the States and urban areas the flexibility to devote a portion of their noninterstate funds to improving mass transit related to buses.

The Cooper-Muskie amendment would increase that flexibility, allowing an urban area, in coordination with the State Highway Department, to spend a portion of its apportioned urban system funds for a variety of mass transit purposes, if the area wishes to do so. It is a permissive mandate, one designed to weigh all the alternatives to achieve the best solution.

Frankly, I cannot see a strong likelihood that the Cooper-Muskie amendment will have a strong impact in my own State. A community the size of Wilmington, Del., will almost necessarily be dependent on buses for its mass transit needs for long into the foreseeable future.

But I do not wish to impose Delaware's situation on my neighbors. If urban areas in another State can expand the efficiency of their highway networks through justified improvements relating to rail mass transit, I believe those urban areas should have that flexibility.

The distinguished chairman of our Public Works Committee (Mr. RANDOLPH) has eloquently expressed an alternative viewpoint. I can certainly understand and appreciate it. I would certainly agree that we should not destroy the user-related concept of the highway trust fund. But I would argue that, within the concept of the expanded urban system, there are many opportunities to improve the efficiency of our Federal-aid highway system by developing mass transit alternatives.

Mr. HUMPHREY. Mr. President, I support the Muskie-Cooper amendment to the Federal-Aid Highway Act of 1972. This amendment would begin to move this Nation toward what I consider a necessity in the transportation field—flexibility of State and local governments to mix modes of transportation.

Mr. President, I have been a strong and consistent supporter of the Interstate Highway System. I supported it when the program began in 1956 and I have supported its renewal since then. And, I will vote for its renewal now. This legislation has had a tremendous impact on the United States. It has altered population patterns. It has given our country what is undoubtedly the greatest transportation highway system in the world.

But, Mr. President, just as the times in 1956 demanded an interstate highway commitment, so do the times now demand a second focus for a national transportation commitment. We must begin to solve the crisis in mass transportation facing our urban areas. And, the amendments offered today are a step in that direction.

Last March 15, I introduced the Transportation Systems Improvement Act of 1972. This legislation would permit the use of moneys from the highway trust fund for the construction of mass transit facilities; the preparation of locally approved comprehensive transportation plans; the operation and maintenance of community streets; and subsidies for presently existing transportation systems.

At the time I introduced that bill, I noted that the United States had three primary transportation problems: the lack of transportation balance, the lack of transportation integration, and the lack of adequate financing for mass transportation.

The legislation I proposed then provided a method for beginning to solve these problems. A ground transportation systems improvement program would be established that would set up a program of grant-in-aids to help State and local government maintain and operate highways and related transportation services. Funds from this program would be distributed to localities along a formula basis, and localities would have to present comprehensive transportation plans with local public hearings and participation in order to receive these funds.

I am indeed gratified that the Senate Public Works Committee has examined the legislation I introduced and incorporated parts of that legislation into the bill before us. I am also gratified that the planning sections I advocated in my bill are before the Senate in the form of an amendment.

Mr. President, the Muskie-Cooper amendment would allow more than $800 million from the urban systems transportation program to be used for rail as well as bus transportation and highway construction. This amendment would not divert any of the interstate, primary, or secondary road programs financed by the highway trust fund.

The Muskie-Cooper amendment is a reasonable amendment. It is a needed step toward meeting the transportation crisis of our cities. It is a step that is supported by the Nixon administration, the Senate Committee on Banking, Housing, and Urban Affairs, and by the Conference of Mayors and League of Cities.

Mr. President, this amendment would allow States and localities to use allocations from the highway trust fund to meet all types of transportation needs, including highways. This amendment would add some flexibility to the choices facing local municipalities. It would preserve some element of local choice and local decisionmaking. It is, in a sense, returning some of the Government at the Federal level to the people at the local level. It has long been a tenet of mine that local officials and local citizens have a much more realistic perspective on how to spend money for their needs—rather than having the detail and direction of this money spending dictated from Washington. The Muskie-Cooper amendment is consistent with that viewpoint.

Mr. President, it is my view that we should move quickly to commit the resources to finish the Interstate Highway System and provide for its continuous maintenance and operation. However, I do not believe that the choice facing the Senate or the American people must necessarily be one of highways or mass transit. It is my view that these modes of transportation are complimentary. And, it is with that perspective that we need to develop a workable national transportation policy—a policy for urban areas, suburban areas, and the rural heartland.

Only by taking a broad view of the transportation problems facing this country can we build the necessary compliment to the Interstate Highway System.

Mr. President, this amendment moves us in the direction of taking a broad view of transportation in the United States. I am pleased to add my voice and support to them.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. COOPER. Mr. President, does the Senator from Maine wish to speak?

Mr. MUSKIE. No, I think I have covered everything.

Mr. COOPER. Mr. President, I do not wish to prolong the debate. I think we are ready to vote.

In statements I made this evening on the amendment offered by the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Connecticut (Mr. WEICKER), and on the amendment I have offered with the Senator from Maine (Mr. MUSKIE), I have tried to address the problems to which the amendments are directed. I do not know of any personal feeling that I have had about it.

I have served with the Senator from West Virginia for many years. It is true that he has been a champion in the cause of mass transportation, as I indicated in my views on page 61 of the committee report. Not only in urban transportation has he given leadership in an attempt to develop the economic strength and maintain the social strength of this country. There are also

the Appalachian Development Act, in which we joined as cosponsors, the Economic Development Act, the Highway Safety and Beautification Acts, the air pollution and water pollution control and other environmental measures, and many, many others. I pay him that tribute. Senator RANDOLPH is always fair, always just. He is a strong leader; a fine and courteous gentleman. He is a great Senator and great American, and I count him as my friend.

But now we must come to a vote on this amendment. I wish to emphasize again that this amendment will not deprive any State of $1. The amendment simply allows local officials of metropolitan areas to determine how the funds allocated to urbanized areas by this bill should be spent. They may choose to spend it all on roads, if they wish. But it would leave to the people most directly concerned the decision of how to best serve the needs of the people in the cities.

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

Mr. RANDOLPH. I yield back the remainder of my time.

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. INOUYE (when his name was called). On this vote I have a live pair with the Senator from Rhode Island (Mr. PELL). If he were here and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore I withhold my vote.

Mr. FANNIN (after having voted in the affirmative). On this vote I have a live pair with the Senator from Texas (Mr. TOWER). If present and voting, he would vote "nay." If I were at liberty, I would vote "yea." I withdraw my vote.

Mr. YOUNG (after having voted in the negative). On this vote I have a live pair with the junior Senator from Ohio (Mr. TAFT). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from North Carolina (Mr. JORDAN), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PELL), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Iowa (Mr. HUGHES), the Senator from Mississippi (Mr. STENNIS), and the Senator from Wyoming (Mr. MCGEE) are absent on official business.

On this vote, the Senator from Iowa (Mr. HUGHES) is paired with the Senator from Mississippi (Mr. STENNIS).

If present and voting, the Senator from Iowa would vote "yea" and the Senator from Mississippi would vote "nay."

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Ohio (Mr. TAFT) are absent on official business to attend meetings of the Interparliamentary Union.

The respective pairs of the Senator from Ohio (Mr. TAFT) and that of the Senator from Texas (Mr. TOWER) have been previously announced.

On this vote, the Senator from Colorado (Mr. ALLOTT) is paired with the Senator from Vermont (Mr. STAFFORD). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Vermont would vote "nay."

The result was announced—yeas 48, nays 26, as follows:

[No. 458 Leg.]

YEAS—48

Aiken	Gurney	Pastore
Beall	Harris	Pearson
Bennett	Hart	Percy
Boggs	Hatfield	Proxmire
Brooke	Hruska	Ribicoff
Buckley	Humphrey	Roth
Byrd, Harry F., Jr.	Jackson	Schweiker
	Javits	Scott
Case	Kennedy	Smith
Chiles	Magnuson	Spong
Church	Mathias	Stevenson
Cooper	McIntyre	Symington
Cranston	Miller	Tunney
Eagleton	Mondale	Weicker
Fong	Muskie	Williams
Gambrell	Nelson	
Griffin	Packwood	

NAYS—26

Allen	Curtis	Long
Anderson	Dole	Mansfield
Bayh	Eastland	McClellan
Bentsen	Edwards	Montoya
Bible	Ervin	Randolph
Burdick	Fulbright	Stevens
Byrd, Robert C.	Hansen	Talmadge
Cook	Hollings	Thurmond
Cotton	Jordan, Idaho	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—3

Fannin, for.
Inouye, against.
Young, against.

NOT VOTING—23

Allott	Hartke	Pell
Baker	Hughes	Saxbe
Bellmon	Jordan, N.C.	Sparkman
Brock	McGee	Stafford
Cannon	McGovern	Stennis
Dominick	Metcalf	Taft
Goldwater	Moss	Tower
Gravel	Mundt	

So the Cooper-Muskie amendment was agreed to.

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

Mr. PASTORE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

Mr. BOGGS. Mr. President, during the floor debate on S. 3939 last week, I was pleased to express my strong support for this important bill. I would now like to amplify briefly on some of the views I expressed then, and to make a few additional comments.

In my earlier remarks, I pointed out my strong support of section 130 of the bill. This is the section that creates a new section 145 in chapter 1 of title 23 of the United States Code, authorizing the construction of bicycle, pedestrian, and equestrian trails.

While this may appear to be a minor provision to many persons, I think this new section offers many benefits to the Nation.

First, the section directs the States to consider the construction of such paths as a part of any highway construction financed with apportioned highway funds. While existing authority may already permit States to construct such paths, certainly within highway rights-of-way, this new language would clarify the situation.

More importantly, subsection (c) of this new section 145 in the code sets aside a special $10 million fund to be used exclusively for construction of such paths. Each State would be guaranteed a minimum of 1 percent of that fund.

Let me explain why I believe this is important. My colleagues recognize the danger that exists when bicyclists and pedestrians use our highways. Their competition with motor vehicles for highway space is simply a very dangerous one.

The National Transportation Safety Board estimates that nearly 1,000 bike-related deaths will occur on our highways this year. Most such accidents will occur because a bicyclist is riding on a highway or street designed to carry motorists, not bicyclists. And he is riding there because he has no alternative route.

This situation can only worsen without prompt action. Bicycle sales are rising sharply in this Nation. Bicycle sales this year are estimated to total 10,500,000, more than double the sales during 1965.

Mr. President, I ask unanimous consent that a chart, showing bicycle sales through 1971, be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BOGGS. Mr. President, if this action could provide alternative, inexpensive bicycle routes, attracting bicyclists off our main highways, I am convinced that we could reduce that bicycle death rate to practically zero.

By moving cyclists and pedestrians off the highways onto safe, separate trails, we will augment the efficiency and safety of the Federal-aid highway system.

With a program for the construction

of bicycle and pedestrian trails, we can obtain a number of important benefits.

Mr. President, I have received a number of letters on this subject. While I do not wish to place all of them in the RECORD, I would ask unanimous consent that one letter, from the Delaware Safety Council, be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks. I believe this letter clearly states the need for this program.

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

(See exhibit 2.)

Mr. BOGGS. In closing, Mr. President, I wish to express my sense of commendation to both the chairman of the Committee on Public Works, Mr. RANDOLPH, and the ranking Republican member, Mr. COOPER, for their dedicated work on this important legislation.

I have had the opportunity, during my service in the Congress, to work with a number of chairmen and ranking members. None have surpassed the chairman of the Public Works Committee, Mr. RANDOLPH, and the senior Senator from Kentucky, Mr. COOPER, in their dedication to the public interest and their thoughtful consideration of the views expressed by their fellow committee members.

Further, I would add a word about the former chairman of the Roads Subcommittee, Mr. BAYH. He spent many long hours on this legislation before changing committee assignments. In the process, he did a fine job.

Finally, I want to commend the staff of the committee for their work, which, as always, is of the highest standard. In particular, I would like to single out M. Barry Meyer, the committee's chief counsel and chief clerk; Bailey Guard, the committee's minority clerk; and Clark Norton and Katherine Y. Cudlipp, members of the committee's professional staff. Their hard work has been essential to the development of this legislation.

EXHIBIT 1

ANNUAL SALES IN MILLIONS: U.S. MANUFACTURERS AND IMPORTS

Year	Domestic sales	Import sales	Total United States and imports	Bikes in use	Estimated users
1960	2.6	1.1	3.7	23.5	35.2
1965	4.6	1.0	5.6	32.9	49.3
1968	6.0	1.5	7.5	42.3	63.4
1969	5.1	2.0	7.1	47.7	71.5
1970	5.0	1.9	6.9	50.0	75.3
1971	6.6	2.3	8.9	53.1	79.6

EXHIBIT 2

DELAWARE SAFETY COUNCIL, INC.,
Wilmington, Del., August 1, 1972.

Hon. J. CALEB BOGGS,
U.S. Senate,
Washington, D.C.

DEAR CALE: Let me congratulate you on your foresight in developing the safety legislation on the separation of bicycle and pedestrian traffic from motor vehicle traffic. The Delaware Safety Council supports this legislation and feels it is an area we have long overlooked in our accident prevention programs.

It is virtually impossible to have bicycles and pedestrians utilize the roadway surface in safety. With the increased number of bicycles it would be extremely important to develop a bike-path system that could be utilized by this type of traffic.

In addition to the safety aspects of this legislation, if we could get more people riding bicycles, it would decrease the number of automobiles in the downtown area thereby reducing pollution and parking problems.

After reviewing this legislation, we feel all users of the highway would benefit from its passage. Many thanks for forwarding this legislation for our thoughts.

Sincerely,

F. J. JAMISON, *Manager.*

ALTERNATIVE FEDERAL-AID HIGHWAY PROCEDURES

Mr. BENNETT. Section 133 of the committee bill proposes to add a new chapter 1–A to title 23, United States Code, providing an alternative Federal-aid highway procedure for all Federal-aid highway systems except the Interstate System. The stated purpose of this new chapter is to provide State and local governments the maximum degree of flexibility while still insuring that highway projects are consistent with the social, environmental, and economic objectives of the applicable Federal laws. This would be accomplished by establishing an alternative procedure whereby the Department of Transportation would certify and approve the procedures that a State adopts to implement its program. The Department would then monitor those procedures after the fact to insure compliance.

The administration finds this chapter unacceptable. It would not only eliminate the ability of the executive branch to effectively establish program priorities and overall funding levels, but would also disrupt the cooperative Federal-State relationship that has existed for better than 50 years in the highway program. Beyond this, the new procedures would result in the proliferation of redtape and delays far in excess of anything that is now experienced in administering the Federal-aid highway program.

I firmly support the administration position in opposition to this new chapter. Its effect upon the Federal-aid highway program, I believe, will be most unfortunate. And, in the broader scope of managing Federal expenditures, there is no question that it would attempt to deny to the executive branch the authority to withhold funding, even in the face of economic crisis where such withholding would be the most prudent way to proceed.

I believe that any President should have sufficient management flexibility to determine program funding levels within the overall constraints of fiscal responsibility. As the distinguished senior Senator from Kentucky states last week in his discussion of this section of the bill—

If a President were required to spend all of the money that Congress authorizes and appropriates, we would be in a worst fiscal situation than we are.

The inclusion of these alternative Federal-aid highway procedures would attempt to eliminate this flexibility. It also raises serious constitutional questions and I would suggest that we not attempt to solve these questions in conjunction with this highway legislation.

In addition to this fundamental problem, I oppose the alternative procedures generally on the grounds that they will hurt, rather than help, the administration of the Federal-aid highway program. This is a program which has been a remarkably well managed effort—thanks to the fine cooperation between the Federal and State agencies. Any changes in this administrative mechanism should be approached with great caution. The proposed alternative procedures, which would limit the Department of Transportation's ability to supervise highway projects and would permit the exposure of improper actions only after the fact, invites the risk of a decline in the high standards under which the program now operates.

Furthermore, under these proposed alternative procedures, the States may find that their own "redtape" may increase, rather than be dimished. I believe the existing procedures within the present cooperative, Federal-State relationship, offers a much more desirable mechanism for reducing redtape while maintaining the safeguards needed for consideration of social, economic, and environmental impacts in the planning and execution of highway projects.

For all of these reasons, I support the administration's position that this new chapter 1–A should be deleted prior to enactment of the final Federal-Aid Highway Act of 1972.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. RANDOLPH. Mr. President, on final passage, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from North Carolina (Mr. JORDAN) are necessarily absent.

I further announce that the Senator from Mississippi (Mr. STENNIS), the Senator from Wyoming (Mr. MCGEE), and the Senator from Iowa (Mr. HUGHES) are absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), the Senator from Nevada (Mr. CANNON), and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senators from Tennessee (Mr. BAKER and Mr. BROCK), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Colorado (Mr. DOMINICK) is absent by leave of the Senate on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE), the Senator from Vermont (Mr. STAF-

FORD), and the Senator from Ohio (Mr. TAFT) are absent on official business to attend meetings of the Interparliamentary Union.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 77, nays 0, as follows:

[No. 459 Leg.]

YEAS—77

Aiken	Edwards	Miller
Allen	Ervin	Mondale
Anderson	Fannin	Montoya
Bayh	Fong	Muskie
Beall	Fulbright	Nelson
Bennett	Gambrell	Packwood
Bentsen	Griffin	Pastore
Bible	Gurney	Pearson
Boggs	Hansen	Percy
Brooke	Harris	Proxmire
Buckley	Hart	Randolph
Burdick	Hatfield	Ribicoff
Byrd, Harry F., Jr.	Hollings	Roth
	Hruska	Schweiker
Byrd, Robert C.	Humphrey	Scott
Case	Inouye	Smith
Chiles	Jackson	Spong
Church	Javits	Stevens
Cook	Jordan, Idaho	Stevenson
Cooper	Kennedy	Symington
Cotton	Long	Talmadge
Cranston	Magnuson	Thurmond
Curtis	Mansfield	Tunney
Dole	Mathias	Weicker
Eagleton	McClellan	Williams
Eastland	McIntyre	Young

NAYS—0

NOT VOTING—23

Allott	Hartke	Pell
Baker	Hughes	Saxbe
Bellmon	Jordan, N.C.	Sparkman
Brock	McGee	Stafford
Cannon	McGovern	Stennis
Dominick	Metcalf	Taft
Goldwater	Moss	Tower
Gravel	Mundt	

So the bill (S. 3939) was passed, as follows:

S. 3939

An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1972".

REVISION OF AUTHORIZATION OF APPROPRIATIONS FOR INTERSTATE SYSTEM

SEC. 102. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1974, the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1975, and the additional sum of $4,000,000,000 for the fiscal year ending June 30, 1976." And inserting in lieu thereof the following: "the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1974, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1975, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1976, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1977, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1978, the additional sum of $3,250,000,000 for the fiscal year ending June 30, 1979, and the additional sum of $257,000,000 for the fiscal year ending June 30, 1980."

AUTHORIZATION OF USE OF COST ESTIMATE FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation is authorized to make the apportionment for fiscal years 1974 and 1975 of the sums authorized to be appropriated for such years for expenditure on the National System of Interstate and Defense Highways, using the apportionment factors contained in table 5, House Committee Print Numbered 92–29.

EXTENSION OF TIME FOR COMPLETION OF SYSTEM

SEC. 104. (a) The second paragraph of section 101(b) of title 23, United States Code, is amended by striking out "twenty years" and inserting in lieu thereof "twenty-four years" and by striking out "June 30, 1976" and inserting in lieu thereof "June 30, 1980".

(b)(1) The introductory phrase and the second and third sentences of section 104(b)(5) of title 23, United States Code, are amended by striking out "1976" each place it appears and inserting in lieu thereof at each such place "1980".

(2) Section 104(b)(5) is further amended by striking out the sentence preceding the last sentence and inserting in lieu thereof the following: "Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for fiscal years 1976 and 1977. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1976. Upon the approval by the Congress the Secretary shall use the Federal share of such approved estimate in making apportionments for fiscal years 1978 and 1979. The Secretary shall make a final revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1978. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for fiscal year 1980."

AUTHORIZATIONS

SEC. 105. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system including urban extensions out of the highway trust fund, $950,000,000 for the fiscal year ending June 30, 1974, and $950,000,000 for the fiscal year ending June 30, 1975: *Provided,* That at least $300 million of such funds for each of the fiscal years ending June 30, 1974 and June 30, 1975 shall be expended for carrying out the provisions of section 148 of title 23, United States Code, relating to the elimination of roadway dangers with emphasis on the elimination or improvement of railroad-highway grade crossings.

(2) For the Federal-aid secondary system including urban extensions out of the Highway Trust Fund, $500,000,000 for the fiscal year ending June 30, 1974, and $500,000,000 for the fiscal year ending June 30, 1975, of which at least $50,000,000 for each of the fiscal years ending June 30, 1974, and June 30, 1975, shall be expended exclusively for carrying out provisions of section 142, title 23, United States Code, relating to highway public transportation in rural areas.

(3) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 for the fiscal year ending June 30, 1974, and $800,000,000 for the fiscal year ending June 30, 1975.

(4) For the Federal-aid small urban system, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

(5) For forest highways, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975.

(6) For public lands highways, out of the Highway Trust Fund, $25,000,000 for the fiscal year ending June 30, 1974, and $25,000,000 for the fiscal year ending June 30, 1975.

(7) For forest development roads and trails, $170,000,000 for the fiscal year ending June 30, 1974, and $170,000,000 for the fiscal year ending June 30, 1975.

(8) For public lands development roads and trails, $20,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for the fiscal year ending June 30, 1975.

(9) For park roads and trails, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975.

(10) For parkways, out of the Highway Trust Fund, $75,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

(11) For Indian reservation roads and bridges, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 out of the General Fund of the Treasury and $25,000,000 out of the Highway Trust Fund for the fiscal year ending June 30, 1975.

(12) For carrying out section 319(b) of title 23, United States Code (relating to landscaping and scenic enhancement), out of the highway trust fund, $15,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975.

(13) For necessary administrative expenses in carrying out section 131, section 136 and section 319(b) of title 23, United States Code, $1,500,000 for the fiscal year ending June 30, 1974, and $1,500,000 for the fiscal year ending June 30, 1975.

(14) For carrying out section 215(a) of title 23, United States Code (relating to territorial highway development program), out of the sums in the Treasury not otherwise appropriated:

(A) for the Virgin Islands not to exceed $2,500,000 for the fiscal year ending June 30, 1974, and not to exceed $2,500,000 for the fiscal year ending June 30, 1975;

(B) for Guam not to exceed $2,000,000 for the fiscal year ending June 30, 1974, and not to exceed $2,000,000 for the fiscal year ending June 30, 1975; and

(C) for American Samoa not to exceed $500,000 for the fiscal year ending June 30, 1974, and not to exceed $500,000 for the fiscal year ending June 30, 1975.

(b) For each of the fiscal years 1974 and 1975, no State shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under paragraph (5) of subsection (b) of section 104 of title 23, United States Code. Whenever such amounts made available for the Interstate System in any State exceed the cost of completing that State's portion of the Interstate System, the excess amount shall be transferred to and added to the amounts apportioned to such State under paragraphs (1), (2), (3), (6), and (7) of subsection (b) of section 104 of title 23, United States Code, in the ratio which these respective amounts bear to each other in that State.

(c) For each of the fiscal years 1974 and 1975, no State shall receive less than one-half of 1 per centum of the total apportionment for the Federal-aid urban system and for the Federal-aid small urban system, under paragraphs (6) and (7), respectively, of subsection (b) of section 104 of title 23, United States Code. Any State not having a designated urbanized area, may designate routes on the Federal-aid urban system for its largest population center, based upon a continuing planning process developed co-

operatively by State and local officials and the Secretary.

DEFINITIONS

SEC. 106. (a) The definition of "construction" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce), acquisition of rights-of-way, relocation assistance, elimination of hazards of railway grade crossings, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas."

(b) The definition of "Indian reservation roads and bridges" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'Indian reservation roads and bridges' means roads and bridges that are located within or provide access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government on which Indians reside, or Indian and Alaska native villages, groups or communities in which Indians and Alaskan natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians."

(c) The definition of "urbanized area" in subsection (a) of section 101 of title 23, United States Code, is amended to read:

"The term 'urbanized area' means an area so designated by the Bureau of the Census, within boundaries to be fixed by the Secretary in cooperation with responsible State and local officials."

FEDERAL-AID SMALL URBAN SYSTEM

SEC. 107. (a) Subsection (a) of section 101 of title 23, United States Code, is amended as follows:

(1) After the definition of the term "Federal-aid urban system" add the following new paragraph:

"The term 'Federal-aid small urban system' means the Federal-aid highway system described in subsection (h) of section 103 of this title."

(2) After the definition of the term "urban area" add the following new paragraph:

"The term 'small urban area' means an area including and adjacent to a municipality or other urban place having a population of five thousand to fifty thousand, not within urbanized areas, as determined by the latest available Federal census, within boundaries to be fixed by the State after consultation with local officials and subject to the approval of the Secretary."

(b) Section 103 of title 23, United States Code, is amended by adding immediately after subsection (g) a new subsection (h):

"(h) The Federal-aid small urban system may be established in each urban area of five thousand to fifty thousand population at the request of local officials. The system shall consist of arterial and collector routes, exclusive of urban extensions of the Federal-aid primary and secondary systems, selected by responsible local officials in cooperation with the State highway department based upon anticipated functional usage for the year 1980. Each route of the system shall connect with another route on a Federal-aid system. At his discretion, the Secretary may delegate to any State highway department the authority to approve designation of the Federal-aid small urban system. The provisions of chapters 1, 3, and 5 of this title applicable to Federal-aid primary highways shall apply to the Federal-aid small urban system except as determined by the Secretary to be inconsistent with this subsection. By March 30, 1973, the Secretary shall issue necessary guidelines for carrying out this section and related provisions of Federal law.

(c) Subsection (b) of section 104 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"(7) For the Federal-aid small urban system:

"In the ratio which the population in small urban areas, or parts thereof, in each State bears to the total population in such small urban areas, or parts thereof, in all the States as shown by the latest available Federal census."

(d) Subsection (a) of section 120 of title 23, United States Code, is amended by striking out "the Federal-aid secondary system, and the Federal-aid urban system," and inserting in lieu thereof the following: "the Federal-aid secondary system, the Federal-aid urban system, and the Federal-aid small urban system."

DECLARATION OF POLICY

SEC. 108. Subsection (b) of section 101 of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"It is further declared to be in the national interest and to be the intent of Congress that in the administration of the Federal-aid highway program the Secretary shall carry out the program in such a manner as to give the highest priority in all instances, to highway safety and the saving of human lives."

FEDERAL-AID SYSTEMS REALIGNMENT

SEC. 109. (a) Section 103(b) of title 23, United States Code, is renumbered as section 103(b)(1) and a new section 103(b)(2) is added to read as follows:

"(b)(2) After June 30, 1975, the Federal-aid primary system shall provide an adequate system of connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section."

(b) Section 103(c) of title 23, United States Code, is renumbered as section 103(c)(1) and a new subsection 103(c)(2) is added to read as follows:

"(c)(2) After June 30, 1975, the Federal-aid secondary system shall consist of rural major collector routes. The Federal-aid secondary system shall be designated by each State through its State highway department and appropriate local officials in cooperation with each other, subject to the approval of the Secretary as provided in subsection (f) of this section."

(c) Section 103(d) of title 23, United States Code, is renumbered as section 103(d)(1) and a new subsection 103(d)(2) is added to read as follows:

"(d)(2) After June 30, 1975, the Federal-aid urban system shall be located in urbanized areas and shall consist of arterial routes and collector routes, exclusive of urban extensions of Federal-aid primary system. The routes on the Federal-aid urban system shall be designated by appropriate local officials, subject to the approval of the Secretary as provided in subsection (f) of this section, and shall be in accordance with the planning process required pursuant to the provisions of section 134 of this title."

(d) Federal-aid systems realignment shall be based upon anticipated functional usage in the year 1980.

FEDERAL-AID URBAN SYSTEM

SEC. 110. (a) Subsection (d)(1) of section 103 of title 23, United States Code, is amended by striking the second, third, fourth, and fifth sentences and inserting in lieu thereof the following:

"The system shall be so located as to serve the major centers of activity, and shall include high traffic volume arterial and collector routes. It shall be selected so as to serve the goals and objectives of the community as determined by the responsible local officials of such urbanized area in accordance with the planning process required pursuant to the provisions of section 134 of this title. No route on the Federal-aid urban system shall also be a route on any other Federal-aid system. Each route of the system shall connect with another route on a Federal-aid system. Routes on the Federal-aid urban system shall be selected by the appropriate local officials or by area-wide councils of government or other appropriate metropolitan organizations established by law, after consultation with the State highway departments and in accordance with the planning process under section 134 of this title. Designation of the Federal-aid urban system shall be subject to the approval of the Secretary as provided in subsection (f) of this section."

(b) Subsection (d) of section 105 of title 23, United States Code, is amended to read as follows:

"(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials after consultation with the Governor of each State and in accordance with the planning process required pursuant to section 134 of this title."

TRANSFER OF INTERSTATE SYSTEM MILEAGE WITHIN A STATE

SEC. 111. (a) The fourth sentence of subsection (e)(2) of section 103 of title 23, United States Code, is amended to read:

"The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph; such costs shall be that as of the date of the withdrawal."

(b) Paragraph (2) of subsection (e) of section 103 of title 23 of the United States Code is amended by adding at the end thereof the following:

"The authority granted by this paragraph shall expire on the date of enactment of the Federal-Aid Highway Act of 1972. However, the amendment contained in section 111(a) of the Federal-Aid Highway Act of 1972 shall be retroactive."

(c) Subsection (e) of title 23, United States Code, is amended by adding the following:

"(4) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title prior to the enactment of this paragraph, if

he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) or will no longer be essential by reason of the application of this paragraph and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof. After the Secretary has withdrawn his approval of any such route or portion thereof the mileage of such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of such interstate route or portions thereof within that State as provided in this subsection necessary to provide the essential connection of the Interstate System in such State in lieu of the route or portions thereof which were withdrawn. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph, except that the cost to the United States of the aggregate of all mileage designated in any State under the third sentence of this paragraph shall not exceed the cost to the United States of the mileage approval for which is withdrawn under the second sentence of this paragraph. Such costs shall be that as of the date of the withdrawal. Whenever the Secretary determines that such routes or portions thereof are not essential or whenever the amounts necessary for the completion of the substitute essential routes or portions thereof are less than the cost of the withdrawn route or portions thereof, the amounts remaining or the difference shall be transferred to and added to the amounts apportioned to such State under paragraph 6 of subsection (b) of section 104 of title 23, United States Code, for the account of the urbanized area from which the withdrawal of the routes or portions thereof was made in such urbanized areas. In considering routes or portions thereof to be added to the Interstate System under the second and third sentences of this paragraph, the Secretary shall, in consultation with the States and local governments concerned, assure (A) that such routes or portions thereof will provide a unified and connected Interstate System (including urban routes necessary for metropolitan transportation), and (B) the extension of routes which terminate within municipalities served by a single interstate route, so as to provide traffic service entirely through such municipalities. Any mileage from a route or portion thereof which is withdrawn under the second sentence of this paragraph and not replaced by a substitute essential route or portion thereof may be redesignated as part of the Interstate System by the Secretary in accordance with paragraph (1) of this subsection."

REMOVAL OF DESIGNATED SEGMENTS OF THE INTERSTATE SYSTEM

SEC. 112. Section 103(g) of title 23, United States Code, is amended to read as follows:

"(g) The Secretary, on July 1, 1973, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not necessary for continuity of traffic oflws between cities. Nothing shall prohibit the consideration for substitution prior to July 1, 1974, of alternative segments of the Interstate System which will meet the requirements of this title. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1974, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. The application of all of the provisions of this subsection shall be deferred for one year with respect to routes added to the Interstate System after December 1, 1968."

METHOD OF APPORTIONMENT

SEC. 113. (a) Paragraphs (1) and (2) of subsection (b) of section 104 of title 23, United States Code, is amended by striking the words "star routes" each time they appear and inserting in lieu thereof "intercity mail routes where service is performed by motor vehicles.".

(b) Paragraph (3) of subsection (b) of section 104 of title 23, United States Code, is amended to read:

"(3) For extensions of the Federal-aid primary system and the Federal-aid secondary system within urban areas:

"In accordance with the needs for such extensions as determined by each State from funds apportioned to it under paragraphs (1) and (2) of this subsection."

APPORTIONMENT OF PLANNING FUNDS

SEC. 114. Section 104 of title 23, United States Code, is amended by adding at the end thereof a new subsection (g):

"(g) On or before January 1 next preceding the commencement of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title.

"(1) These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

"(2) The funds apportioned to any State under paragraph (1) of this subsection shall be divided equally between the State and the areawide metropolitan transportation agencies established under section 135 of this title only for the purposes of carrying out the provisions of section 134 of this title. Pending the establishment of these agencies as defined in section 135 of this title, these planning funds shall be made available to the metropolitan planning organizations designated by the State as being responsible for carrying out the provisions of section 134 of this title. These funds shall be matched in accordance with section 120 of this title unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

"(3) The distribution within any State of the planning funds made available to the areawide agencies under paragraph (2) of this subsection shall be in accordance with a formula developed by each State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, and metropolitan area transportation needs."

SEC. 115. (a) Section 105(a) is amended by deleting the words "State highway department" in the first sentence and inserting in lieu thereof "Governor" and by adding at the end thereof the following new sentence: "The Secretary shall not approve any project except that which is in accordance with the planning process required pursuant to section 134 of this title."

(b) Section 105(b) is amended by striking out the words "except in States where all public roads and highways are under the control and supervision of the State highway department, that such project be selected by the State highway department" and inserting in lieu thereof the following: "that such project be selected by the State Governor,".

(c) Section 105(g) is amended by striking out the words "State highway department" and inserting in lieu thereof "Governors".

ADVANCE ACQUISITION

SEC. 116. (a) Section 108(a) of title 23, United States Code, is amended by striking out "seven years" in the last sentence and inserting in lieu thereof "ten years".

(b) Section 108(c)(3) of title 23, United States Code, is amended by striking out "seven years" in the first sentence and inserting in lieu thereof "ten years".

STANDARDS

SEC. 117. (a) Subsection (i) of section 109 of title 23, United States Code, is amended by striking out "July 1, 1972" and inserting in lieu thereof "January 1, 1973".

(b) Subsection (j) of section 109 of title 23, United States Code, is amended by inserting (1) after (j) and adding a new paragraph (2) as follows:

"(2) After June 30, 1973, no highway program of project submitted to the Secretary in accordance with this title shall be approved by the Secretary unless it is in conformity with guidelines established by the Secretary under this subsection."

SIGNS ON PROJECT SITE

SEC. 118. Subsection (a) of section 114 of title 23, United States Code, is amended by striking out the last sentence thereof and inserting in lieu thereof the following:

"After October 31, 1972, the State highway department shall not erect on any project where actual construction is in progress and visible to highway users, any informational signs other than official traffic control devices conforming with standards developed by the Secretary of Transportation."

PAYMENT TO STATES FOR BOND RETIREMENT

SEC. 119. The first sentence of section 122, title 23, United States Code, is amended by inserting the following after "maturity": "and in the case of the Interstate System principal and interest of such bods,".

PUBLIC HEARINGS

SEC. 120. Subsection (a) of section 128 of title 23, United States Code, is amended by adding the following at the end thereof:

"The Secretary shall also require with the submission of plans for a Federal-aid project an assurance from the State highway department that it has taken all steps required pursuant to guidelines issued by the Secretary to ensure and foster public participation in the development of such project before and after the public hearings required by this subsection."

TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES

SEC. 121. (a) After the second sentence of section 129(b) of title 23, United States Code, insert the following:

"When any such toll road which the Secretary has approved as a part of the Interstate System on or before June 30, 1968, is made a toll-free facility prior to July 1, 1976, Federal-aid highway funds apportioned under section 104(b)(5) of this title may be expended for the construction, reconstruction, or improvement of that road to meet the standards adopted for the improvement of projects located on the Interstate System."

(b) Section 129 of title 23, United States Code, is amended by adding at the end thereof a new subsection (h) as follows:

"(h) Funds for the Interstate System shall be available for expenditure on Interstate

projects, approaching any toll road on the Interstate System, requiring reconstruction where three or more Interstate routes (including loops, branches, or spurs), interchange or connect with such toll road, and improvements to such toll road have resulted in the serious impairment of the capacity of the interchange and Interstate routes."

CONTROL OF OUTDOOR ADVERTISING

SEC. 122. (a) Subsection (b) of section 131 of title 23, United States Code, is amended by inserting the following between the first and second sentences: "Federal-aid highway funds apportioned on or after January 1, 1973, or after the expiration of the next regular session of the State legislature, whichever is later, to any State which the Secretary determines has not made provision for effective control of the erection and maintenance along the Interstate System and the primary system of those additional outdoor advertising signs, displays, and devices which are more than six hundred and sixty feet off the nearest edge of the right of way, visible from the main traveled way of the system, and erected with the purpose of their message being read from such main traveled way shall be reduced by amounts equal to 10 per centum of the amounts which would otherwise be apportioned to such State under section 104 of this title, until such time as such State shall provide for such effective control."

(b) Subsection (c) of section 131 of title 23, United States Code, is amended to read as follows:

"(c) Effective control means that such signs, displays or devices after January 1, 1968, if located within six hundred and sixty feet of the right of way and on or after July 1, 1973, or after the expiration of the next regular session of the State legislature, whichever is later, if located beyond six hundred and sixty feet of the right of way be limited to (1) directional and other official signs and notices, which signs and notices shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historical attractions, which are required or authorized by law, which shall conform to national standards hereby authorized to be promulgated by the Secretary hereunder, which standards shall contain provisions concerning lighting, size, number, and spacing of signs, and such other requirements as may be appropriate to implement this section, (2) signs, displays, and devices advertising the sale or lease of property upon which they are located, and (3) signs, displays, and devices advertising activities conducted on the property on which they are located."

(c) Subsection (4) of section 131 of title 23, United States Code, is amended by striking out the first sentence thereof and inserting the following in lieu thereof:

"In order to promote the reasonable, orderly and effective display of outdoor advertising while remaining consistent with the purposes of this section, signs, displays, and devices whose size, lighting and spacing, consistent with customary use is to be determined by agreement between the several States and the Secretary, may be erected and maintained within areas adjacent to the Interstate and primary systems which are zoned industrial or commercial under authority of State law, or in unzoned commercial or industrial areas as may be determined by agreement between the several States and the Secretary."

(d) Subsection (e) of section 131 of title 23, United States Code, is amended to read as follows:

"(e) Any nonconforming sign under State law enacted to comply with this section shall be removed no later than the end of the fifth year after it becomes nonconforming except as determined by the Secretary."

(e) Subsection (f) of section 131 of title 23, United States Code, is amended by inserting the following after the first sentence:

"The Secretary may also, in consultation with the States, provide within the rights-of-way of other roads on the Federal-aid highway system for areas in which signs, displays, and devices giving specific information in the interest of the traveling public may be erected and maintained."

(f) Subsection (g) of section 131 of title 23, United State Code, is amended by striking out the first sentence and inserting the following in lieu thereof:

"Just compensation shall be paid upon the removal of any outdoor advertising sign, display, or device lawfully erected under State law prior to the date of enactment of the Federal-Aid Highway Act of 1972."

(g) Subsection (m) of section 131 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be apportioned to carry out the provisions of this section, out of any money in the Treasury not otherwise appropriated, not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $2,000,000 for the fiscal year 1970, not to exceed $27,000,000 for the fiscal year 1971, not to exceed $20,500,000 for the fiscal year 1972 and not to exceed $50,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, $50,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

(h) Section 131 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(o) No directional sign, display, or device lawfuly in existence on June 1, 1972, giving specific information in the interest of the traveling public shall be required by the Secretary to be removed until December 31, 1974, or until the State in which the sign, display, or device is located certifies that the directional information about the service or activity advertised on such sign, display, or device may reasonably be available to motorists by some other method or methods, wihchever shall occur first: *Provided*, That a State may not refuse to purchase and remove any directional sign, display, or device voluntarily offered to the State for removal by a sign owner if funds are available in the Department of Transportation."

TRANSPORTATION PLANNING IN CERTAIN URBAN AREAS

SEC. 123. Subsection (a) of section 134, of title 23, United States Code, is amended by striking the next to the last sentence and inserting in lieu thereof the following:

"The Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds (1) that such projects are in accordance with a continuing comprehensive transportation planning process carried on cooperatively by the State and local communities in conformance with the objectives stated in this section, and (2) that all reasonable measures to permit, encourage, and assist public participation in such continuing comprehensive transportation planing process have been taken. The Secretary, in coopeartion with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such processes, which shall include hearings, held at least annually, at which there would be a review of the transportation planning process, plans and programs, and opportunity provided for the consideration of alternative modes of transportation.

"(b) It is declared to be in the national interest to encourage and promote the development of transportation systems, embracing various modes of transport in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective the Secretary shall cooperate with the States, as authorized in this title, in the development of long-range, comprehensive public transportation plans and programs which are properly coordinated which include plans for the development of all modes of transportation, which take into consideration the plans of adjacent States, which are formulated with due consideration of their probable effect on the future development of each State, and which fully consider alternative modes of transportation and routes for each project included. The Secretary shall not approve under this title any program for projects in any State unless he finds (1) that such projects are in accordance with a continuing comprehensive public transportation planning process carried on cooperatively by States and local communities in conformance with the objectives of this section, (2) that all reasonable measures to permit, encourage, and assist public participation in such continuing planning process have been taken, and (3) that all social, economic, and environmental aspects of such program and its alternatives have been fully considered in the comprehensive planning process. The Secretary, in cooperation with the States, shall develop and publish regulations specifying minimum guidelines for public participation in such process, which shall include hearings, held at least annually, at which there shall be a review of the transportation planning process, plans, and programs, and opportunity provided for the consideration of alternative modes of transportation. No project may be constructed in a State unless the responsible local officials of the area in which the project is located have been consulted and their views considered with respect to the corridor, the location and the design of the project."

AVAILABILITY OF URBAN SYSTEM FUNDS

SEC. 124. (a) Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Availability of urban system funds

"(a) Funds apportioned to any State under paragraph (6) of subsection (b) of section 104 of this title shall be allocated among the urbanized areas within any such State in the ratio that the population within any such urbanized area bears to the population of all urbanized areas within such State.

"(b) Funds allocated in accordance with subsection (a) of this section shall be available for expenditure within any such urbanized area for projects on the urban system, including those authorized by section 142 of this title, which shall be planned in accordance with the planning process required by section 134 of this title.

"(c) Funds allocated to any urbanized area under subsection (a) of this section shall be available for expenditure in another urbanized area within such State only where the responsible public officials in both such urbanized areas agree to such availability.

"(d)(1) Where the units of general purpose local government in any urbanized area shall combine together under State law to create a metropolitan transportation agency, or where the State shall create a metropolitan transportation agency, with sufficient authority to develop and implement a plan for expenditure of funds allocated to such urbanized area pursuant to this section, funds allocated under subsection (a) of this section shall be available to such metropolitan transportation agency for projects on the urban system, including those authorized by section 142 of this title, which shall be planned in accordance with the planning process required by section 134 of this title.

"(2) A metropolitan transportation agency shall be considered to exist when (A) an agency for the purposes of transportation

planning has been created by the State or by the unit or units of general purpose local governments within any urbanized area which represent at least 75 per centum of the total population of such area and includes the largest city, and (B) such agency has adequate powers and is suitably equipped and organized to carry out projects on the urban system: *Provided*, That such projects may be implemented by the metropolitan transportation agency through delegation of authority for implementation to the participating local governments."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by striking

"135. Urban area traffic operations improvement programs."

and inserting in lieu thereof:

"135. Availability of urban system funds.".

CONTROL OF JUNKYARDS

SEC. 125. (a) Subsection (j) of section 136 of title 23, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following:

"(j) Just compensation shall be paid the owner for the relocation, removal, or disposal of junkyards lawfully in existence at the effective date of State legislation enacted to comply with this section."

(b) Subsection (m) of section 136 of title 23, United States Code, is amended to read as follows:

"(m) There is authorized to be appropriated to carry out this section out of any money in the Treasury not otherwise appropriated not to exceed $20,000,000 for each of the fiscal years 1966 and 1967, not to exceed $3,000,000 for each of fiscal years 1970, 1971, and 1972, not to exceed $5,000,000 for the fiscal year ending June 30, 1973, and, out of the Highway Trust Fund, not to exceed $15,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975. The provisions of this chapter relating to the obligation, period of availability, and expenditure of Federal-aid primary highway funds shall apply to the funds authorized to be appropriated to carry out this section after June 30, 1967."

FRINGE AND CORRIDOR PARKING FACILITIES

SEC. 126. Subsection (a) of section 137 of title 23, United States Code, is amended by striking the period at the end of the first paragraph, inserting a comma in lieu thereof, and adding the following: "and liquidation of bonds or other obligations incurred in financing the local share of such facilities".

PRESERVATION OF PARKLANDS

SEC. 127. Section 138 of title 23, United States Code, is amended (1) by striking out "lands" in the first sentence and inserting in lieu thereof "areas (including water)", and (2) by striking out "lands" and "land" wherever thereafter appearing therein and inserting in lieu thereof "areas" and "area", respectively.

TRAINING PROGRAMS

SEC. 128. Subsection (b) of section 140 of title 23, United States Code, is amended by striking out in the second sentence "and 1973," and inserting in lieu thereof ", 1973, 1974, and 1975".

PUBLIC TRANSPORTATION

SEC. 129. (a) Section 142 of title 23, United States Code, is amended to read as follows:

§ 142. Public transportation

"(a) To encourage the development, improvement, and use of public mass transportation systems for the transportation of passengers within urbanized areas, so as to increase the efficiency of the Federal-aid system, sums apportioned in accordance with paragraph (6) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the cost of construction of and acquisition of facilities and equipment for public mass transportation projects. For purposes of this section the term 'public mass transportation' means ground transportation which provides general or special service (excluding schoolbus, charter, or sightseeing service) to the public on a regular and continuing basis, and includes activities designed to coordinate such service with other transportation. Projects which may be financed under this subsection shall include, but not be limited to, exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus, rail, and other public mass transportation passengers, construction of fixed rail facilities, and for the purchase of passenger equipment, including rolling stock for fixed rail.

"(b) To encourage the development, improvement, and use of public transportation systems for the transportation of passengers in such urban areas and rural areas as may be designated by the State and approved by the Secretary on the basis of local transportation need, so as to increase the traffic capacity of the Federal-aid systems, sums apportioned in accordance with paragraphs (1), (2), (5), and (7) of subsection (b) of section 104 of this title shall be available to finance the Federal share of the costs of projects within their respective systems, for the construction of exclusive or preferential bus lanes, highway traffic control devices, passenger loading areas and facilities, including shelters, fringe and transportation corridor parking facilities to serve bus and other public transportation passengers, and for the purchase of passenger equipment other than rolling stock for fixed rail.

"(c) The establishment of routes and schedules of such public mass transportation systems in urbanized areas shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of title 23, United States Code.

"(d) For all purposes of this title, a project authorized by subsections (a) and (b) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(e) No project authorized by this section shall be approved unless the Secretary of Transportation is satisfied that public mass transportation systems will have adequate project and to maintain and operate properly any equipment acquired under this section.

"(f) No equipment which is acquired with financial assistance provided by this section shall be available for use in charter, leased, sightseeing, or other service in any area other than the area for which it was acquired.

"(g) In the acquisition of equipment pursuant to subsections (a) and (b) of this section, the Secretary shall require that such equipment meet the standards prescribed by the Administrator of the Environmental Protection Agency under section 202 of the Clean Air Act, as amended, and shall authorize, wherever practicable, that such equipment meet the special criteria for low-emission vehicles set forth in section 212 of the Clean Air Act, as amended.

"(h) The Secretary shall assure that the provisions of subsection (a) of section 16 of the Urban Mass Transportation Act of 1964, as amended, relating to planning and design of mass transportation facilities to meet special needs of the elderly and the handicapped (as defined in subsection (d) thereof) shall apply in carrying out the provisions of this section.

"(i) Funds available for expenditure to carry out the purposes of this section shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(j) The provisions of chapters 1, 3, and 5 of title 23 of the United States Code shall apply in carrying out the provisions of this section except with respect to projects within urban areas as to which the Secretary determines the provisions of the Urban Mass Transportation Act of 1964, as amended, are more appropriately applicable."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by striking

"142. Urban highway public transportation."

and inserting in lieu thereof:

"142. Public transportation."

ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS

SEC. 130. (a) Section 143 of title 23, United States Code, is amended by striking "Federal-aid primary system" wherever appearing therein and inserting in lieu thereof "Federal-aid primary and secondary systems".

(b) Subsection (e) of section 143 of title 23, United States Code, is amended by striking "not to exceed an additional 20 per centum" and inserting in lieu thereof "not to exceed an additional 10 per centum."

(c) Subsection (g) of section 143 of title 23, United States Code, is amended by striking the following: "and not to exceed $50,000,000 for the fiscal year ending June 30, 1973." and inserting in lieu thereof ", not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $50,000,000 for the fiscal year ending June 30, 1974, and not to exceed $100,000,000 for the fiscal year ending June 30, 1975."

BICYCLE TRANSPORTATION, PEDESTRIAN WALKWAYS, AND EQUESTRIAN TRAILS

SEC. 131. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 145. Bicycle transportation, pedestrian walkways, and equestrian trails

"(a) To encourage the development, improvement, and use of bicycle transportation on or in conjunction with highway rights-of-way for the transportation of persons so as to increase the traffic capacity of the Federal-aid systems, and to permit the development and improvement of pedestrian walkways and equestrian trails on or in conjunction with highway rights-of-way, the Secretary shall require that projects carried out with sums apportioned in accordance with subsection (b) of section 104 of this title shall to the extent practicable, suitable, and feasible include the construction of separate or preferential bicycle lanes or paths, bicycle traffic control devices, shelters and parking facilities to serve bicycles and persons using bicycles, pedestrian, walkways, and equestrian trails in conjunction or connection with Federal-aid highways. Projects authorized under this section shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.

"(b) For all purposes of this title, a project authorized by subsection (a) of this section shall be deemed to be a highway project, and the Federal share payable on account of such project shall be that provided in section 120 of this title.

"(c) In addition to projects carried out pursuant to subsection (a), there is hereby authorized to carry out projects for the construction of bicycle trails on or in conjunction with highway rights-of-way for the transportation of persons so as to increase the traffic capacity of the Federal-aid systems, and to permit development and improvement of pedestrian walkways and equestrian trails on or in conjunction with highway rights-of-way, $10,000,000 out of the Highway Trust Fund for each of the fiscal years 1974 and 1975 which shall be available, at the discretion of the Department subsection (b) of section 104 of this title, except that no State shall receive less than 1 per centum of sums apportioned under this section.

"(d) Funds authorized and appropriated for forest highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, Indian reservation roads, and public lands highways shall be apportioned in accordance with paragraph (1) of charged with the administration of such funds, for the construction of bicycle and pedestrian routes in conjunction with such trails, roads, highways, and parkways.

"(e) No motorized vehicles shall be permitted on trails and walkways authorized under this section except for maintenance purposes."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by inserting at the end thereof the following:

"145. Bicycle transportation, pedestrian walkways, and equestrian trails."

TOLL ROAD REIMBURSEMENT PROGRAM

SEC. 132. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 146. Toll road reimbursement program

"(a) Whenever a State has received its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System, the Secretary may permit, notwithstanding the provisions of subsection (b) of section 129 of this title, reimbursement of the Federal share of the actual cost of construction of new toll highways or improvements to existing toll highways, construction of which highways or improvement is begun after July 1, 1972, but not including the cost of toll collection and service facilities, on the same basis and in the same manner as in the construction of free highways under this chapter upon compliance with the conditions contained in this section.

"(b) The Secretary may permit reimbursement of the Federal share of the costs of construction as applicable to a project under section 120(a) of this title from funds apportioned to such State pursuant to paragraph (1) subsection (b) of section 104 of this title whenever the State enters into an agreement with the Secretary whereby it undertakes performance of the following obligations:

"(1) to provide for the construction of such highway in accordance with standards approved by the Secretary;

"(2) all tolls received from the operation of such highway, less the actual cost of such operation and maintenance, shall be applied by the State to the repayment of the actual costs of construction, except for an amount equal to the Federal share payable of such actual costs of a project; and

"(3) no tolls shall be charged for the use of such highway after the Federal share has been paid and the highway shall be maintained and operated as a free highway.

Such agreements may be entered into between the Secretary and a State upon enactment of this section. Reimbursements shall not be made until after the State receives its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System.

"(c) When such highway becomes toll-free in accordance with the aforementioned agreement, such highway shall become a part of the primary system notwithstanding the mileage limitations in subsection (b) of section 103 of this title.

"(d) The Federal share payable of such actual cost of the project shall be made in not more than fifteen equal annual installments, from the funds apportioned to the State pursuant to paragraph (1) of subsection (b) of section 104 of this title, with the first installment being made one year after the project agreement has been entered into between the Secretary and the State highway departments or one year after the State receives its final apportionment of sums authorized to be appropriated for expenditure on the Interstate System, whichever is last to occur. Such payment shall be applied against the outstanding obligations of the project."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"146. Toll road reimbursement program."

SPECIAL URBAN HIGH DENSITY TRAFFIC PROGRAM

SEC. 133. (a) Chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following new section:

"§ 147. Special urban high density traffic program

"(a) There is hereby authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975, for the construction of highways connected to the Interstate System in portions of urbanized areas with high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for this purpose which include the following criteria:

"(1) Routes designated by the Secretary shall not be longer than ten miles.

"(2) Routes designated shall serve areas of concentrated population and heavy traffic congestion.

"(3) Routes designated shall serve the urgent needs of commercial, industrial, or national defense installations.

"(4) Any routes shall connect with existing routes on the Interstate System.

"(5) Routes designated under this section shall have been approved through the planning process required under section 134 of this title and determined to be essential by responsible local officials.

"(6) A route shall be designated under this section only where the Secretary determines that no feasible or practicable alternative mode of transportation which could meet the needs of the area to be served is now available or could become available in the foreseeable future.

"(7) The designation of routes under this section shall comply with section 138 of this title, and no route shall be designated which substantially damages or infringes upon any residential area.

"(8) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(9) No more than one route in any one State shall be designated by the Secretary.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 90 per centum of the cost of construction of such project."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"147. Special urban high denisty traffic program."

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON FEDERAL LAKES

SEC. 134. (a) Chapter 1 of title 23 of the United States Code is further amended by adding at the end thereof the following new section:

"§ 148. Access highways to public recreation areas on Federal lakes

"(a) There is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated $15,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975, for the construction or reconstruction of access highways to public recreation areas on Federal lakes in order to accommodate present and future high traffic density. The Secretary shall develop guidelines and standards for the designation of routes and the allocation of funds for the purpose of this section which shall include the following criteria:

"(1) Routes designated by the Secretary shall not extend beyond 20 miles from the recreation area.

"(2) Such routes shall connect with a highway in the Federal aid system.

"(3) The designation of routes under this section shall comply with section 138 of this title.

"(4) Routes shall be designated by the Secretary on the recommendation of the State and responsible local officials.

"(b) The Federal share payable on account of any project authorized pursuant to this section shall not exceed 70 per centum of the cost of construction or reconstruction of such project.

"(c) Any highway not part of the Federal-aid system when constructed or reconstructed pursuant to this section shall thereafter be part of the Federal-aid secondary system except as otherwise provided pursuant to this section.

"(d) For the purpose of this section the term 'Federal lake' means a lake constructed by the Corps of Engineers, Department of the Army, or the Tennessee Valley Authority, or the Bureau of Reclamation, Department of the Interior, or a multipurpose lake constructed with the assistance of the Soil Conservation Service, Department of Agriculture."

(b) The analysis of chapter 1 of title 23 of the United States Code is amended by adding at the end thereof the following:

"148. Access highways to public recreation areas on Federal lakes."

ALTERNATIVE FEDERAL-AID HIGHWAY PROCEDURES

SEC. 135. Title 23, United States Code, is amended by inserting the following new chapter 1–A at the end of chapter 1:

"CHAPTER 1–A ALTERNATIVE FEDERAL-AID HIGHWAY PROCEDURES

"Sec.

"171. Policy declarations.

"172. Applicability and certification.

"173. Assistance for States desiring to comply with this chapter.

"174. Master agreement.

"175. Rights of aggrieved parties.

"176. Applicability of other chapters.

"§ 171. Policy declaration

"The Congress hereby finds that—

"(a) the public interest requires an alternative procedure to the procedures otherwise provided in title 23 for processing Federal-aid highway projects to promote and facilitate the continued construction of the Federal-aid systems covered by this chapter and to provide the States and local governments according to their own priorities and problems with a maximum degree of flexibility and choice.

"(b) the alternative procedure provided by this chapter shall emphasize the development and utilization of State administrative processes for constructing Federal-aid highway projects which will insure their construction in harmony with the social, environmental and economic objectives of all applicable Federal laws and requirments.

"(c) the Federal-aid highway program as administered under this chapter shall continue to be a cooperative program between the States and the Federal Government. The primary Federal role shall be to require an integrated system of highways, consistent with local determinations and needs, which will be designed, developed and constructed in accordance with guidelines promulgated by the Secretary to effectuate national policies determined by the Congress. The authorization and appropriation of Federal funds or their availability for expenditure for construction or improvement shall in no way be deemed to infringe upon the rights

of the States to determine which projects or improvements shall be financed under this chapter.

"(d) the requirements of this title are contract conditions and any State which avails itself of the procedures in this chapter is obliged to meet the requirements which it sets forth in its application for certification.

"§ 172. Applicability and certification

"(a) The provisions of this chapter shall be applicable to all Federal-aid systems except the National System of Interstate and Defense Highways.

"(b) Any State may submit to the Secretary for his approval and certification a comprehensive procedure for the construction of Federal-aid highway projects, setting forth the process by which such State proposes to carry out its Federal-aid highway construction responsibilities. The State procedure shall set forth the process by which goals, objectives, and priorities for carrying out its Federal-aid program shall be established and shall take into account and be in accord with the requirements of this title and other provisions of Federal law. The Secretary shall establish guidelines which shall describe the essential elements of a comprehensive State highway program. The State shall certify to the Secretary that its procedure will be administered by a State agency with adequate powers, suitably staffed, equipped and organized to comply with all applicable State and Federal laws, guidelines, regulations and directives, and that its administrative processes will result in compliance with State and Federal laws, guidelines, regulations and directives.

"(c) The Secretary shall within ninety days after receipt of a State request for certification review the comprehensive procedures of such State pursuant to the guidelines promulgated by the Secretary in accordance with subsection (b) of this section. In reviewing a State request for certification, the Secretary is authorized to conduct audits and physical inspections to determine the ability of the State to carry out its comprehensive procedure.

"(d) The Secretary shall approve the request of any State for certification unless he finds that State laws, guidelines, regulations, and directives will not result in the accomplishment of the social, environmental, and economic objectives of all applicable Federal laws and requirements or are not in compliance with the requirements of subsection (b) of this section.

"(e) In the event the Secretary does not approve a request of a State for certification, the State may appeal such decision to the United States Circuit Court of Appeals for the District of Columbia which shall have jurisdiction to affirm the determination of the Secretary or to set it aside in whole or in part. The Secretary's disapproval of a request by a State for certification shall not deprive such State of any of the benefits nor relieve it of any of the requirements of the other chapters of this title with respect to Federal-aid highway projects in such States.

"(f) Approval by the Secretary of a comprehensive procedure of any State for constructing Federal-aid highway projects shall be in effect for two years from the date of such approval and shall discharge his responsibility under title 23 with respect to individual project approvals as required in chapter 1 of this title, except that the Secretary may find at any time, based upon his continuous review and audit of a comprehensive procedure of such State projects being executed pursuant thereto or other information, that it is not in compliance in whole or in part with the provisions of this chapter. In such event, the Secretary, after appropriate notice and opportunity for correction of non-compliance, shall declare the master agreement or any part thereof provided for in section 174 of this chapter breached and withdraw his approval. Any failure of the State to comply with the appropriate provisions of title 23 shall be deemed a breach of the master agreement provided for in section 174 of this chapter. Nothing in this chapter shall affect or discharge any responsibility or obligation of the Secretary under any Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Department of Transportation Act provision for the preservation of natural beauty (49 U.S.C. 1653(f)), and the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), other than title 23, United States Code.

"(g) The guidelines, regulations, and other criteria to be applied by the Secretary in determining whether to approve the request of any State for certification, shall be developed in consultation with appropriate State and Federal officials and shall be promulgated not later than June 30, 1973. An opportunity to submit written data or comments for a period of not less than ninety days after publication shall be afforded to all interested persons. The initial approval of the comprehensive procedures of any State shall take effect no earlier than July 1, 1974.

"§ 173. Assistance for States desiring to comply with this chapter

"Any State, prior to submitting its request to the Secretary for certification, may make application to the Secretary for professional and technical assistance in developing comprehensive procedures which will comply with the provisions of this chapter. In providing Federal assistance, the Secretary may utilize the sums authorized in section 104(a) of title 23 to be deducted for administering the provisions of law to be financed from appropriations for the Federal-aid systems.

"§ 174. Master agreement

"(a) Approval by the Secretary of a request by a State for certification shall constitute a formal agreement with the State. The agreement shall apply to all Federal-aid projects to be constructed by the State pursuant to the comprehensive procedures for the biennial period of the agreement.

"(b) The Secretary may rely upon representations made by the State with respect to the arrangements or agreements made by the State and appropriate local officials where a part of a project is to be constructed at the expense of, or in cooperation with, political subdivisions of the State.

"(c) Approval by the Secretary shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution to all projects covered by the agreement. Following approval of an agreement by a State for certification, funds apportioned to a State pursuant to section 104 shall be available for obligation by the State under the State's comprehensive procedure without restriction, except that nothing in this section shall affect the power of the Secretary to restrict, or of any court to enjoin, the obligation or expenditure of such funds for failure to comply with applicable laws or requirements or for failure of the State to comply with its comprehensive procedure.

"(d) The State shall submit with its request for certification a list of projects to be covered by the agreement. The State may add, withdraw and substitute other projects during the period of the agreement with notice to the Secretary. The Secretary may disapprove such addition, withdrawal, or substitution within ninety days. However, in no event may a controversial project be withdrawn and another project substituted therefor for the purpose of avoiding compliance with applicable laws.

"§ 175. Rights of aggrieved parties

"(a) The Secretary shall provide in accordance with section 5 of the Administrative Procedures Act (section 554 of title 5, United States Code), an administrative hearing for alleged failure of a State to comply with its approved comprehensive procedure or any applicable State or Federal law. The Secretary's decision shall be based upon the record in such hearing, and his investigation and review of the State and Federal project records shall constitute part of the administrative record. The decision of the Secretary may be reviewed in accord with section 706 of title 5, United States Code.

"(b) The procedure set forth in subsection (a) shall be the exclusive procedure for suing the Secretary or any of his delegees and designees for the failure of a State to comply with its comprehensive procedures.

"§ 176. Applicability of other chapters

"All of the provisions of title 23, United States Code, shall be applicable to projects processed pursuant to the provisions of this chapter except where the Secretary determines that said provisions of law conflict or are inconsistent with the provisions of this chapter."

PUBLIC TRANSPORTATION IN NATIONAL FORESTS AND PARKS

SEC. 136. (a) Subsection (f) of section 204 of title 23, United States Code, is amended to read as follows:

"(f) Funds available for forest highways shall be available for adjacent vehicular parking areas, for sanitary, water, and fire control facilities, and for passenger loading areas and facilities and the purchase of buses to provide interpretive or shuttle transportation services as an alternative means of transportation."

(b) Section 206 of title 23, United States Code, is amended by adding the following new subsection:

"(c) Funds available for park roads and trails shall be available for adjacent vehicular parking areas and for passenger loading areas and facilities and the purchase of buses to provide interpretive or shuttle transportation services as an alternative means of transportation."

PARKWAYS

SEC. 137. (a) Subsection (a) of section 207 of title 23, United States Code, is amended to read as follows:

"(a) Funds available for parkways shall be used to pay for the cost of construction and improvement thereof, including the acquisition of rights-of-way and related scenic easements."

(b) Section 207 of title 23, United States Code, is further amended by adding the following subsections.

"(d) After December 31, 1972, parkways contracted under the authority of this section shall be deemed to be on the Federal-aid secondary system.

"(e) The provisions of section 106(a) of this title, relating to the obligation of funds, shall apply to funds available for parkways."

HIGHLAND SCENIC HIGHWAY

SEC. 138. (a). The Secretary of the Interior, in cooperation with the Secretary of Agriculture (acting through the Forest Service), is authorized to develop and construct as a parkway the Highland Scenic Highway from West Virginia State Route 39 to U.S. 250 near Barton Knob.

(b) The route from Richwood, West Virginia, to U.S. 250 near Barton Knob, via West Virginia State Route 39 and the parkway authorized by subsection (a) of this section, shall be designated as the Highland Scenic Highway.

(c) Such Secretaries are authorized to acquire rights-of-way, lands containing such rights-of-way, and interests in land, including scenic easements, necessary to carry out the purpose of a scenic highway.

(d) Funds available for parkways shall be available for signs on Interstate highways, Appalachian Highways and other appropriate highways at natural points of access to such geographic area, indicating the direction and distance to the Highland Scenic Highway and

to Richwood as "Gateway to the Highland Scenic Highway."

(e) Funds available for parkways shall be available for upgrading that portion of West Virginia State Route 39 designated as the Highland Scenic Highway to appropriate standards for a scenic and recreational highway, including the construction of vistas and other scenic improvements.

(f) Upon construction of the Highland Scenic Highway as authorized by subsection (a) of this section, such road and all associated lands and rights-of-way shall be transferred to the Forest Service and managed as part of the Monongahela National Forest, solely for scenic and recreational use and passenger car travel.

(g) Any parkway authorized in the future to proceed southward in such area shall begin in the immediate vicinity of Richwood, West Virginia.

CUMBERLAND GAP NATIONAL HISTORICAL PARK

SEC. 139. (a) Notwithstanding the definition of parkways in subsection (a) of section 101, funds available for parkways shall be available to finance the cost of reconstruction and relocation of Route 25E through the Cumberland Gap National Historical Park, including construction of a tunnel and the approaches thereto, so as to permit restoration of the Gap and provide adequate traffic capacity.

(b) Upon construction, such highway and tunnel and all associated lands and rights-of-way shall be transferred to the National Park Service and managed as part of the Cumberland Gap National Historical Park.

ALASKA HIGHWAY

SEC. 140. (a)(1) Chapter 2 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 217. ALASKA HIGHWAY

"(a) Recognizing the benefits that will accrue to the State of Alaska and to the United States from the reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border, the Secretary is authorized out of the funds appropriated for the purpose of this section to provide for necessary reconstruction of such highway. Such appropriations shall remain available until expended. No expenditures shall be made for the construction of such highways until an agreement has been reached by the Government of Canada and the Government of the United States which shall provide, in part, that the Canadian Government—

"(1) will provide, without participation of funds authorized under this title all necessary right-of-way for the reconstruction of such highways, which right-of-way shall forever be held inviolate as a part of such highways for public use;

"(2) will not impose any highway toll, or permit any such toll to be charged for the use of such highways by vehicles or persons;

"(3) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of such highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

"(4) will continue to grant reciprocal recognition of vehicle registration and drivers' licenses in accordance with agreements between the United States and Canada; and

"(5) will maintain such highways after their completion in proper condition adequately to serve the needs of present and future traffic.

"(b) The survey and construction work undertaken pursuant to this section shall be under the general supervision of the Secretary."

(2) The analysis of chapter 2 of title 23 of the United States Code is amended by adding at the end thereof the following:

"217. Alaska Highway."

(b) For the purpose of completing necessary reconstruction of the Alaska Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from Haines Junction in Canada to the south Alaskan border there is authorized to be appropriated the sum of $58,670,000 to be expended in accordance with the provisions of section 217 of title 23 of the United States Code.

RESEARCH AND PLANNING

SEC. 141. Subsection (c)(1) of section 307 of title 23, United States Code, is amended to read as follows:

"(c)(1) Not to exceed 1½ per centum of the sums apportioned for each fiscal year prior to the fiscal year 1964 to any State under section 104 of this title shall be available for expenditure upon request of the State highway department, with the approval of the Secretary, with or without State funds, for engineering and economic surveys and investigations; for the planning of future highway programs and local public bus transportation systems and for the financing thereof; for studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and for research and development, necessary in connection with the planning, design, construction, and maintenance of highways and highway systems, and the regulation and taxation of their use."

BRIDGES ON FEDERAL DAMS

SEC. 142. (a) Subsection (d) of section 320 of title 23, United States Code, is amended by striking out "$16,761,000" and inserting in lieu thereof "$25,261,000."

(b) All sums appropriated under authority of the increased authorization of $8,500,000 established by the amendment made by subsection (a) of this section shall be available for expenditure only in connection with the construction of a bridge across lock and dam numbered thirteen on the Arkansas River near Fort Smith, Arkansas, in the amount of $2,100,000 and in connection with the reconstruction of a bridge across Chickamauga Dam on the Tennessee River near Chattanooga, Tennessee, in the amount of $6,400,000. No such sums shall be appropriated until all applicable requirements of section 320 of title 23 of the United States Code have been complied with by the appropriate Federal agency, the Secretary of Transportation, and the State of Arkansas for the Fort Smith project and the State of Tennessee for the Chattanooga project.

TECHNICAL AMENDMENTS

SEC. 143. Title 23, United States Code, is amended as follows:

(a) Section 101(a) is amended by striking out "Secretary of Commerce" and inserting in lieu thereof "Secretary of Transportation".

(b) Section 109(g) is amended by striking out "Ret" and inserting in lieu thereof "Act".

(c) Sections 126(a), and 310 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

(d) The heading of section 303 is amended to read: "Administration organization."

(e) Sections 308(b), 312, and 314 are amended by striking out "Bureau of Public Roads" each place it appears and inserting in lieu thereof "Federal Highway Administration".

(f) Section 309 is amended by striking out "Bureau of Public Roads" and inserting in lieu thereof "Department of Transportation".

(g) Sections 312 and 314 are amended by striking out "Commerce" each place it appears and inserting in lieu thereof "Transportation".

ALASKAN ASSISTANCE

SEC. 144. Subsection (b) of section 7 of the Federal-Aid Highway Act of 1966 is amended by striking at the end of the last sentence "June 30, 1972 and June 30, 1973." and substituting "June 30, 1972, June 30, 1973, June 30, 1974 and June 30, 1975."

INCREASED FEDERAL SHARE—EFFECTIVE DATE

SEC. 145. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1970 is amended to read as follows:

"(b) The amendments made by subsection (a) of this section shall take effect with respect to all obligations incurred after June 30, 1973, except for projects on which Federal funds were obligated on or before that date."

HIGHWAY BEAUTIFICATION COMMISSION

SEC. 146. (a) Subsection (i) of section 123 of the Federal-Aid Highway Act of 1970 is amended by striking out the first sentence and inserting the following in lieu thereof:

"(1) The Commission shall not later than December 31, 1973, submit to the President and the Congress its final report."

(b) Subsection (n) of section 123 of the Federal-Aid Highway Act of 1970 is amended to read as follows:

"(n) There are hereby authorized to be appropriated such sums, but not more than $450,000, as may be necessary to carry out the provisions of this section and such moneys as may be appropriated shall be available to the Commission until expended."

FEASIBILITY STUDIES

SEC. 147. The Secretary shall report to Congress by January 1, 1974, on the feasibility and necessity for constructing to appropriate standards proposed highways along the following routes for the purpose of including such highways in the National System of Interstate and Defense Highways:

(a) A route from Brunswick, Georgia, or its vicinity, to Kansas City, Missouri, or its vicinity, so aligned to serve the following intermediate locations, or vicinities thereof: Columbus, Georgia; Birmingham, Alabama; Tupelo, Mississippi; Memphis, Tennessee; Batesville or Jonesbore, Arkansas; and Springfield, Missouri.

(b) Extension of Interstate Highway 70 from Cove Fort, Utah, or its vicinity, in a westerly direction, so aligned to serve the intermediate locations of Ely and Carson City, Nevada, or their vicinities.

(c) A route from Amarillo, Texas, or its vicinity, to Las Cruces, New Mexico, or its vicinity, so aligned to serve the following intermediate locations, or vicinities thereof: Herford, Texas; Clovis, New Mexico; Portales, New Mexico; Roswell, New Mexico; Ruidoso, New Mexico; Tularosa, New Mexico; and Alamagordo, New Mexico.

(d) A route from Kansas City, Missouri, or its vicinity, to Baton Rouge, Louisiana, or its vicinity, so alined to serve one or both of the following intermediate locations or vicinities thereof: Fayetteville, Fort Smith, and Texarkana, Arkansas; or Little Rock, Arkansas or any other route through the State of Arkansas determined feasible by such State and the Secretary.

(e) A route from Interstate Highway 380 from Waterloo, Iowa, via Dubuque, Iowa, to Interstate Highway 90 at Rockford, Illinois; and an extension of Interstate Highway 74 from the Davenport, Iowa-Moline, Illinois, area through Dubuque, Iowa, to Interstate 90 at LaCrosse, Wisconsin.

(f) A route from Kansas City, Missouri, or its vicinity, to Chicago, Illinois, or its vicinity, so alined to cross the Mississippi River in the vicinity of Hannibal, Missouri, and Quincy, Illinois.

STUDY OF TOLL BRIDGE AUTHORITY

SEC. 148. The Secretary of Transportation is authorized and directed to undertake a

full and complete investigation and study of existing Federal statutes and regulations governing toll bridges over the navigable waters of the United States for the purpose of determining what action can and should be taken to assure just and reasonable tolls nationwide. The Secretary shall submit a report of the findings of such study and investigation to the Congress not later than July 1, 1973, together with his recommendations for modifications or additions to existing laws, regulations, and policies as well achieve a uniform system of tolls and best serve the public interest.

TERMINATION OF FEDERAL-AID RELATIONSHIP

SEC. 149. (a) Notwithstanding any other provisions of Federal law or any court decision to the contrary, the contractual relationship between the Federal and State governments shall be ended with respect to all portions of the San Antonio North Expressway between Interstate Highway 35 and Interstate Loop 410, and the expressway shall cease to be a Federal aid project.

(b) The amount of all Federal aid highway funds paid on account of sections of the San Antonio North Expressway in Bexar County, Texas (Federal aid projects numbered U 244(7), U 244(10), UG 244(9), U 244(8), and U 244(11)), shall be repaid to the Treasurer of the United States and the amount so repaid shall be deposited to the credit of the appropriation for "Federal Aid Highways (Trust Fund)". At the time of such repayment the Federal aid projects with respect to which funds have been repaid and any other Federal aid projects located on such expressway and programed for expenditure on such project, if any, shall be canceled and withdrawn from the Federal Aid Highway program. Any amount so repaid, together with the unpaid balance of any amount programed for expenditure on any such project shall be credited to the unprogramed balance of Federal-aid highway funds of the same class last apportioned to the States, respectively. The amount so credited shall be available for expenditure in accordance with the provisions of title 23, United States Code, as amended.

RAILROAD RELOCATION DEMONSTRATIONS

SEC. 150. (a) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out demonstration projects in Lincoln, Nebraska, and Elko, Nevada, for the relocation of railroad lines from the central area of the cities in conformance with the methodology developed under proposals submitted to the Secretary by the respective cities. The cities shall (1) have a local agency with legal authority to relocate railroad facilities, levy taxes for such purpose, and a record of prior accomplishment; and (2) have a current relocation plan for such lines which has a favorable benefit-cost ratio involving and having the unanimous approval of three or more class 1 railroads in Lincoln, Nebraska, and the two class 1 railroads in Elko, Nevada, and multicivic, local, and State agencies, and which provides for the elimination of a substantial number of the existing railway-road conflict points within the city.

(b) Federal grants or payments for the purpose of this section shall cover 70 per centum of the costs involved.

(c) The Secretary shall make annual reports and a final report to the President and the Congress with respect to his activities pursuant to this section.

(d) There is authorized to be appropriated not to exceed $1,000,000 in the case of Lincoln, Nebraska, and $1,400,000 in the case of Elko, Nevada, from the Highway Trust Fund, and not to exceed $2,000,000 in the case of Lincoln, Nebraska, and $2,800,000 in the case of Elko, Nevada, from money in the Treasury not otherwise appropriated, for carrying out the provisions of this section.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1972."

PLANNING, ADMINISTRATION, AND EVALUATION OF STATE PROGRAMS

SEC. 202. (a) The fifth sentence of subsection (a) of section 402 of title 23, United States Code, is amended by inserting immediately after "such standards shall include, but not be limited to, provisions for" the following: "planning, administration, and evaluation of the State program,".

(b) Subsection (b)(1) of section 402 of title 23, United States Code, is amended by deleting paragraph (E) and substituting in lieu thereof the following:

"(E) provide for planning, administration, and evaluation of the State program, including (i) identification of the State's highway safety problems, the solutions thereto, and the capability of the State for effecting the solutions; (ii) formulation of objectives for achieving program goals; (iii) development of plans for allocation of resources and specification of steps to achieve objectives; (iv) evaluation of achievements; and (v) revision of the program as necessary to insure the accomplishment of the purposes of this section."

PENALTIES FOR DRIVING WHILE INTOXICATED

SEC. 203. Subsection (a) of section 402 of title 23 of the United States Code is amended by inserting after the fifth sentence the following: "Effective as soon as practicable after the date of enactment of the Highway Safety Act of 1972 such standards shall also include provisions requiring (1) laws prohibiting persons from operating motor vehicles while under the influence of intoxicating liquors or any narcotic or drug which impairs their ability to operate a motor vehicle properly and safely, (2) procedures for effective enforcement of such laws, (3) penalties for violation of such laws which provide a meaningful deterrent to their violation, and, where appropriate, adequate medical treatment for persons violating such laws who are in need of treatment.".

MANPOWER TRAINING AND DEMONSTRATION PROGRAMS

SEC. 204. (a) The first sentence of subsection (c) of section 402 of title 23, United States Code, is amended by inserting immediately after "approved in accordance with subsection (a)," the following: "including the development and implementation of manpower training programs, and of demonstration programs that the Secretary determines will contribute directly to the reduction of accidents, and deaths and injuries resulting therefrom such funds."

PUBLIC ROAD MILEAGE

SEC. 205. Subsection (c) of section 402 of title 23, United States Code, is amended by inserting immediately after the third sentence the following: "Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary."

COMPLIANCE WITH ALCOHOL SAFETY STANDARD

SEC. 206. (a) Subsection (c) of section 402 of title 23 of the United States Code is amended by inserting before the period at the end of the next to the last sentence thereof a comma and the following: *"Provided, however,* That the provisions of this sentence shall not apply in the case of any State which has not prior to July 1, 1974, properly implemented the Secretary's highway safety programs standard numbered 8 (relating to alcohol in relation to highway safety) or any modification or addition to such standard prior to such date.".

(b) Such subsection is further amended by adding immediately after the next to the last sentence thereof the following: "Whenever the Secretary suspends the application of the seventh sentence of this subsection, he shall report within ten days the reasons for such suspension and the period of such suspension to the Committee of the Senate and House of Representatives on Public Works, Commerce and Interstate and Foreign Commerce, and shall publish such report in the Federal Register, and shall notify the State or States involved of such suspension, the reasons therefor and the period thereof, and warn them of the penalty involved."

MINIMUM APPORTIONMENT

SEC. 207. Subsection (c) of section 402 is amended by striking "one-third of 1 per centum" in the fifth sentence thereof as amended, and inserting "one-half of 1 per centum."

INCENTIVES FOR COMPLIANCE WITH HIGHWAY SAFETY STANDARDS

SEC. 208. Section 402 of title 23 of the United States Code is amended by adding a new subsection (i), as follows:

"(i)(1) The Secretary shall award, in addition to other grants pursuant to this section, $10,000,000 in grants in each fiscal year to States which he determines, in accordance with criteria which he shall establish and publish, to have attained above average results in carrying out and achieving the purposes of this chapter. Such grants shall be used by recipient States only to further the purposes of this chapter. The amount appropriated in each fiscal year for the purpose of carrying out this paragraph shall be apportioned among the States eligible for grants pursuant to this paragraph in the ratio which the total apportionments to each State pursuant to section 104(b)(1) and (2) for such year bears to the total such apportionments to all such eligible States for such year.

"(2) The Secretary may also award, in addition to other grants pursuant to this section, $10,000,000 in grants in each fiscal year to States which he determines, in accordance with criteria which he shall establish and publish, to have made the most significant improvements in carrying out and achieving the purposes of this chapter. Such grants shall be used by recipient States only to further the purposes of this chapter. No State shall receive in excess of $500,000 in any fiscal year pursuant to the provisions of this paragraph.".

HIGHWAY SAFETY ON INDIAN RESERVATIONS

SEC. 209. (a) Section 402 of title 23 of the United States Code is amended by adding a new subsection (j), as follows:

"(j) For the purpose of the application of this section on Indian reservations, 'State' and 'Governor of a State' includes the Secretary of the Interior and 'political subdivision of a State' includes an Indian tribe: *Provided,* That, notwithstanding the provisions of subparagraph (C) of subsection (b)(1) hereof, 95 per centum of the funds apportioned to the Secretary of the Interior shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions: *And provided further,* That the provisions of subparagraph (E) of subsection (b)(1) hereof shall be applicable except in those tribal jurisdictions in which the Secretary determines such programs would not be practicable."

(b) Subsection (d) of section 402 of title 23, United States Code, is amended by inserting at the end of the first sentence thereof the following: ", and except that, in the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, he may increase the Federal share of the cost thereof payable under this Act to the extent necessary."

DRUG USE AND HIGHWAY SAFETY

SEC. 210. Section 403 of title 23 of the United States Code is amended by inserting "(a)" immediately before the first sentence thereof, and by adding at the end thereof the following new subsections:

"(b) In addition to the research authorized by subsection (a) of this section, the Secretary, in consultation with such other government and private agencies as may be necessary, is authorized to carry out safety research on the relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles. As soon as practicable, the Secretary shall promulgate a highway safety program standard with respect to drug use in relation to highway safety. The research authorized by this subsection may be conducted by the Secretary through grants and contracts with public and private agencies, institutions, and individuals.

"(c) In addition to the research authorized by subsections (a) and (b) of this section, the Secretary is authorized either independently or in cooperation with other Federal departments or agencies, to conduct research into, and to make grants to or contracts with State or local agencies, institutions, and individuals for demonstration projects for programs of administrative adjudication of traffic infractions. Such administrative adjudication programs shall be designed to improve highway safety by providing fair, efficient, and effective adjudication of traffic infractions, and by utilizing appropriate punishment, training, and rehabilitative measures for traffic law offenders. The Secretary shall report to Congress by July 1, 1974, on the research and demonstration projects authorized by this subsection, and shall include in such report a comparison of the fairness, efficiency, and effectiveness of administrative adjudication of traffic infractions with other methods of handling such infractions."

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

SEC. 211. The second sentence of subsection (a) of section 403 of title 23, United States Code, is amended to read as follows: "In addition, the Secretary may use the funds appropriated to carry out this subsection, either independently or in cooperation with other Federal departments or agencies, for making grants to or contracting with State or local agencies, institutions, and individuals for (1) training or education of highway safety personnel, (2) research fellowships in highway safety, (3) development of improved accident investigation procedures, (4) emergency service plans, (5) demonstration projects, and (6) related activities which are deemed by the Secretary to be necessary to carry out the purposes of this section. The Secretary shall assure that no fees are charged for any meetings or services attendant thereto or other activities relating to training and education of highway safety personnel."

TRANSFER OF DEMONSTRATION PROJECT EQUIPMENT

SEC. 212. Section 403 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The Secretary may, where he deems it to be in furtherance of the purposes of section 402 of this title, vest in State or local agencies, on such terms and conditions as he deems appropriate, title to equipment purchased for demonstration projects with funds authorized by this section."

NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE

SEC. 213. Subsection (a)(1) of section 404 of title 23, United States Code, is amended by inserting immediately after "Federal Highway Administrator," the following: "the National Highway Traffic Safety Administrator,".

DATE OF ANNUAL REPORT

SEC. 214. The first sentence of subsection (a) of section 202 of the Highway Safety Act of 1966 (80 Stat. 736) is amended by deleting "March 1" and substituting in lieu thereof the following: "July 1".

EMERGENCY MEDICAL CARE FOR VICTIMS OF HIGHWAY ACCIDENTS

SEC. 215. (a) Chapter 4 of title 23 of the United States Code is amended by inserting at the end thereof a new section as follows:

"§ 405. Assistance for emergency medical care for victims of highway accidents

"(a) The Secretary is authorized to make grants to the States to assist in developing comprehensive plans for providing improved emergency medical care of victims of highway accidents. Such grants shall cover 70 per centum of the cost of developing such plans, except that no State shall receive in excess of a total of $100,000 pursuant to this section.

"(b) The Secretary is authorized to approve State plans submitted to him and to make grants to the States for the implementation of approved plans for improved emergency medical care for victims of highway accidents. Such grants shall cover 70 per centum of the cost of implementing such approved plans to the extent such cost exceeds the average amount spent by the State on provision of emergency medical care to victims of highway accidents in the three years preceding the enactment of this bill, as determined in accordance with regulations issued by the Secretary. Funds authorized to be appropriated for the purpose of carrying out the provisions of this section shall be apportioned to the States in the same manner as is provided in subsection (b)(2) of section 104 of this title.

"(c) The Secretary shall not approve such plan under this section which does not:

"(1) comply with highway safety program standards numbered 11 (relating to emergency medical services); and

"(2) comply with regulations established by the Secretary with respect to (A) the availability of necessary equipment (including, but not limited to ambulances and, where appropriate, helicopters), (B) the training of medical, paramedical, and other personnel, (C) the utilization to the maximum extent feasible of existing emergency medical care equipment which meets the standards and regulations the Secretary establishes, and (D) such other regulations as he deems necessary to assure that adequate medical care is available to victims of highway accidents throughout the State."

(b) The analysis of chapter 4 of title 23 of the United States Code is amended by adding at the end thereof the following:

"405. Assistance for emergency medical care for victims of highway accidents.".

ELIMINATION OF ROADWAY DANGERS

SEC. 216. (a) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 148. Elimination of roadway dangers

"(a) Funds apportioned pursuant to paragraphs (1), (2), (6), and (7) of subsection (b) of section 104 of this title shall be available to eliminate or reduce the hazards at specific locations or sections of highways and at railroad-highway grade crossings which have high accident experiences or high accident potentials.

"(b) In approving projects under this section, the Secretary shall approve those projects recommended by a State that involve hazards at specific locations or sections of highways and at railroad-highway grade crossings which have been determined, on a statewide basis to be the most hazardous and the elimination of which would result in the greatest increase in highway safety."

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"148. Elimination of roadway dangers."

PAVEMENT-MARKING RESEARCH AND DEMONSTRATION PROGRAM

SEC. 217. (a) In addition to the research authorized by section 307(a) of title 23, United States Code, the Secretary of Transportation is authorized to conduct research and demonstration programs with respect to the effectiveness of various types of pavement markings under inclement weather and nightime conditions.

(b) There is authorized to be appropriated from the Highway Trust Fund to carry out this section by the Federal Highway Administration, for each of the fiscal years ending June 30, 1974, and June 30, 1975, the sum of $10,000,000, to be available until expended.

AUTHORIZATIONS

SEC. 218. There is authorized to be appropriated out of the Highway Trust Fund—

(a) $225,000,000 for the fiscal year ending June 30, 1974, and $250,000,000 for the fiscal year ending June 30, 1975, for carrying out section 402 of title 23 of the United States Code (relating to highway safety programs) by the National Highway Traffic Safety Administration, of which $10,000,000 in each such year shall be for the purposes of section 402(1)(1), and $10,000,000 for section 402(1)(2).

(b) $75,000,000 for the fiscal year ending June 30, 1974, and $50,000,000 for the fiscal year ending June 30, 1975, for carrying out such section 402 by the Federal Highway Administration, of which $25,000,000 for the fiscal year ending June 30, 1974 shall be exclusively available for the purchase of equipment for pavement marking.

(c) $100,000,000 for the fiscal year ending June 30, 1974 and $100,000,000 for the fiscal year ending June 30, 1975, for carrying out section 403 of such title (relating to highway safety research and development) by the National Highway Traffic Safety Administration.

(d) $25,000,000 for the fiscal year ending June 30, 1974, and $25,000,000 for the fiscal year ending June 30, 1975, for carrying out such section 403 by the Federal Highway Administration.

(e) $5,000,000 for the fiscal year ending June 30, 1974, for carrying out section 405 (a) of title 23 of the United States Code (relating to emergency medical care), to remain available until expended and $25,000,000 for the fiscal year ending June 30, 1975, for carrying out section 405(b) of such title.

(f) $250,000,000 for the fiscal year ending June 30, 1974, and $250,000,000 for the fiscal year ending June 30, 1975, for carrying out section 144 of title 23 of the United States Code (relating to the special bridge replacement program).

TITLE III

URBAN MASS TRANSPORTATION ACT OF 1964

SEC. 301. (a) The Urban Mass Transportation Act of 1964 is amended—

(1) by striking out "two-thirds" in the fifth sentence of section 4(a) and inserting in lieu thereof "90 per centum";

(2) by striking out "one-sixth" in the proviso to the second sentence of section 5 and inserting in lieu thereof "40 per centum"; and

(3) by striking out "two-thirds" in the last sentence of section 9 and inserting in lieu thereof "90 per centum".

(b)(1) Section 3 of such Act is amended—

(A) by striking out "No" in the fifth sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (f), no"; and

(B) by adding at the end thereof a new subsection as follows:

"(f) The Secretary is also authorized, on such terms and conditions as he may prescribe, to make grants or loans to any State or local public body to enable it to assist any

mass transportation system which maintains mass transportation service in an urban area to pay operating expenses incurred as a result of providing such service. No financial assistance shall be provided under this subsection unless (1) the Secretary determines that the mass transportation services provided by the system involved are needed to carry out a program referred to in section 4(a), and (2) the applicant State or public body has submitted to the Secretary a comprehensive mass transportation service improvement plan which is approved by him and which sets forth a program, meeting criteria established by the Secretary, for capital or service improvements to be undertaken for the purpose of providing more efficient, economical, and convenient mass transportation service in an urban area, and for placing the mass transportation operations of such system on a sound financial basis. The amount of any grant under this subsection to a State or local public body to enable it to assist any mass transportation system to pay operating expenses shall not exceed twice the amount of financial assistance provided from State or local sources for that purpose. The Secretary shall issue such regulations as he deems necessary to administer this subsection in an equitable manner. Such regulations shall include appropriate definitions of (A) operating expenses, and (B) the sources or types of State or local financial assistance which may be considered in computing the maximum allowable Federal grant."

(2) The fourth sentence of section 4(a) of such Act is amended by striking out "'section 3" and inserting in lieu thereof "section 3 (other than subsection (f))".

(3) Section 12(c) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(C) by adding after paragraph (5) a new paragraph as follows:

"(6) the term 'mass transportation system' means any private company or public authority or agency providing mass transportation service."

(c) Section 4(c) of such Act is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "sections 3, 7(b), and 9" and inserting in lieu thereof "section 3 except subsection (f)), and sections 7(b) and 9";

(3) by striking out "this subsection" wherever it appears and inserting in lieu thereof "this paragraph"; and

(4) by adding at the end thereof a new paragraph as follows:

"(2) To finance grants and loans under section 3(f) of this Act, the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $800,000,000. This amount shall become available for obligation upon the date of enactment of this paragraph and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $400,000,000 prior to July 1, 1973, which amount may be increased to not to exceed an aggregate of $800,000,000 prior to July 1, 1974. Sums so appropriated shall remain available until expended."

(d) Section 4(c) of such Act is amended by striking out $3,100,000,000" in the first and third sentences and inserting in lieu thereof "$6,100,000,000".

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

ORDER FOR ADJOURNMENT UNTIL 8:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 a.m. tomorrow.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR CONSIDERATION OF S. 3716 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the orders for the recognition of Senators on tomorrow morning, there be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes, at the conclusion of which the Chair lay before the Senate S. 3716.

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

DWIGHT D. EISENHOWER MEMORIAL BICENTENNIAL CIVIC CENTER ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 1089, S. 3943.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3943) to amend the Public Buildings Act of 1959, as amended, to provide for the construction of a civic center in the District of Columbia, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Public Works with amendments on page 6, after line 16, insert:

"(4) No purchase contract for the construction of such civic center shall be entered into, pursuant to the authority of this section, until thirty legislative days following submittal to the Senate and House Committees for the District of Columbia, and the Senate and House Committees on Appropriations, of the design, plans, and specifications, including detailed cost estimates, of such civic center.

On page 7, after line 22 insert:

"(g) In any case in which a public utility company is required to relocated, adjust, replace, remove, or abandon any of its major facilities by reason of the construction of such civic center, such utility shall, in addition to any compensation received by it pursuant to subsection (c) of this section, be reimbursed—

"(1) for costs incurred by any such utility which are associated with the dismantling of any such facility, as well as the removal of salvageable equipment therefrom;

"(2) for costs incurred by any such utility, which are associated with the relocation and reinstallation of salvageable equipment removed in accordance with paragraph (1);

"(3) for costs incurred by any such utility, which are associated with relocating, rerouting, or restoring the utility service load, excepting those relocation costs directly associated with street closings; and

"(4) in an amount sufficient to enable such utility to attain an allowable rate of return on its increased plant investment due to the necessity, by reason of the construction of such civic center, of constructing replacement facilities in advance of a scheduled construction program planned for calendar year 1978."

On page 99, line 3, after "$14,000,000", insert "for a contribution to the District of Columbia as the Federal share of carrying out the purposes of this act,";

After line 6, insert a new section, as follows:

SEC. 5. The post office and Federal office building at the corner of Lincoln and Central Streets, Essex Junction, Vermont, shall hereafter be known and designated as the "Winston Prouty Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Winston Prouty Federal Building".

After line 13, insert a new section, as follows:

SEC. 6. The Department of Health, Education, and Welfare South Building located at 330 C Street Southwest, Washington, District of Columbia, is hereby designated, and shall be known, as the "Mary Switzer Memorial Building". Any law, rule, regulation, document, map, or record of the United States in which reference is made to the Health, Education, and Welfare South Building referred to in the first sentence shall be held and considered to be a reference to the "Mary Switzer Memorial Building".

After line 22, insert a new section, as follows:

SEC. 7. The Federal office building to be constructed in Fitchburg, Massachusetts, on the site bounded by Maine and Academy Streets on the Marrman Parkway, is hereby designated and shall be known as the "Philip J. Philbin Federal Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Philip J. Philbin Federal Office Building".

On page 10, after line 5, insert a new section, as follows:

SEC. 8. The post office and Federal office building to be constructed in the block bounded by Grinage Street, Verret Street, Lafayette Street, and High Street in Houma, Louisiana, is hereby designated as the "Allen J. Ellender Post Office Building", in memory of the late Allen J. Ellender. Any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Allen J. Ellender Post Office and Federal Office Building".

After line 14, insert a new section, as follows:

SEC. 9. The Federal office building and United States courthouse to be constructed in the southwest portion of that block bounded by Mitchell Street, Pryor Street, Central Avenue, and Trinity Avenue in Atlanta, Georgia, is hereby designated as the

"Richard B. Russell Federal Building", in memory of the late Richard Brevard Russell, a distinguished Member of the United States Senate from 1933 to 1971, and any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Richard B. Russell Federal Building".

At the top of page 11, insert a new section, as follows:

SEC. 10. The Federal building being constructed in the block bounded by Ninth Street Northwest, Tenth Street Northwest, E Street Northwest, and Pennsylvania Avenue Northwest, in the District of Columbia shall hereafter be known and designated as the "J. Edgar Hoover F.B.I. Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "J. Edgar Hoover F.B.I. Building".

After line 9, insert a new section, as follows:

SEC. 11. The Federal office building now under construction in the Capital Plaza area of Frankfort, Kentucky, is hereby designated as the "John C. Watts Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John C. Watts Building".

And after line 15, insert a new section, as follows:

SEC. 12. The effective period for each provision relating to the Speaker of the House of Representatives in the Ninety-first Congress which is contained in H. Res. 1238, Ninety-first Congress, as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971 (84 Stat. 1989), is hereby extended for an additional one Congress from the date on which (but for this section) such provision would expire.

So as to make the bill read:

S. 3943

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 "Dwight D. Eisenhower Memorial Bicentennial Civic Center Act".

SEC. 2. The Congress hereby finds and declares that—

(1) it is essential to the social and economic development of the District of Columbia to establish major centers for commercial and economic activity within the city;

(2) such a center of activity would result from the development of a civic center located in the downtown area of the District of Columbia;

(3) a civic center would (A) attract large numbers of visitors to the downtown area and result in increased business activity in the area surrounding the center; (B) enable national organizations to hold their conventions and other meetings in the District of Columbia and thereby encourage citizens from the entire Nation to visit their Capital City; (C) provide a new source of revenue for the District of Columbia as a consequence of its operations and the expanded commercial activities resulting therefrom; and (D) provide expanded employment opportunities for residents of the District of Columbia.

(4) it is fitting that said civic center be established as a memorial to the late President, Dwight D. Eisenhower;

(5) the prompt provision of major convention facilities in the District of Columbia will significantly contribute to the commemoration of the Nation's bicentennial year; and

(6) the powers conferred by this Act are for public uses and purposes for which public powers may be employed, public funds may be expended, and the power of eminent domain and the police power may be exercised, and the granting of such powers is necessary in the public interest.

SEC. 3. The Public Buildings Act of 1959 (73 Stat. 479) as amended (40 U.S.C. 601 et seq.), is amended by adding at the end thereof the following new section:

"SEC. 17. (a) In order to provide for the District of Columbia facilities for the holding of conventions, exhibitions, meetings, and other social, cultural, and business activities, the Commissioner of the District of Columbia (hereinafter, "Commissioner") is authorized to provide for the development, construction, operation, and maintenance of the civic center to be designated as the Dwight D. Eisenhower Memorial Bicentennial Civic Center on a site in the Northwest section of the District of Columbia within an area bounded by Eighth Street, H Street, Tenth Street, New York Avenue, and K Street.

"(b)(1) Such civic center shall be in accordance with a plan, indicating the design and estimated costs, approved by the Commissioner and the District of Columbia Council, and approved by the National Capital Planning Commission pursuant to section 5 of the National Capital Planning Act of 1952 (D.C. Code, sec 1–1005) and section 16 of the Act approved June 20, 1938 (D.C. Code, sec. 5–428), and reviewed by the Commission of Fine Arts to the extent required by section 1 of the Act approved May 16, 1930 (D.C. Code, sec. 5–410).

"(2) Notwithstanding the provisions of section 12 of the District of Columbia Redevelopment Act of 1945, as amended (D.C. Code, sec. 5–711), the urban renewal plan, approved pursuant to section 6(b)(2) of such Act (D.C. Code, sec. 5–705(b)(2)), for an urban renewal area in which the civic center is located shall be deemed to be modified by the plan approved pursuant to this subsection and the National Capital Planning Commission shall certify such urban renewal plan, as modified, to the District of Columbia Redevelopment Land Agency.

"(3) In the development of the civic center in accordance with the plan approved pursuant to this subsection, the Commissioner, notwithstanding any other provision of law, may open, extend, widen, or close any street, road, highway, or alley, or part thereof, by the filing of a plat or plats in the Office of the Surveyor of the District of Columbia showing such opening, extension, widening or closing.

"(c) The Commissioner shall acquire, by purchase, gift, condemnation, or otherwise, all real property necessary to provide for the civic center.

"(d)(1) The Commissioner is authorized to enter into purchase contracts including negotiated contracts, for the financing, design, construction, and maintenance of the civic center. The Commissioner is further authorized to lease the site described in subsection (a) at a nominal rental for a period of not more than thirty-five years. The payment term of said purchase contracts shall not be more than thirty years from the date of acceptance of the civic center and such purchase contracts shall provide that title to the civic center shall vest in the District of Columbia at or before the expiration of the contract term and upon fulfillment of the terms and conditions stipulated in the purchase contracts. Such terms and conditions shall include provision for the application to the purchase price agreed upon therein of installment payments made thereunder.

"(2) Such purchase contracts shall include such provisions as the Commissioner, in his discretion, shall deem to be in the best interest of the District of Columbia and appropriate to secure the performance of the obligations imposed upon the party or parties that shall enter into such agreement with the Commissioner. The purchase contracts shall provide for payments to be made to—

"(A) amortize the cost of site acquisition, including relocation payments required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and such other moneys as may be advanced by the contracts to the District of Columbia;

"(B) amortize the cost of construction of improvements to be constructed;

"(C) provide a reasonable rate of interest on the outstanding principal as determined under subparagraphs (A) and (B) above; and

"(D) reimburse the contractors for the cost of any other obligations required of them under the contract, including (but not limited to) payment of taxes, costs of carrying appropriate insurance, and costs of repair and maintenance if so required of the contractors.

"(3) For the purpose of the purchase contracts provided by this subsection for the erection of the civic center, the Commission is authorized to enter into agreements with any person, copartnership, corporation, or other public or private entity, to effectuate any of the purposes of this subsection.

"(4) No purchase contract for the construction of such civic center shall be entered into, pursuant to the authority of this section, until thirty legislative days following submittal to the Senate and House Committees for the District of Columbia, and the Senate and House Commitees on Appropriations, of the design, plans, and specifications, including detailed cost estimates, of such civic center.

"(e) The full faith and credit of the government of the District of Columbia is hereby committed to guarantee, upon such terms and conditions as may be prescribed by the Commissioner, the fulfillment of all obligations imposed by the provisions of this section.

"(f)(1) The Commissioner is authorized to accept and administer gifts, personal services, securities, or other property of whatever character to aid in carrying out the purposes of this section.

"(2) The Commissioner is further authorized to provide for the operation of any or all aspects of the civic center by any department or agency of the government of the District of Columbia, or may provide for the performance of such operations, including the use or rental of the civic center or its equipment, motor vehicle parking facilities, concessions, and other activities, by contract entered into with any person, copartnership, corporation, or other public or private entity, upon such terms and conditions as may be stipulated in the agreements; and for such purposes may utilize or employ the services of personnel of any agency or instrumentality of the United States or the District of Columbia, with the consent of such agency or instrumentality, upon a reimbursable or nonreimbursable basis, and may utilize voluntary or uncompensated personnel.

"(g) In any case in which a public utility company is required to relocate, adjust, replace, remove, or abandon any of its major facilities by reason of the construction of such civic center, such utility shall, in addition to any compensation received by it pursuant to subsection (c) of this section, be reimbursed—

"(1) for costs incurred by any such utility, which are associated with the dismantling of any such facility, as well as the removal of salvageable equipment therefrom;

"(2) for costs incurred by any such utility, which are associated with the relocation and reinstallation of salvageable equipment removed in accordance with paragraph (1);

"(3) for costs incurred by any such utility, which are associated with relocating, rerouting, or restoring the utility service load, excepting those "relocation costs directly associated with street closings; and

"(4) in an amount sufficient to enable such utility to attain an allowable rate of

return on its increased plant investment due to the necessity, by reason of the construction of such civic center, of constructing replacement facilities in advance of a scheduled construction program planned for calendar year 1978."

SEC. 4. (a) There is authorized to be appropriated out of the revenues of the District of Columbia such sums as may be necessary to carry out the purposes of this Act. Such sums shall remain available for obligation until expended.

(b) There is authorized to be appropriated, without fiscal year limitation, and out of any money in the Treasury not otherwise appropriated, not to exceed $14,000,000 for a contribution to the District of Columbia as the Federal share of carrying out the purposes of this Act, to remain available until expended.

SEC. 5. The post office and Federal office building at the corner of Lincoln and Central Streets, Essex Junction, Vermont, shall hereafter be known and designated as the "Winston Prouty Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Winston Prouty Federal Building".

SEC. 6. The Department of Health, Education, and Welfare South Building located at 330 C Street Southwest, Washington, District of Columbia, is hereby designated, and shall be known, as the "Mary Switzer Memorial Building". Any law, rule, regulation, document, map, or record of the United States in which reference is made to the Health, Education, and Welfare South Building referred to in the first sentence shall be held and considered to be a reference to the "Mary Switzer Memorial Building".

SEC. 7. The Federal office building to be constructed in Fitchburg, Massachusetts, on the site bounded by Maine and Academy Streets on Marrman Parkway, is hereby designated and shall be known as the "Philip J. Philbin Federal Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Philip J. Philbin Federal Office Building".

SEC. 8. The post office and Federal office building to be constructed in the block bounded by Grinage Street, Verret Street, Lafayette Street, and High Street in Houma, Louisiana, is hereby designated as the "Allen J. Ellender Post Office Building", in memory of the late Allen J. Ellender. Any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Allen J. Ellender Post Office and Federal Office Building".

SEC. 9. The Federal office building and United States courthouse to be constructed in the southwest portion of that block bounded by Mitchell Street, Pryor Street, Central Avenue, and Trinity Avenue in Atlanta, Georgia, is hereby designated as the "Richard B. Russell Federal Building", in memory of the late Richard Brevard Russell, a distinguished Member of the United States Senate from 1933 to 1971, and any reference to such building in any law, regulation, document, map, or other paper of the United States shall be deemed a reference to such building as the "Richard B. Russell Federal Building".

SEC. 10. The Federal building being constructed in the block bounded by Ninth Street Northwest, Tenth Street Northwest, E Street Northwest, and Pennsylvania Avenue Northwest, in the District of Columbia shall hereafter be known and designated as the "J. Edgar Hoover F.B.I. Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such Federal building shall be held to be a reference to the "J. Edgar Hoover F.B.I. Building".

SEC. 11. The Federal office building now under construction in the Capital Plaza area of Frankfort, Kentucky, is hereby designated as the "John C. Watts Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John C. Watts Building".

SEC. 12. The effective period for each provisions relating to the Speaker of the House of Representatives in the Ninety-first Congress which is contained in H. Res. 1238, Ninety-first Congress, as enacted into permanent law by chapter VIII of the Supplemental Appropriations Act, 1971 (84 Stat. 1989), is hereby extended for an additional one Congress from the date on which (but for this section) such provision would expire.

The amendments were agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92–1145), explaining the purposes of the measure.

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

COMMITTEE AMENDMENTS

The Committee has recently expressed desire that Congress retain some involvement in the planning and execution of Federal building projects. By this means, the Committee hopes to avoid the necessity for subsequent legislation when projects have reached an advanced stage of construction or are completed. Consequently, an amendment is included in this bill giving the Senate and House Committees on the District of Columbia, and Appropriations, 30 days to review plans, specifications, and cost estimates of the civic center before construction contracts are awarded.

The area in which the civic center is proposed to be constructed contains a major electric utility substation which serves a number of government buildings, including the White House. This facility contains sophisticated equipment and will have to be relocated. The Committee believes that customers of the electric utility should not have to pay for this relocation and includes in this bill an amendment to provide the cost of such relocation.

In addition, S. 3943, provides for the naming of certain Federal buildings. A committee amendment also authorizes the House of Representatives to continue providing office space for the former Speaker of the House during the 93rd Congress.

SUMMARY OF LEGISLATION

S. 3943, as reported, amends the Public Buildings Act of 1959 (73 Stat. 479), as amended (40 U.S.C. 601 et seq), to:

(1) Authorize the construction of a civic center in the District of Columbia, to be designated the Dwight D. Eisenhower Memorial Bicentennial Civic Center;

(2) Authorize the Commissioner of the District of Columbia to acquire, by purchase, gift, condemnation, or otherwise, all real property necessary to provide for the civic center;

(3) Authorize the Commissioner to enter into purchase contracts including negotiated contracts for the financing, design, construction, operation, and maintenance of the civic center;

(4) Authorize appropriation of a sum, not to exceed $14,000,000 for a contribution to the District of Columbia, as the Federal share of carrying out the purposes of this Act, to remain available until expended;

(5) Authorize that Federal buildings in seven U.S. cities be designated, respectively, as the Winston Prouty Federal Building, Mary Switzer Memorial Building, Philip J. Philbin Federal Office Building, Allen J. Ellender Post Office and Federal Office Building, Richard B. Russell Federal Building, J. Edgar Hoover F.B.I. Building, and John C. Watts Building; and

(6) Authorize that the effective period for each provision relating to the Speaker of the House of Representatives in the Ninety-first Congress, which is contained in H. Res. 1238, Ninety-first Congress, be extended for an additional period of one Congress from the date on which such provision would otherwise expire.

GENERAL STATEMENT

The Washington Metropolitan Area, with a population of 2.9 million, is the Nation's seventh largest and fastest growing major metropolis, The main industry in the District of Columbia, after Federal government activities, is tourism, but the City of Washington currently lacks a modern convention center. As a result, large conventions, exhibitions, and trade shows of American industry, commerce, education, and religion cannot be held in the Nation's Capital. The proposed center would remedy this deficiency and would be a source for new jobs and a stimulus for other businesses in the city, such as hotels and restaurant operations. In addition, it will be a key element in the revitalization of the downtown area.

The purchase-contract method of financing the facility, as provided in S. 3943, is comparable to recently enacted amendments to the Public Buildings Act of 1959, as amended, and now set forth in Public Law 92–313.

The authorization of $14,000,000 as a contribution to the District of Columbia, representing the Federal share of carrying out th. purposes of this Act, is essential to ease the city's financial burden during the first few years of the center's operation. It is anticipated that four or five years will be necessary for the Center to reach full operations after it is completed. Once these are underway, operating costs are expected to slightly exceed revenues.

In addition to authorizing the Commissioner to condemn property within the proposed site, special provision is made to reimburse the Potomac Electric Company for the costs associated with the removal of its "Sinclair" substation from the proposed site area. This substation supplies electricity to various Federal buildings including the White House and contains special equipment which must be moved in order to maintain the type and quality of services needed. The Committee feels that the costs associated with the relocation should be borne by this project rather than being transferred to the general public through the usual rate increase proceeding.

HEARINGS

Hearings were conducted jointly by the Subcommittees on Public Buildings and Grounds of the Senate and House, Committees on Public Works, on August 9, 1972, subsequent to previous hearings, conducted by the House Subcommittee in February, 1971. In addition, during Executive Sessions of the Senate and House Subcommittees, testimony was submitted by the Mayor and Chairman of the City Council of the District of Columbia, representatives of the National Capital Planning Commission, the Redevelopment Land Agency, and other responsible officials, whose active participation in development of this facility is essential.

COMMITTEE VIEWS

The Committee believes that passage of this legislation will provide a strong stimulus to the economy and image of the downtown section, and that the benefits to the community of a convention facility extend beyond those directly associated with delegate expenditures. The Commercial activity generated by conventions will help to support the community facilities that are of direct

benefit to non-convention-related businesses, and to residents and visitors. Such facilities include hotels, restaurants, and intra- and inter-city transportation. A successful convention is an excellent promotional device for the community in general and enhances the community's image, thus encouraging the movement of new commercial and industrial activities into the area. Equally, if not more important than broadening the economic base of the area, is the social and psychological benefits that derive from redevelopment in this downtown section, and which will vastly improve its environmental conditions, public safety, and image.

The Committee further feels that the civic center will provide a suitable monument to the memory of the late President Dwight D. Eisenhower and that the building should be named, appropriately, in his honor and recommends passage of the bill.

COST OF LEGISLATION

The total cost of the proposed facility is estimated at approximately $65,000,000, including site acquisition and relocation expenses. This bill authorizes a $14,000,000 contribution to the District of Columbia as the Federal share of carrying out the purposes of this Act, which will help sustain the project during the first few years of operations, or until it becomes reasonably self-supporting. All other necessary capital will be provided from private sources and the District Government's monetary outlay would be limited to the 30 annual installments necessary to repay the initial expenditure, and provide an adequate rate of return for the investors. This will necessitate the District Government entering into a purchase agreement, but with payments not to begin until the facility has been accepted. This method of financing is comparable with that provided for in the recently enacted Public Law 92-313.

SECTION-BY-SECTION ANALYSIS

SEC. 2. This section declares the center to be essential to the social and economic development of the District of Columbia, and would result in increased business activity in the vicinity. Also, that it would enable national organizations to hold conventions, and other meetings in the District, encouraging citizens from the entire Nation to visit the Capital. Further, it stresses that new sources of income would be provided through expanding employment opportunities and increased tax revenues. This section also notes the appropriateness of establishing the civic center as a memorial to the late President, Dwight D. Eisenhower, states that it will significantly contribute to the commemoration of the Nation's Bicentennial Year, and designate that powers conferred by this Act are for public uses and purposes.

SEC. 3. This section amends the Public Buildings Act of 1959, as amended, by adding at the end a new Section 17, which authorizes the Commissioner of the District of Columbia to provide for the development, construction, operation and maintenance, of the civic center, and designates boundaries of the site on which it is to be constructed. It authorizes the Commissioner to acquire, by purchase, gift, condemnation, or otherwise, all property necessary to provide for the construction of the civic center. It further authorizes the Commissioner to enter into purchase contracts, including negotiated contracts, for the financing, design, construction and maintenance of the civic center.

The Commissioner is further authorized to lease the site, at a nominal rental, for a period of not more than 35 years. The payment terms of said purchase contract shall not be more than 30 years, and such purchase contracts shall provide the title to the civic center, which shall vest in the District of Columbia at or before expiration. Such purchase contract shall include such provisions as the Commissioner shall deem to be in the best interest of the District of Columbia. The Commissioner is further authorized to provide for the operation of any or all aspects of the civic center by any department or agency of the government of the District of Columbia, or may provide for the performance of such operations by contract entered into with any public or private entity, and for such purpose may utilize or employ the services of personnel of any agency upon a reimbursable, nonreimbursable, voluntary, or uncompensated basis.

SEC. 4. This section authorizes, to be appropriated, a sum not to exceed $14 million for a contribution to the District of Columbia, as the Federal share of carrying out the purposes of this Act, to remain available until expended.

SEC. 5. This section designates the Federal Building in Essex Junction, Vermont, as the "Winston Prouty Federal Building".

SEC. 6. This section designates the building in Washington, D.C. as the "Mary Switzer Memorial Building".

SEC. 7. This section designates a building in the City of Fitchburg, Massachusetts as the "Philip J. Philbin Federal Office Building".

SEC. 8. This section designates a building in the city of Houma, Louisiana as the "Allen J. Ellender Post Office and Federal Office Building".

SEC. 9. This section designates a building in Atlanta, Georgia as the "Richard B. Russell Federal Building".

SEC. 10. This section designates a building in Washington, D.C. as the "J. Edgar Hoover F.B.I. Building".

SEC. 11. This section designates a building in Frankfort, Kentucky as the "John C. Watts Building".

SEC. 12. This section authorizes that the effective period for each provision relating to the Speaker of the House of Representatives in the Ninety-first Congress, which is contained in H. Res. 1238, Ninety-first Congress, be extended for an additional period of one Congress from the date on which such provision would otherwise expire.

CHANGES IN EXISTING LAW

Subsection (4) of Rule XXIX of the Standing Rules of the Senate requires inclusion in the report of any bill, the changes that such bill would make in existing law. It is the opinion of the Committee that the requirements of subsection (4)of Rule XXIX can be dispensed with in order to expedite the business of the Senate.

SERVICE CONTRACT ACT AMENDMENT OF 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1074, H.R. 15376.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 15376) to amend the Service Contract Act of 1965 to revise the method of computing wage rates under such Act, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with amendments.

On page 1, line 8, after the word "including", strike out ", if the Secretary so elects,";

On page 2, line 7, after the word "including", strike out ", if the Secretary so elects,";

In line 14, after the word "employees", strike out "of" and insert "if";

On page 3, after line 2, strike out:

"(c) No contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and, if the Secretary so elects, any prospective increases in wages and fringe benefits provided for in a collective bargaining agreement as a result of arm's length negotiations, to which such service employee would have been entitled if he were employed under the predecessor contract.

And, in lieu thereof, insert:

"(c) No contractor or subcontractor under a contract, which succeeds a contract subject to this Act and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits, including accrued wages and fringe benefits, and any prospective increases in wages and fringe benefits provided for in a collective-bargaining agreement as a result of arm's-length negotiations, to which such service employees would have been entitled if they were employed under the predecessor contract: *Provided,* That in any of the foregoing circumstances such obligations shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality.

On page 4, line 18, after the word "than", strike out "thirty" and insert "ninety";

On page 5, line 22, after "1977," insert "and for each fiscal year thereafter,";

On page 6, line 1, after the word "employed.", insert a quotation mark;

And, after line 2, strike out:

"(6) For the fiscal year ending June 30, 1978, and for each fiscal year thereafter, all contracts subject to this Act."

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Florida (Mr. GURNEY).

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

STATEMENT BY SENATOR GURNEY

With the passage today of H.R. 15376, to revise the method of computing wage rates under the Service Contract Act of 1965, the Senate has joined with the House of Representatives in establishing some much needed and long overdue protections for individuals all over this country who are employed under service contracts with the Federal Government. This piece of legislation other than some committee changes, is identical to S. 3827, which I introduced with the distinguished Senator from New Jersey (Mr. WILLIAMS). I was also especially pleased to have as a co-sponsor of the legislation my esteemed colleague from Alaska (Mr. STEVENS).

Mr. President, there is no question that this legislation was needed. Despite the present existence of the Service Contract Act of 1965, a cloud of professional and economic uncertainty hovers over the heads of one million service contract workers fulfilling 25

thousand service contracts. Experiences at Cape Kennedy in my own State of Florida clearly indicate that regardless of how loyal or how hard working or how skilled an employee is, regardless of how long he has been working under one of these service contracts, he faces the possibility every year or so, that a new company will come in and successfully underbid his employer.

When this happens, he finds himself possibly out of work, definitely reduced in income, fringe benefits, seniority and stripped of pension rights. This occurred at the Kennedy Space Center and nearly repeated itself at Patrick Air Force Base.

It has occurred in other service contract situations. This legislation confronted the Congress with the decision as to whether or not it is moral to trade men's wages and careers for the sake of expediency. And Congress has today decided in the negative.

In these service contracts, the major factor up for bid is wages. Since that is the only factor that really amounts to anything, it is very tempting to get in a low bid, by bidding down wages. It seems to me that Congress has acted wisely with this legislation to insist that an unconscionable cutthroat bidding does not sacrifice the lives of individuals who have worked so hard, so long, and so loyally for Federal programs.

Mr. President, the economic aspects of this cutthroat activity I am talking about is not limited to the employees involved and their families, the repercussions are community wide.

Banks find themselves in the position of having to foreclose on houses which then become a glut on the market. Property values decline sharply. Automobiles and other personal property are foreclosed. Merchants are hit hard because people cannot afford to purchase goods. The entire economy of an area which depends on Government operations is quite literally blown apart.

This bill is a simple one. It merely requires that a successful bidder on a service contract cannot pay employees less than they were receiving from their former employer unless his wages are out of line. These provisions are long overdue. They should have been incorporated in the Service Contract Act when it was passed in 1965.

Many of us thought with the passage of that legislation that the problem confronting these service contract employees was solved. However, we have seen situations where the Department of Labor refused to make any wage study as provided under the act at all, choosing to totally abandon these employees.

And when, as occurred last year at Patrick Air Force Base, through active congressional intervention on the part of myself and others, we were able to force the Department of Labor to make a wage survey, the criteria selected was such that the employees were still forced to take drastic cuts in wages. Thus, it became clear that the one possible saving grace of the whole bill, namely the possibility of wage surveys to establish levels of wages fringe benefits, did not function in an adequate manner.

For example, in that Patrick situation, a wage survey was conducted over a multicounty area, much of which was rural with a lower economic base. Thus, the wage study, while an improvement over what might have occured had one not been conducted, still was not an adequate safeguard against the kind of unfair practices that I am concerned about.

To force lower wages and reduce benefits for a man of 40 plus years of age who has worked hard all his life to build up some financial security and seniority—to literally pull the rug out from under him—is not only unjust but unconscionable.

Extensive oversight hearings by the special subcommittee on Labor of the House Education and Labor Committee produced findings which support my personal experience. Among the findings of the committee were these:

(1) The Department of Labor has failed to make wage and benefit determinations for almost two-thirds of those contracts subject to the act. (Indeed, as I have pointed out in the case of Patrick Air Force Base, Florida, only the firmest of congressional pressure was able to penetrate the department's bureaucratic inertia and to get a study undertaken.)

(2) A section of the act giving the Secretary of Labor discretion in administering the act has been stretched far beyond what the Congress intended.

(3) The practice of rebidding contracts, either without wage and fringe determinations, or with unrealistically low determinations, is creating chaos for reputable contractors and great hardships for employees.

The legislation we have passed today will end these problems. It will ensure that wages and fringe benefits are not cut to ribbons in the process of contract bidding. It will help establish some equality between these service contract employees and those performing the same jobs for a Federal agency under title 5, United States Code.

I should like to make one final point. In all of these service contract situations, the ultimate employer is in fact the Federal Government. It is the Federal Government who decides if an installation is going to be placed in a particular area. It is the Federal Government who decides the work to be done on that installation. It is the Federal Government who puts out the bids for the service contract which employ the people that we are concerned with protecting. The Federal Government, therefore, has a very, very strong responsibility to these people and to their communities. It does not meet these responsibilities by sitting back and through inaction, or inappropriate action, permitting the economic lives of individuals and the economic lives of communities to be placed on the auction block and sacrificed.

I would submit to you that this legislation is long overdue. Much damage has been done. Fortunately, the Senate has finally acted in this matter to avoid the further repetition of past mistakes.

RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3598 be referred to the Committee on Finance, with the understanding that it be reported back within 1 week. I do this at the request of the distinguished Senator from Louisiana (Mr. LONG), with the concurrence of the distinguished Senator from New Jersey (Mr. WILLIAMS), and at the direction of the distinguished majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I am the ranking Republican member of that committee. I would like to know what that bill is.

Mr. ROBERT C. BYRD. Mr. President, temporarily I withhold the request.

Mr. JAVITS subsequently said: Mr. President, may I say to the Senator, with respect to the matter of referring the pension bill to the Committee on Finance, that I am ascertaining now what that is all about, as I was not here yesterday because of religious reasons.

It may be perfectly all right. I hope he will not adjourn the Senate until I can get the matter concluded, as I have no desire to appear discourteous.

Senator WILLIAMS and I are the authors of this bill. I am the original author of it—some years back. It is a bill of very great importance, and it is a matter of great pride to me that it has been brought to this stage. So, if the Senator will give me an opportunity, I do not want what I have said to appear invidious to the Committee on Finance.

Mr. ROBERT C. BYRD. Not at all.

Mr. JAVITS. It may very well have been agreed to by Senator WILLIAMS, and I may be in agreement, but it caught me by surprise.

Mr. ROBERT C. BYRD. I appreciate what the Senator has said; but, for the record, may I say that the distinguished chairman of the Committee on Finance, the Senator from Louisiana (Mr. LONG), addressed a letter to the distinguished majority leader requesting that this bill, S. 3598, be referred to the Committee on Finance. I later went to Mr. LONG, at the request of the majority leader, and to Mr. WILLIAMS, and Mr. LONG and Mr. WILLIAMS agreed that 1 week would be fine. Mr. WILLIAMS had no objection.

Mr. President, I withhold the request for the moment, so as to accommodate the distinguished Senator from New York (Mr. JAVITS).

Mr. JAVITS. I thank the Senator. I wish to accommodate him and the Senate, but I do want to find out what it is all about.

Mr. ROBERT C. BYRD. Yes.

CONSULAR CONVENTION BETWEEN THE UNITED STATES AND THE POLISH PEOPLE'S REPUBLIC; CONSULAR CONVENTION BETWEEN THE UNITED STATES AND THE SOCIALIST REPUBLIC OF ROMANIA; CONSULAR CONVENTION BETWEEN THE UNITED STATES AND THE HUNGARIAN PEOPLE'S REPUBLIC

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Consular Convention between the United States and the Polish People's Republic, with Protocols (Executive U, 92d Cong., second sess.); the Consular Convention between the United States and the Socialist Republic of Rumania (Executive V, 92d Cong., second sess.); and the Consular Convention between the United States and the Hungarian People's Republic (Executive W, 92d Cong., second sess.); all transmitted to the Senate today by the President of the United States.

I ask unanimous consent that the three conventions with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

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

The messages from the President are as follows:

To the Senate of the United States:

I am pleased to transmit for the Senate's advice and consent to ratification the Consular Convention between the Government of the United States of

America and the Government of the Polish People's Republic, with Protocols, signed at Warsaw on May 31, 1972, on the occasion of my recent visit there. The Convention was accompanied by two related exchanges of notes, which are transmitted for the information of the Senate.

The signing of this treaty is a significant step in the gradual process of improving and broadening the relationship between the United States and Poland. Consular relations between the two countries have not previously been subject to formal agreement. This Convention will establish firm obligations on such important matters as free communication between a citizen and his consul, notification to consular offices of the arrest and detention of their citizens, and permission for visits by consuls to citizens who are under detention.

The people of the United States and Poland enjoy a long tradition of friendship. I welcome the opportunity through this Consular Convention to strengthen the ties between our two nations. I urge the Senate to give the Convention its prompt and favorable consideration.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1972.*

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Consular Convention between the United States of America and the Socialist Republic of Romania, signed at Bucharest on July 5, 1972.

The Convention was signed by Secretary of State William P. Rogers, who was paying an official visit to Romania, and by Foreign Minister Corneliu Manescu. It is evidence of the continued improvement and expansion of United States-Romanian relations.

This new Convention, replacing one concluded in 1881, will make possible improved consular services in both countries. It will ensure unhindered communication between a citizen and his consul and prompt visit by consuls to citizens who are detained. Under the Convention, American citizens in Romania will have a fuller degree of consular assistance and protection than ever before.

I hope that the Senate will act favorably on the Consular Convention with Romania at an early date.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1972.*

To the Senate of the United States:

I am transmitting for the Senate's advice and consent to ratification the Consular Convention between the United States of America and the Hungarian People's Republic, signed at Budapest on July 7, 1972.

Secretary of State William P. Rogers signed the Convention for the United States during his official visit to Hungary. It is the first bilateral treaty concluded between the Governments of the United States and Hungary since World War II and reflects the increasingly warm contacts developing between Americans and Hungarians as well as between their Governments.

The Consular Convention, like others recently negotiated with Poland and Romania, will make possible improved consular services, including guaranteed communication between a citizen and his consul and prompt notification in case of detention.

I believe that this Convention will provide a cornerstone for the development and maintenance of friendly relations with Hungary, and I recommend that the Senate advise and consent to its ratification.

RICHARD NIXON.

THE WHITE HOUSE, *September 19, 1972.*

RESCISSION OF THE ORDER FOR THE RECOGNITION OF SENATOR MONTOYA TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of the distinguished Senator from New Mexico (Mr. MONTOYA) on tomorrow, for not to exceed 15 minutes, be vacated.

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

PUBLIC HEALTH SERVICE ACT—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, with the approval of the distinguished assistant Republican leader, and at the direction of the distinguished majority leader, I ask unanimous consent that the following agreement be entered into in the usual form:

That on S. 3716 there be a time limitation of 30 minutes, to be equally divided between the manager of the bill and the distinguished Republican leader or his designee; that time on any amendment thereto be limited to 20 minutes, to be equally divided between the mover of such and the manager of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, this, again, is a bill out of the Committee on Labor and Public Welfare, on health. There will be amendments to the bill. I have not yet noted what the amendments will be. I note that the limitation of time on an amendment is 20 minutes.

May I ask the Senator who cleared that bill on this side? I never heard of it.

Mr. ROBERT C. BYRD. Would the Chair indulge me?

Mr. JAVITS. Mr. President, I would suggest to the Senator from West Virginia that the time on amendments is all right as he says it, but that there be time on amendments to the amendment, and also that the time on any amendment dealing with the so-called Hill-Burton formula, which is a matter of great interest to his colleague from West Virginia, be limited to 1 hour, with amendments to such amendment being limited to 20 minutes, 10 minutes on a side.

Mr. ROBERT C. BYRD. With respect to amendments to amendments, these are taken care of in the request I have presented. However, with respect to the suggestion by the distinguished Senator from New York that there be 1 hour on any amendment which may be proposed conforming with the identity which he has suggested, fine. We would include that in the request.

Mr. JAVITS. Then, amendments to that amendment will be limited to 20 minutes automatically?

Mr. ROBERT C. BYRD. That is correct.

Mr. JAVITS. All right.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, would the distinguished majority whip modify his request so that the time on this side would be in the control of the ranking member?

Mr. ROBERT C. BYRD. Yes, indeed. I do that, Mr. President.

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

DEATH OF REPRESENTATIVE WILLIAM F. RYAN

Mr. JAVITS. Mr. President, on the day of the most important religious holiday for my faith, yesterday, we heard in the Senate, and the country heard, of the passing of a colleague of mine from New York, affectionately known as Bill Ryan, who was a Member of the House of Representatives.

Bill Ryan was the Representative from the district which I had the honor to represent in the other body from 1947 to 1954, inclusive. Some years after I came to the Senate, Bill Ryan became Representative for that district.

I have worked with him closely on many matters, especially those which can best be described as dealing with the rights of man in terms of human decency, human compassion, and justice. I have never met a better motivated man.

Generally speaking, many of the things which he felt deeply about and undertook, I was in accord with him and deeply sympathetic towards. Where we differed, it was never in the heart, but always, in my judgment, as to what was the need for working out the problems of many interested people, in order to effect a result which Representative Ryan himself proposed to effect.

He undertook many unpopular causes. I know that district very well. He was not a bit afraid to do what some in the district might superficially have considered to be unpopular and then come back and convince them that he was right. I have done the same thing in that district in my day on some very difficult causes, including voting against bills which many people in the district thought they could never forgive a Congressman for voting against, mainly involving civil liberties—in other days, when that subject was a hot one.

So I know the gratification which comes from convincing the people in such a district, made up of such a diverse population—diverse in my day and more so today; and the tremendous tribute to Congressman Ryan who represented that district as he did over a number of terms in Congress. He had the conviction, the conscience, and the political courage to lead as he did.

He was a tremendous benefactor to his people, many of whom were poor and

in grave difficulties in that district, economically and socially, including many problems which afflict our time and afflict them monumentally.

Mr. President, I am stricken with deep sadness over his passing. My wife and I extend our most profound condolences to his family.

THE FEDERAL AID HIGHWAY ACT

Mr. MUSKIE. Mr. President, this afternoon we concluded consideration of the Federal-Aid Highway Act of 1972. The vote on final passage, a unanimous vote, is the best tribute to the distinguished chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH).

We happened to disagree on one amendment today. In the vigor of that debate, I may not have adequately indicated my appreciation for the valuable work he has done on this legislation and also over the years. But this year, especially, he devoted long hours and days to the effort of redirecting a highway policy which would be in the direction of today's needs. So he is responsible, in a very personal way, for many improvements in that legislation. I wanted to make sure that the record indicated my appreciation for his great contribution. The fact that we disagreed about one amendment today does not in any way diminish my appreciation of his efforts.

I have come to know his work in the Committee on Public Works over a period of 14 years. We have served for that length of time together on that committee. We have not always agreed, of course, but we have agreed on so many occasions in dealing with innovative and creative legislation, that I could not let this occasion pass without making this reference to him.

Mr. RANDOLPH. Mr. President, I am especially grateful at this late hour in the evening, after the unanimous roll call vote on passage of the Federal-Aid Highway Act of 1972 has been taken, that the distinguished Senator from Maine (Mr. MUSKIE) would speak the very generous words that he has just uttered.

I hold for the distinguished Senator from Maine the very fondest affection possible, one person for another. Perhaps more completely, I hold for him the admiration of one man for another. When, in my case, I believe that with the very highest purpose and in good conscience and with deep conviction, the Senator from Maine joined the distinguished Senator from Kentucky (Mr. COOPER) in sponsoring the amendment which is now part of the Senate-passed bill, I shall always be especially mindful of this postscript to today's rather energetic and vigorous activities.

Our differences, as he indicated were on this one amendment, of course, although it was at the time a matter of importance to both of us in light of what we both want to do in the "tomorrows"; that is, to work together, as we will, for the advancement of transportation in many forms and concepts in this country, as an advancement of the equality of life for which the distinguished Senator from Maine has stood so stanchly. All of these must be continuing commitments that we will move forward and work toward in the years, I hope, that we will serve together in the Senate.

Mr. MUSKIE. I thank the distinguished Senator from West Virginia. I am sure that I do not need to assure him of my continued friendship. I look forward to a close and continuing association with him.

Mr. RANDOLPH. I thank the distinguished Senator.

Mr. ROBERT C. BYRD. Mr. President, I wish to add my compliments to those which have been expressed by the distinguished Senator from Maine (Mr. MUSKIE) with regard to the work done by my distinguished senior colleague from West Virginia (Mr. RANDOLPH), who is the chairman of the Committee on Public Works.

I think that every Senator is well aware of the deep dedication with which my colleague approaches his committee work. I commend him for the service he has performed, not only for the State of West Virginia but also for the people of the Nation, over a period of many years as chairman of this very important committee.

There is no State in the Union, no people anywhere in the Union, who have not been well served by this committee under the chairmanship of my senior colleague, Mr. RANDOLPH.

The Senate owes him a debt. The people of this Nation are in his debt. I know that I express the sentiments of my colleagues on both sides of the aisle when I say that Senator RANDOLPH has at all times given unstintingly of his time, his energy, and his great talents to the work of that committee.

I commend him on his floor managership of this bill. I also commend him on the marvelous knowledge which he always brings to bear on every piece of legislation that he manages on the floor of the Senate. That would involve countless measures which have been passed over the years.

Mr. RANDOLPH. Mr. President, will my good friend and colleague yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. RANDOLPH. Again I indicate my appreciation to my colleague (Mr. ROBERT C. BYRD), as I did to the distinguished Senator from Maine (Mr. MUSKIE). We, I think, in passing the bill unanimously this evening, once again impress on the people of this country the determination of the Senate to move forward in transportation programs to meet the needs of all people. That is what we want to do.

My contributions, I hope, are constructive. I know that what the Senator has said is beyond what I deserve, but I shall never forget his expressions at this hour this evening.

Mr. ROBERT C. BYRD. I also want to apologize on the part of the leadership for the inconvenience which may have been caused my colleague, the chairman of the Committee on Public Works, by virtue of the relatively late hour that the Senate was able to return to the consideration of the highway bill.

I say to the Senate that my colleague is always most, most cooperative, courteous, and understanding to the leadership with respect to measures which he has the responsibility of handling on the floor. And he is always most understanding. I just thank him on the part of the majority leader and myself.

He certainly helps to lighten our burdens, although at times like today it may have increased his own.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

RETIREMENT INCOME SECURITY FOR EMPLOYEES ACT

Mr. ROBERT C. BYRD. Mr. President, I now renew my unanimous-consent request with respect to the referral of S. 3598 to the Committee on Finance with the understanding that the bill be reported back 1 week from today.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. JAVITS. Mr. President, that is agreeable to me. The Senator from West Virginia has consulted with the Senator from New Jersey (Mr. WILLIAMS), although we did not actually have a chance to talk to each other. I accept that as the determination. It is agreeable to me.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, the bill is so referred.

Mr. JAVITS. Mr. President, may we know when that measure is reported, the time limit on the bill? May we have the unanimous-consent agreement provide that the bill shall be deemed referred back to the Senate by the Finance Committee at the end of that week for whatever it desires to do about it?

Mr. ROBERT C. BYRD. And returned to its place on the calendar.

Mr. JAVITS. That is very important because otherwise we would leave it up in the air.

Mr. ROBERT C. BYRD. Mr. President, may we specifically say that the date would be September 26?

Mr. JAVITS. That is agreeable. On that date it shall be deemed reported back to the Senate and take its place on the calendar.

ORDER FOR PRINTING OF H.R. 8389

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 8389 be printed as it passed the Senate yesterday.

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

ORDER FOR RECOGNITION OF SENATORS COOK AND HANSEN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the remarks of the distinguished minority leader on tomorrow under the order previously entered, the distinguished Senator from Kentucky (Mr. COOK) be recognized for not to exceed 15 minutes, and that he be followed by the Senator from Wyoming (Mr. HANSEN) for not to exceed 15 minutes.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 8:30 a.m. After the two leaders have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Senators BENTSEN, HUMPHREY, EAGLETON, SCOTT, COOK, and HANSEN.

Routine morning business will then occur for not to exceed 15 minutes with the usual limitations on statements therein of 3 minutes.

Following the routine morning business, the Senate will turn to the consideration of S. 3716. There is a time limitation on that bill of 30 minutes, with a limitation on any amendment thereto of 20 minutes and a limitation on any amendment dealing with the Hill-Burton formula of 1 hour.

Mr. President, I would expect a yea-and-nay vote on the passage of the bill. There would be yea-and-nay votes on the amendments thereto.

On the disposition of S. 3716, any of the following bills may come up at any time tomorrow and during the course of the week and beyond. The order in which they are listed is not necessarily the order in which they will be called up. The leadership will have to exercise flexibility and will also have to exercise judgment based on the circumstances as to what measure or measures will be programed daily.

They are:

S. 2818, the diethylstilbestrol bill.

S. 630, the surface mining bill.

S. 3327, the public health bill.

S. 2280, the unlawful seizure of aircraft. The leadership expects to call up this bill on Thursday, there being a time limitation thereon.

S. 3970, the Council of Consumer Advisers bill.

In addition, there are the following appropriations bills: HEW, Defense, foreign aid, military construction, and supplemental.

There is the welfare bill, H.R. 1, which as I understand it, will be reported this week and will be ready for action by the Senate beginning on Monday of next week, should the leadership desire to program it at that time.

There is the extension and revision of the debt limitation bill.

There are conference reports, of which there are many and sundry, which may be called up at any time and may possibly necessitate rollcall votes.

The antibusing bill will also be called up at the discretion of the majority leader at some point.

The foregoing measures do not constitute all of the bills which will be considered before adjournment. Other measures on the calender will be called up when convenient. The list is only intended to indicate legislation that lies somewhere up ahead.

Senators may expect yea-and-nay votes daily. Senators may expect lengthy sessions, beginning at 9 a.m. daily or earlier from here on out.

Senators will understand that there is a logjam of bills and that this may be necessary if the Senate is to adjourn sine die in the relatively near future.

I am sure that the majority leader would want me to state that the leadership cannot hold back bills to accommodate Senators who are out of town and who may have amendments to offer.

The leadership must face up to its responsibility of calling up bills when convenient in an effort to complete the work of the Senate before sine die adjournment.

ADJOURNMENT TO 8:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 8:30 a.m. tomorrow.

The motion was agreed to; and at 7:18 p.m. the Senate adjourned until tomorrow, Wednesday, September 20, 1972, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 19, 1972:

DIPLOMATIC AND FOREIGN SERVICE

The following-named Foreign Service officer for promotion from class 3 to class 2:

Karl E. Sommerlatte, of Florida.

For appointment as a Foreign Service officer of class 2, a consular officer, and a Secretary in the diplomatic service of the United States of America:

E. Avery Adams, Jr., of Connecticut.

For promotion from a Foreign Service officer of class 4 to class 3 and to be also a consular officer of the United States of America:

Kiyonao Okami, of Maryland.

For reappointment in the Foreign Service as Foreign Service officers of class 3, consular officers, and secretaries in the diplomatic service of the United States of America:

Richard B. Andrews, of Illinois.
Miss Elizabeth N. Landeau, of New York.
Miss Cherry Clovis Stubbs, of Minnesota.

For appointment as Foreign Service officers of class 3, consular officers, and secretaries in the diplomatic service of the United States of America:

Charles R. Bakey, Jr., of Pennsylvania.
Andrew Stephenson Coe, of Texas.
John J. Eddy, of New York.
Francis J. Hazard, of Tennessee.
Daniel M. Holliday, of West Virginia.
Walter M. Hummel, of North Dakota.
Sheldon Jack Krys, of Maryland.
Miss Mary E. Murphy, of New Jersey.
Rudolph Soldan, of Texas.
Wayne A. Swedenburg, of Virginia.

For appointment as Foreign Service information officers of class three, consular officers, and secretaries in the diplomatic service of the United States of America:

Thomas W. Ayers, of Florida.
Phillips Brooks, of Vermont.
Everet Bumgardner, of Virginia.
Edwin P. Kennedy, Jr., of Maryland.
George Edwin Wishon, of the District of Columbia.

For appointment as a Foreign Service information officer of class four, a consular officer, and a secretary in the diplomatic service of the United States of America:

Frazier Draper, of Florida.

For reappointment in the Foreign Service as Foreign Service officer of class four, consular officers, and secretaries in the Diplomatic Service of the United States of America:

Frederick Oakley Beattie III, of Virginia.
David J. Carpenter, of Maryland.
G. Ryder Forbes, of Maryland.
Donald C. Lautz, of Illinois.

For appointment as Foreign Service officers of class four, consular officers, and secretaries in the diplomatic service of the United States of America:

Roy L. Anderson, of Texas.
Anthony J. Babin, Jr., of Texas.
Lenard R. Clarke, of California.
Miss Margaret M. Cooney, of Rhode Island.
Lawrence Dolgoff, of California.
Miss Myrtle J. Eckblom, of Washington.
Paul L. Engle, of California.
Miss Virginia M. Fitzpatrick, of the District of Columbia.
Marvin D. Green, of Wisconsin.
Ernest C. Grigg III, of New York.
Oliver R. Hall, of California.
Charles R. Hare, of Virginia.
Lyle R. Hewitt, of Washington.
Alfred L. Jazynka, of Florida.
Grafton Harry Jenkins, of the District of Columbia.
George E. Knight, of Pennsylvania.
Miss Nancy S. Koch, of Florida.
James M. Murray, of Illinois.
Clyde A. Plunkett, of Tennessee.
George F. Twohie, of Florida.
James A. Weiner, of California.
Miss Irene R. Welsh, of South Dakota.

For appointment as Foreign Service information officers of class four, consular officers, and secretaries in the diplomatic service of the United States of America:

Robert R. Cohoes, of Nebraska.
William J. Dieterich, of Ohio.
Andrew J. Schwartz, of New York.

For reappointment in the Foreign Service as a Foreign Service information officer of class five, a consular officer, and a secretary in the dilomatic service of the United States of America:

Miss Caroline Dunlop Millett, of California.

For appointment as Foreign Service Officers of class five, consular officers, and secretaries in the diplomatic service of the United States of America:

Theodore L. Austin, Jr., of Maryland.
Miss Barbara J. Blume, of California.
Miss Marylu Carnes, of the District of Columbia.
J. Hall Diggs, of Michigan.
Miss M. June Dohse, of Ohio.
Thomas R. Flesher, of California.
Doyle E. Gentry, of Arkansas.
Miss Kathryn J. Groot, of Maryland.
Mrs. Marianne B. Hewitt, of Washington.
James S. Huffman, of California.
Gregory L. Johnson, of Washington.
Franklin Jones, of Maryland.
Donald R. Knight, of Iowa.
Richard J. Marroquin, of California.

William J. Medlin, of Florida.
E. Parks Olmon, of Texas.
Edward T. Paukert, of Minnesota.
Robert E. Prosser, of Pennsylvania.
Herbert Rathner, of Virginia.
George F. Rodman, of North Carolina.
James Joseph Romano, of Virginia.
L. Benjamin Sargent, Jr., of Washington.
Michael M. Sherman, of California.
Miss Lois I. Shipp, of Florida.
Miss Sylvia G. Stanfield, of Texas.
Paul A. Terry, of California.
Roy O. Young, of California.

For appointment as Foreign Service Information Officers of Class five, Consular Officers, and Secretaries in the Diplomatic Service of the United States of America:

Peter P. Cecere, of the District of Columbia.
Paul L. Good, of California.
Miss Anne J. Gurvin, of California.
Jerry W. Scott, of Oregon.
John J. Shippe, of Connecticut.

For promotion for Foreign Service Officers of Class seven to Class six:

L. Stuart Allan, of Mississippi.
Robert S. Ayling, of Virginia.
Mr. Robert M. Beecroft, of Pennsylvania.
Miss Elizabeth B. Bollmann, of Missouri.
George T. Boutin, of California.
Ray L. Caldwell, of the Canal Zone.
Thomas C. Dawson II, of Maryland.
Dean Dizikes, of California.
Gilbert J. Donahue, of Maryland.
Craig G. Dunkerley, of Massachusetts.
Miss Joan E. Garner, of Virginia.
Jack L. Gosnell, Jr., of South Carolina.
Lawrence Marshall Grossman, of Nebraska.
Mark G. Hambley, of Illinois.
William C. Kelly, Jr., of New Jersey.
Ms. Melinda L. Kimbie, of Arizona.
John H. King, of New Jersey.
Robert J. Kott, of New York.
Russell August LaMantia, Jr., of Illinois.
Anthony Leggio, of New York.
Michael K. Lyons, of New York.
Walter H. Manger, of Pennsylvania.
Edward J. Marcott, of Massachusetts.
Frederick C. McEldowney, of Michigan.
Joseph G. McLean, of Montana.
Robert A. Millspaugh, of New York.
Malachy T. Minnies, of Virginia.
Stanley T. Myles, of Georgia.
Philip Dudley Oliver, of Alabama.
Terrell R. Otis, of Maryland.
David J. Peashock, of Pennsylvania.
John A. Purnell, of Arkansas.
Donald A. Roberts, of Minnesota.
Eric E. Svendsen, of Connecticut.
John Hurd Willett, of New York.
Edward L. Williams, of New Jersey.

For promotion from Foreign Service information officers of class seven to class six:

John F. Coppola, of New Jersey.
Albert W. Dalgliesh, Jr., of Michigan.
Miss Lucille R. Di Palma, of New York.
Miss Emily J. Drake, of Massachusetts.
Bernard M. Hensgen, of the District of Columbia.
William P. Kiehl, of Pennsylvania.
Paul D. Panaccione, of New Hampshire.
Roy M. Payne, of Oklahoma.
William T. Peters, of Michigan.
Miss Mary K. Reeber, of California.
Stephan Strain, of New York.

For appointment as Foreign Service officers of class six, consular officers, and secretaries in the diplomatic service of the United States of America:

Miss R. Maryetta Ackenbom, of the District of Columbia.
Miss Elizabeth M. Arnold, of Ohio.
Charles R. Baquet III, of Louisiana.
Robert J. Bel, of California.
Miss Ella M. Borough, of Michigan.
Miss Aurelia E. Brazeal, of Georgia.
Thomas F. Calhoun, of California.
William M. Campbell, of Oregon.
David L. Cardwell, of Pennsylvania.
Robert H. Cayer, of Massachusetts.
John M. Cooper, of the District of Columbia.
Guy J. Davis, of Texas.
Miss Olympia N. Di Lallo, of California.
Miss Diane Dillard, of Texas.
Pasquale L. DiTanna, of New Jersey.
Richard C. Dunbar, of Washington.
William W. Gonz, of Missouri.
Theodore S. Green, of Pennsylvania.
Manuel R. Guerra, of Texas.
Miss Theresa A. Hunt, of New York.
Miss Charmaine V. Keyes, of the District of Columbia.
Miss Mary E. Kincaid, of Maryland.
John J. Leech, of Connecticut.
Robert A. Lewis, of Louisiana.
Walter F. Loomer, of New York.
Richard H. Luchesa, of Pennsylvania.
Mrs. Jean E. Mackey, of Virginia.
Mrs. Dorothy L. Magee, of Florida.
Richard S. Mann, of California.
Robert H. Marston, of Missouri.
Edward E. Martinez, of Texas.
Richard E. Masters, of Texas.
Carl W. McCollum, of Illinois.
Miss Janet C. McCrory, of Missouri.
John H. Miller, of New York.
Herbert B. Moller, Jr., of Florida.
Emile F. Morin, of the District of Columbia.
Murrow B. Morris, of Georgia.
Jeremy Nice, of the District of Columbia.
F. Coleman Parrott, of Alabama.
Clarence E. Pegues, Jr., of Alabama.
Rudolph Lawrence Rivera, of California.
Frederick I. Rossi, of New York.
Miss Gwendolyn L. Quarterman, of Illinois.
Eugene L. Scassa, of Pennsylvania.
Miss Judith Ann Schmidt, of Illinois.
Charles H. Sisk, of Florida.
Charles L. Stephan III, of Illinois.
William S. Tilney, of California.
Miss Mary M. Welch, of Kentucky.
Howard F. Williams, of Georgia.
Raymond Alexander Yuhasz, of New Jersey.

For promotion from Foreign Service Officers of class eight to class seven:

Leslie M. Alexander, of New York.
Russell Barbour, of Pennsylvania.
John Thomas Basek, of New York.
Peter P. Carrico, of Washington.
Gale N. Grable, of California.
David Ellis Henderson, of Illinois.
Michael J. Hogan, of Utah.
J. Aubrey Hooks, of North Carolina.
Michael S. Lucy, of Massachusetts.
Brian Michael Patrick McNamara, of Connecticut.
Peter Robert Reams, of Nevada.

For promotion from Foreign Service information officers of class eight to class seven:

George P. Bonjoc, of California.
Theodore A. Boyd, of Ohio.
Miss Sarah S. Bush, of Washington.
Arthur E. Green, of New York.
Paul J. Saxton, of New York.
Cornelius C. Walsh, of Connecticut.

For appointment as Foreign Service officers of class seven, consular officers, and secretaries in the diplomatic service of the United States of America:

Randolph M. Bell, of Arkansas.
Miss Peggy Blackford, of New Jersey.
Edward Brynn, of California.
Marshall L. Casse, III, of Georgia.
Harry E. Cole, Jr., of Pennsylvania.
William Harrison Courtney, of West Virginia.
Miss Ann E. Darbyshire, of Hawaii.
Leslie Alson Doak, of California.
John R. Dobrin, of Tennessee.
Shaun Edward Donnelly, of Indiana.
Richard M. Dotson, of Michigan.
Mrs. Judith M. Heimann, of Connecticut.
Walter J. Henderson, Jr., of Pennsylvania.
John F. Hoog, of Missouri.
Jan H. Kalicki, of California.
Theodore H. Kattouf, of Pennsylvania.
Donald Willis Keyser, of the District of Columbia.
Richard K. Landers, of California.
J. Richard Mason, of Colorado.
Eugene Michael McCarthy, of Virginia.
Thomas J. Perich, of Texas.
Robert D. Persiko, of New Jersey.
Mrs. Lauralee M. Peters, of Minnesota.
David A. Roberts, of Pennsylvania.
Danny B. Root, of California.
Kenneth M. Scott, Jr., of Pennsylvania.
Dale L. Shaffer, Jr., of Nebraska.
William Henry Skok, of New Jersey.
James R. Smith, of West Virginia.
Philip Bates Taylor III, of Texas.
Miss Kaarn Jayne Weaver, of Ohio.

For appointment as Foreign Service officers of class eight, consular officers, and secretaries in the diplomatic service of the United States of America:

Marshall P. Adair, of Vermont.
Eric J. Boswell, of California.
Frederick Bishop Cook, of Florida.
Miss Laurel M. Cooper, of California.
M. Michael Einik, of Virginia.
Michael Daniel Foley, of California.
Miss Bonnie Ann Frank, of Oklahoma.
James L. Hogan, of New Jersey.
John Victor Lubar, of New York.
Mark Robert Parris, of Virginia.
Miss Annette L. Veler, of Wisconsin.
Miss B. Sue Wood, of Mississippi.

Foreign Service reserve officers to be consular officers of the United States of America:

James M. Fernald, of New Jersey.
David Y. C. Lee, of Virginia.
Arthur M. Niner, Jr., of New Jersey.

Foreign Service reserve officers to be consular officers and secretaries in the diplomatic service of the United States of America:

Marion C. Allison, of California.
Clayton Y. Amemiya, of Hawaii.
Albert J. Amori, of the District of Columbia.
Carl R. Anderson, of Virginia.
Clyde M. Benford, of Illinois.
Mark Brossman, of Virginia.
Glenn O. Brown, of Maryland.
Daniel F. Cameron, of Maryland.
Harold E. Chipman, of Virginia.
Lowell Citron, of Virginia.
John P. Coyne, of Arizona.
William J. Devine, Jr., of the District of Columbia.
William H. Eckstein, of Maryland.
Carl E. Gebhardt, of Virginia.
Randolph B. Hinkle, of Virginia.
Patrick T. Hodai, of Washington.
Lance G. Hopkins, of California.
Walter M. Hughey, of Virginia.
David C. Joyce, of Pennsylvania.
Harry G. Kamberis, of Virginia.
John K. Knaus, of Florida.
Wilfred D. Koplowitz, of Connecticut.
Myron B. Kratzer, of Maryland.
Dale M. Krumviede, of Virginia.
Merron L. Latta, of Maryland.
James N. Lawler, of Minnesota.
Douglas Kim Lutz, of Michigan.
Francis C. MacDonald, of Virginia.
Joseph J. Marques, of Virginia.
Miss Nancy A. McKee, of Oklahoma.
David H. McMahon, of Ohio.
Charles A. Melton, of Oklahoma.
Robert M. Mills, of Maryland.
Murat Natirboff, of Florida.
Peter J. Obenauer, of New York.
Michael H. Olejarz, Jr., of Virginia.
Richard E. Plues, of Virginia.

Timothy M. Randall, of Illinois.
Charles W. Redick, of Virginia.
Samuel H. Rickard III, of Maryland.
Clark Rumrill, of New York.
Robert M. Sargent, of Maryland.
David W. Schorer, of Virginia.
Gary C. Schroen, of Illinois.
Miss Karyl M. Seljak, of Montana.
Gerald T. Sloane, of Maryland.
Arthur H. Stimson, of Maryland.
Clifton R. Strathern, of Massachusetts.
Miss Mary Elizabeth Swope, of Virginia.
Robert L. Taylor, of New York.
George T. Walsh, of Massachusetts.
Richard T. Whistler, of Maryland.
Thomas A. Witecki, of Michigan.

Foreign Service reserve officers to be secretaries in the diplomatic service of the United States of America:

Henry W. Brandt, of Florida.
Stacy B. Hulse, Jr., of Massachusetts.

Foreign Service staff officers to be consular officers of the United States of America:

Miss Irene M. Barbeau, of Maryland.
Robert N. Barkman, of Texas.
Paul C. Bofinger, of New York.
Ariel S. Cardoso, of Texas.
Miss Diana E. Henshaw, of Michigan.
Miss Kathleen J. Mullen, of Pennsylvania.
David T. Paton, of New Jersey.
Edward F. Reddick, of Missouri.
William W. Ryan, of Pennsylvania.
Lewis V. Sevier, of Maryland.
Paul B. Sullivan, Jr., of Alabama.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 19, 1972:

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Antonin Scalia, of Virginia, to be Chairman of the Administrative Conference of the United States for a term of 5 years

IN THE COAST GUARD

Coast Guard nominations beginning Claude W. Brock, to be lieutenant, and ending David W. Young, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 8, 1972.

HOUSE OF REPRESENTATIVES—*Tuesday, September 19, 1972*

The House met at 12 o'clock noon.

Rev. Robert F. Kirchgessner, Trinity Episcopal Church, Paterson, N.J., offered the following prayer:

Let us join with the Psalmist and say: *This is the day the Lord hath made, we will rejoice and be glad in it.*—Psalms 118: 24.

Eternal Father, our everlasting benefactor, Thou hast created and endowed us with the ability to achieve and accomplish good works for ourselves and all mankind. This new day may fill us, we pray, with rejoicing as we contemplate the opportunity it affords us of service to Thee, this Nation, and mankind.

We cannot escape history, nor can we evade responsibility. By Thy Holy Spirit awaken us to the needs and concerns of our people. Grant our leaders the highest motives and courage in assuring rights without neglecting responsibilities, lest we do the right things for the wrong reasons.

Bless the President, the Speaker, the Congress that by their words and work they may prayerfully promote peace and plenty for all mankind.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On September 16, 1972:

H.R. 9323. An act to amend the Narcotic Addict Rehabilitation Act of 1966, and for other purposes.

On September 18, 1972:

H.R. 13089. An act to provide for acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes; and

H.J. Res. 55. Joint resolution proposing the erection of a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the Seabees of the U.S. Navy.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed a resolution, as follows:

S. RES. 365

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. William F. Ryan, late a Representative from the State of New York.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Rperesentative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it adjourn as a further mark of respect to the memory of the deceased Representative.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 14267. An act to provide for the disposition of funds appropriated to pay a judgment in favor of the Delaware Tribe of Indians in Indian Claims Commission Docket No. 298, and the Absentee Delaware Tribe of Western Oklahoma, and others, in Indian Claims Commission Docket No. 72, and for other purposes; and

H.R. 15883. An act to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3442) entitled "An act to amend the Public Health Service Act to extend the authorization for grants for communicable disease control and vaccination assistance, and for other purposes."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 10243) entitled "An act to establish an Office of Technology Assessment for the Congress as an aid in the identification and consideration of existing and probable impacts of technological application; to amend the National Science Foundation Act of 1950; and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. ROBERT C. BYRD, and Mr. COOK to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 33. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize group insurance programs for public safety officers and to assist State and local governments to provide such insurance; and

S. 2318. An act to amend the Longshoremen's and Harbor Workers' Compensation Act, and for other purposes.

CONSENT CALENDAR

The SPEAKER. This is the day for the call of the Consent Calendar. The Clerk will call the first bill on the calendar.

WAIVER OF LIFE INSURANCE DEDUCTION FOR FEDERAL EMPLOYEES

The Clerk called the bill (H.R. 11563) to amend chapter 87 of title 5, United States Code, to waive employee deductions for Federal employees' group life insurance purposes during a period of erroneous removal or suspension.

There being no objection, the Clerk read the bill as follows:

H.R. 11563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8706 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) If the insurance of an employee stops because of separation from the service or suspension without pay, and the separation or suspension is thereafter officially found to have been erroneous, the employee is deemed to have been insured during the period of